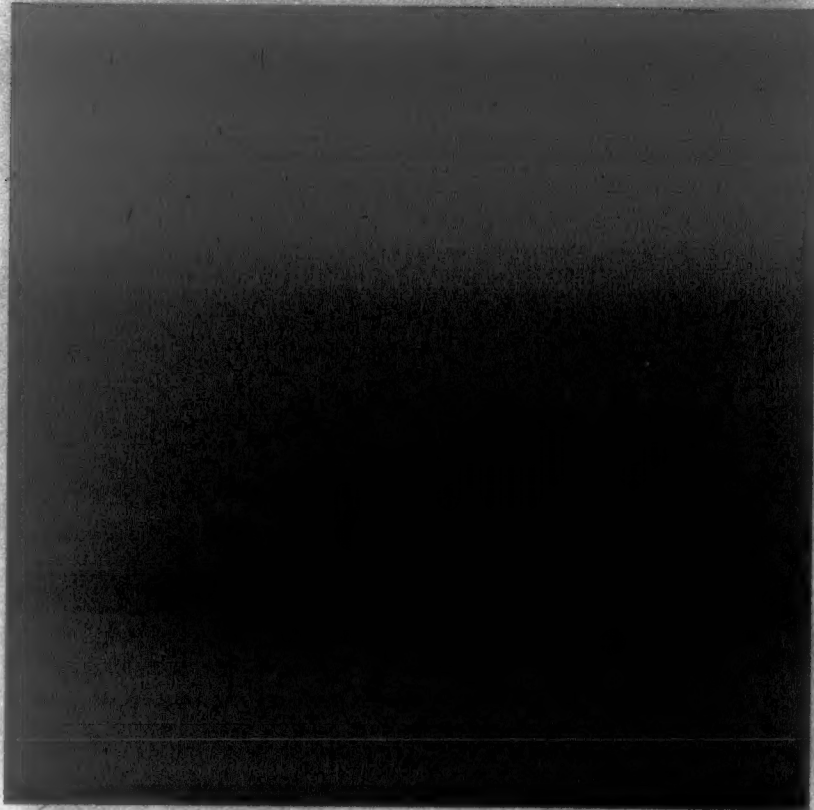
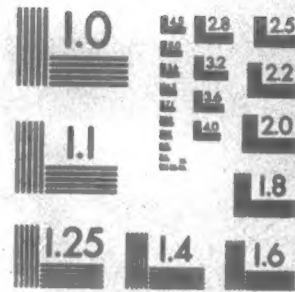
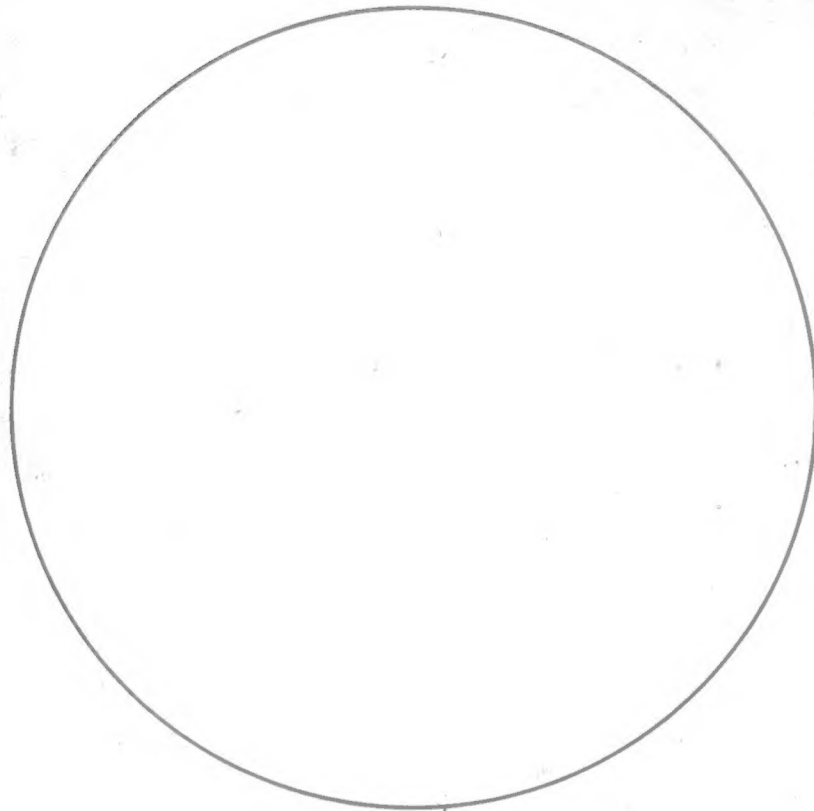
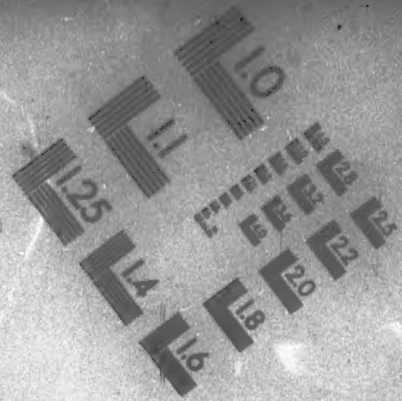
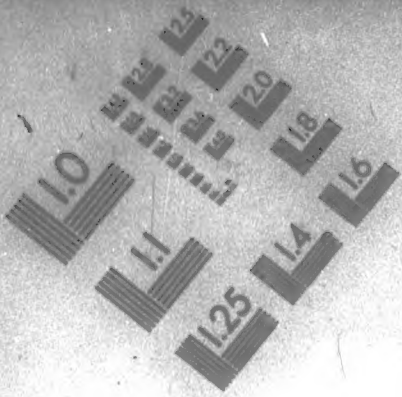
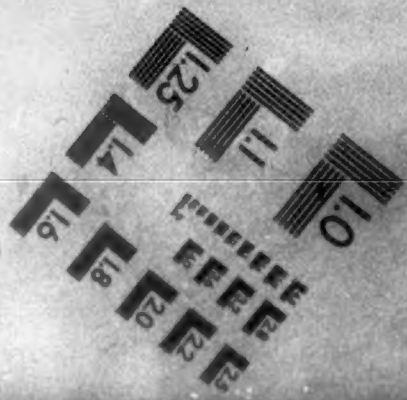
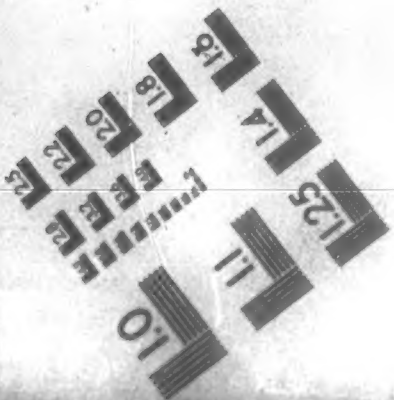
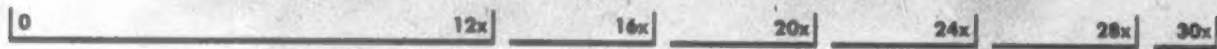




NATIONAL ARCHIVES CENTER
FORT WORTH, TEXAS



SHOULD MEASURE .25" AT REDUCTION



MANUFACTURED BY
PHOTOGRAPHIC SCIENCE CORPORATION
770 MARKET ROAD
ROSELAND, NEW YORK 10069

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Microfilm Publication M1301

APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES
1898 - 1914

ROLL 358

CHEROKEE FREEDMEN D958 - D1011

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

WASHINGTON: 1983

Cher. Fr. D. 958

Ether Fr. 958 D.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. Jan 28th 1901.

In the matter of the application of Sallie Humphreys for the enrollment of herself and one child as Cherokee freedmen- She being sworn by Commissioner T. B. Needles, testified as follows-

Mellette & Smith for applicants

W. W. Hastings for Cherokee Nation;

By Com'r Needles,-

- Q What is your name? A. Sallie Humphreys.
Q How old are you? A. 60 so said.
Q What is your post office? A. Lenayah.
Q In what district do you live? A. Gookeescoowas.
Q Do you want to be enrolled as a Cherokee freedman? A. No sir.
Q Who do you want to have enrolled besides yourself? A. One daughter
Q What is her name? A. Ada.
Q How old is she? A. 19 years

By Smith-

- Q What is your other daughters name? A. Mattie Merrell.
Q Is she married to Lewis Merrell? A. Yes sir.
Q Where does she live? A. In Gookeescoowas district.
Q Where does your other daughter live? A. With me.
Q How long have you lived where you do? A. I went there the fall before the payment.
Q Where were you before that? A. In a hotel at Gaddo, Choctaw Nation, but my home was then at Fort Gibson.
Q Were you a slave before the war? A. Yes sir.
Q Who did you belong to? A. Mary Chambers.
Q Where did she live? A. In Sequoyah district.
Q Was she a citizen of the Cherokee Nation? A. Yes sir.
Q Where was she living when the war commenced? A. In Flint district.
Q Where were you living then? A. With her.
Q Were you taken out of the Cherokee Nation during the war? A. Yes sir went with her to Texas.
Q When did you come back to the Cherokee Nation? A. With her, in '65 so she said.
Q How old are you now? A. 60 years old so Mrs. Chambers says, I asked her three months ago.
Q Where did you come to on your return? A. Sequoyah.
Q What part of Sequoyah? A. The lower part of it between Fort Gibson and Fort Smith, there is a place called the Nine Mile House and I was ten miles from that on a place she bought.
Q Near Fort Smith? A. Yes sir.
Q And in Sequoyah district, Cherokee Nation? A. Yes sir.
Q How long did you stay there? A. Lived with her about a year and got a message from my mother that she was dying and I went to Fort Gibson and staid there with her until she got well and then went back.
Q Where have you lived since? A. I staid with her until her father died and then went to work for the United States officers at Fort Gibson and staid there two and a half years and then went to Fort Smith and worked four weeks and then went to Gaddo.
Q Where did you start from when you returned to the Cherokee Nation?
A I believe the county was Lamar County Texas, I was still with her.
Q How long after peace was declared was it that you returned? A. Some time it was the same year, in the fall, we stayed in the Choctaw Nation all winter and came here in the spring.

By Hastings

- Q Did you come through Fort Smith when you returned? A Yes sir.
- Q What is your Mistress' name? A. Mary Chambers, it was Nave.
- Q Where does she live now? A. Sequoyah, if you know where the mouth of Sallisaw river is, there is a town there, seems to me it is called Sallisaw, well it is 10 miles south of there.
- Q And you went there in the spring of 1866? A Yes sir, we started in the fall, stayed all winter in the Choctaw Nation and the next spring when it turned warm we come on.
- Q Did you come to Webbers Falls? A Yes sir I have been there too.
- Q Who kept a store there? A. Seems to me there was man named Penny or Breedlove had one there.
- Q And you went by the Nine Mile house? A. Yes sir, we passed a place that used to be the old Childers Station, it has some other name now, Maidrow I think.
- Q How long did you stay with your Mistress after you got back here? A A Year and six months, but I went to see my mother during that time and staid with her until she got well and then came back to my Mistress' place.
- Q What was your mothers name Katy Nave.
- Q How long did you stay at Fort Gibson? A. About three months before I went back.
- Q Where do you live now? A. Two miles the other side of Lenapah.
- Q How long have you been there? A. Since the winter of the Lightning creek payment.
- Q Where did you come from there? A. Gadio, worked in a hotel there.
- Q Where were you married? A. Right there in the hotel at Gadio.
- Q How long had you worked there in the hotel? A. One year at one time.
- Q This last time? A. 6 months, 5 or 6 months.
- Q You married Humphreys there? A. Yes sir.
- Q Where did you go from to Gadio? A. Fort Gibson.
- Q How long had you been in Fort Gibson when you last there? A. I had been working there two and a half years before I went to Gadio.
- Q How long after the war before your mother died? A. 6 or 7 years.
- Q Did you live there until your mother died? A. I was working in the hotel when my mother died.
- Q Who did you work for in Fort Gibson? A. Used to work for Mr. Gunningham who married Frances Nave, he used to keep the post office there.
- Q You come back with your Mistress to Sequoyah in '66, and staid with her until you heard of your mother being sick and then went to see her? A Yes sir.
- Q Then you went back to Sequoyah? A Yes sir.
- Q And then back to see your mother? A. Yes sir.
- Q And then to Gadio? A. Yes sir.
- Q And when your mother died you was there? A. I was there before she died.
- Q At your mother died 6 or 7 years before the war? A. Yes sir.
- Q And you had gone to Gadio before your mother's death? A. Yes sir.
- Q And you never came back here to live until the time of the Lightning creek payment? A. Yes sir, I did.
- Q Did you have a house in Fort Gibson? A. My mother had a house.
- Q Where was your you husband then? A. He is a citizen down there, he is a Chickasaw and I am a citizen up here.
- Q Do you know Dolly Humphreys? A. She lives at Winwood.
- Q You say your husband is down there? A. Yes sir he don't want to be caught up here and I don't want to be caught down there.

- Q When did you first see L. D. Daniels after the war? A. When I went to see my mother.
- Q Was he issuing rations then? A. I dont know.
- Q Was that before or after Christmas? A. I dont know.
- Q And you dont know what year it was? A. No sir.
- Q Where did you first see Columbus Hasley? A. He was there too.

By the Commission-

- Q How many children have you? A. Two.
- Q Where were they born? A. One was born in the Choctaw Nation and one was born in Sequoyah.
- Q What is the ones name for whom you apply? A. Ada.
- Q Where was she born? A. In the Choctaw Nation.
- Q Where was the next one born? A. In Sequoyah.
- Q Where does she live? A. With me.
- Q Your husband is a Chickasaw? A. Yes sir.
- Q Did your husband ever try to have these children enrolled as Chickasaws? A. If he did I dont know it.
- Q Is your husband enrolled there? A. Yes sir.
- Q Dont he live here at all? A. Yes sir he comes here some times.

By Hastings-

- Q Where did Mattie marry? A. At Gaddo.
- Q Has she any children? A. So has five.
- Q What is the oldest ones name? A. William.
- Q How old is he? A. He is 10 or 11 years old.
- Q He is dead, isn't he? A. He is alive.
- Q Where was he born? A. Down there on the railroad, her husband was a railroad man at a place called Ganey in the Choctaw Nation.
- Q Where was the next one born? A. There.
- Q Where the next one? A. There.
- Q Next one? A. There.
- Q How old is the third one? A. I dont know exactly.
- Q 5 or 6 years old? A. Some where along there

L. D. Daniels called and sworn as a witness for the applicant-

- Q What is your name? A. L. D. Daniels, age 56, post office Claremore
- Q Do you know this applicant, Sallie Humphreys? A. Yes sir.
- Q How long have you known her? A. Got acquainted with her in '85, summer or spring of '85.
- Q Where? A. At Fort Gibson sir.
- Q How long did you know her after you got acquainted with her? A. Until '92 or 3.
- Q Where was she in '85? A. There in Fort Gibson
- Q Where is she living now? A. On Hickory creek, a mile from my place
- Q How long has she been living there? A. Only about six years since she came up there, maybe a little longer.
- Q You didn't know her before the war? A. No sir.

Hastings-

- Q What became of her when she left Fort Gibson? A. I believe she went to the Choctaw Nation.
- Q Do you know where she came from when she came here five or six years ago? A. No sir.
- Q You never saw her between the time you first saw her at Fort Gibson and five or six years ago? A. Well, before the railroad was put down and then in Fort Gibson the time that Humphreys was going to see.

Q Was it in the fall? A. In August, 1918, I was there at the construction
Q Who did she live with there in Fort Gibson? A. With her mother Ruby
Hays and worked for the millwork.
Q Do you think that she was there in the spring of '08? A. Yes sir
the spring or summer.
Q And worked there? A. She was in town there then.

By Smith-

Q When did you leave Fort Gibson to come up here? A. 4th of December
1918
Q Have you been up here ever since? A. Yes sir.

By Hastings-

Q She left there before you had? A. If she did I don't know it.
Q You said she left there in '18 or '19? A. I said I knowed her there
till then.

Galvanus Lasky, called and sworn as a witness for the applicant-

Q What is your name? A. Galvanus Lasky.
Q What is your age? A. 53.
Q Where do you live? A. Tahlequah.
Q How long have you lived there? A. I came there in '74.
Q Where did you come from there? A. Fort Gibson.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Do you know this applicant? A. Yes sir.
Q Did you know her before the war? A. Yes sir.
Q Was she a slave? A. Yes sir.
Q Who did she belong to? A. Alex Hays in Flint district.
Q Was he a married man? A. Yes sir I suppose so.
Q Do you know the family he married into? A. I don't know exactly, it
was the Timberlake or Chastain family.
Q When did you see this applicant first after the war? A. In '08 or '09
Q Where? A. Fort Gibson.
Q How long was she there? A. I saw her again in '08 I guess, we went
down to Okemuch north of Fort Gibson, I did her and Jim Quist,
Leaster Foreman, Russell Mackey and some others.
Q Do you know in what time it was in '08 that she returned from there
she had been taken out during the war? A. I can't say for certain, it
was before I went to Bear Mill Branch, we had the soldiers in '07 and
I know before that time.
Q How long before that time? A. I can't say for certain.
Q But you think it was in '08 or '09? A. Yes sir.
Q How long did she stay there up around there? A. I think until
about '08 or '9

By Hastings-

Q How long did she live there after '08? A. I don't know, I left that
neighborhood in '74.
Q Had she gone any further before you left? A. Yes sir.
Q Do you know where she went? A. I heard she went to the Cherokee
Nation.
Q Did you ever see her around Fort Gibson after that? A. No sir.
Q Was she married then? A. I don't know.
Q Did she have a husband with her? A. No sir, I don't know.
Q What time did she go by at that time? A. She is now in jail I believe.

Q Never called her Humphreys then? A. No sir.
Q You dont know if she is married to Humphreys or not? A. No sir.
Q All you know is that you think you saw her there in '65 or '66 and until '68 and that you heard she went from there to the Choctaw Nation? A. Yes sir, that is all

Kern Clifton roll examined and the name of the applicant found as follows-
Page 109 No. 2721, Sallie Humphries, Tahlequah district.
Page 109 No. 2723, Ada Merrell,

Q Did your child ever go by the name of Merrell? A. No sir, my daughter's husband is named Merrell.

Wallace roll examined and the name of the applicant found as follows- Page 116 No. 2457 Sally Humphreys, Gadsden Choctaw Nation
Page 116 No. 2458, Ada Humphreys,

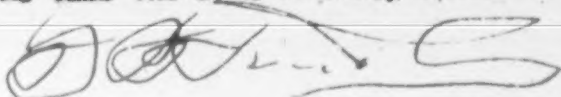
By Gen'r Needles,-

Sallie Humphreys applies for herself and one child, Ada Humphreys; she avers that she was the slave of Mary Chambers went to Texas during the war, returned in '65; avers she married her husband Humphreys in the Chickasaw Nation and that she remained in the Chickasaw Choctaw Nation until about six years ago when she returned to the Cherokee Nation. Her child Ada was born in the Choctaw Nation; they are not identified on any of the rolls except the Wallace and Kern Clifton roll, but they are identified on those rolls according to the page and number of the rolls as indicated in the testimony. Now the said Sallie Humphreys and her child Ada will be listed for enrollment as Cherokee freedmen on a doubtful card and when the final decision of the Commission is arrived at she will be notified thereof.

=====

Chas. von Weise being sworn states that as stenographer to 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.

Subscribed and sworn to before me this the 15th of July, 1901.

Chas von Weise


Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, T. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mallette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F. D. 456, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Sallie Humphreys, D 928;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 23, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of SALLIE HUMPHREYS, et al., as Cherokee Freedmen.

Appearances:

W. W. Hastings and L. B. Bell, Attorneys for the Cherokee Nation.

SALLIE HUMPHREYS, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: What is your name? A Sallie Humphreys.

Q How old are you? A The people that raised me said I was born in 1840, I can't tell my age. That is what my ~~mother~~ ^{mother} said, said I was born in 1840.

Q What is your post office? A Lenapah is my post office, but I have been in Tahlequah. That's where I got this notice.

Q Where are you living now? A My home is in Cooweescoowee, on Hickory Creek, but I have been in Tahlequah working.

Q Your home is in Cooweescoowee District, Cherokee Nation?

A Yes sir.

Q How long have you lived in Cooweescoowee District, Cherokee Nation? A About eight years.

Lived there continuously for the last eight years?

A Yes sir, continuously for the last eight years until about two months ago.

Q Where did you live before that, before you moved to Cooweescoowee?

A I lived at Fort Gibson.

Q How long did you live there? A About eight or nine years, I can't tell you just exactly how long.

Q Where did you live before you lived at Fort Gibson? A Lived in Sequoyah with the lady that raised me.

Q Is that in the Cherokee Nation? A Yes sir.

Q How long did you live in Sequoyah? A Lived there a little over a year.

Q Where did you live before you lived in Sequoyah?

A Since the war, you mean?

Q Yes. A I lived in Sequoyah first, then I went to Fort Gibson, then I went down to the Choctaw Nation and worked in a hotel, and from there back up here. That's as far as I have been.

Q Have you ever lived outside of the Cherokee Nation since the close of the war? A No sir, just from one place to another in the Cherokee Nation.

Q Have you ever lived in Kansas? A No sir, never lived in Kansas but once.

Q You say you have lived continuously in the Indian Territory since the close of the war? A Yes sir, I was out south with the people the time of the war, but we all come back together. The lady that raised me brought me back, and I was with her in the war time. She is down in Sequoyah now.

Q How long have you lived, for how many years have you lived continuously in the Cherokee Nation? A I have lived in the Cherokee Nation, only when I was hired out. Sometimes in a railroad hotel for a year at a time.

Q Where was that? A Down in the Choctaw on this M. K. & T..

Q But you never lived outside the Indian Territory since the close of the war? A No sir, when I was outside of this Nation I was down in the Choctaw Nation, that's as far as I have been.

Q Where was your daughter Ada born? A In the Choctaw Nation where I was working.

Q Where has she lived? A Lived with me all the time. I left her in Tahlequah now. Lived with me all the time. She has never been married.

Q She is still living in your family? A Yes sir, I just left her back there home, left her in Tahlequah where I was working. The other one is married, I have got two daughters.

Q What is her name? A Mattie Merrill.

Q When did Mattie Merrill marry? A I don't know. She has been married seven or eight years, I don't know just how long. She has got six children.

Q She is your daughter, is she? A Yes sir.

Q Where has she been living since she was married? A Her husband was section boss. She lived on the M. K. & T. six or seven years.

Q In what nation? A Lived in this nation a while and in the Choctaw Nation a while, just where he was boss of the railroad. She lived on a place called - it is right below Muskogee, one place, and the next place is in the Choctaw Nation, place called Caney.

Q Where is she living now? A In Coowescoowee, Hickory Creek.

Q Cherokee Nation? A Yes sir.

Q How long has she lived there? A About seven or eight years.

Q So she has been living in the Cherokee Nation for the last seven or eight years, continuously? A She lived in the Cherokee Nation all her life. When I was down in the Choctaw Nation she was here in the Cherokee Nation.

Q Didn't you say a while ago she was down in the Choctaw Nation with her husband? A She went to school at Fort Gibson, and since she has been married she lived with her husband. She lived on the railroad just since she has been married.

Q Has her husband ever lived outside the Cherokee Nation since they were married? A I don't know where he has lived.

Q Since they were married? A He has lived in the Territory all the times he has been married.

Mr. WASTINGS: What is your mother's name? A She was named Lattie Love.

Q Who are you working for in Tahlequah now? A Working for a colored man, to run a restaurant, by the name of Rose. I only came up here now, and I thought I would try here and get a place to work here.

Mr. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported 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 October, 1903.

W. H. Hutchinson
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
66448

97M

In the matter of the application for the enrollment of
Sallie Humphreys, et al., as Cherokee Freedmen, consolidating the
applications of--

Sallie Humphreys, et al.,
Mattie Herrall, et al.,

Cherokee Freedmen B-888,
Cherokee Freedmen B-970.

-1-

DECISION.

The record herein shows that applications for enrollment
as Cherokee Freedmen were made to this Commission by Sallie Humphreys
for herself and minor child, Ada Humphreys; and by Mattie Herrall
for herself and minor children, Willie, Sadie, Nabel, Vera and
Charles Herrall.

The evidence herein shows that the applicant, Sallie
Humphreys, was the slave of a Cherokee citizen at the commencement
of the Rebellion; that she was taken from the Cherokee Nation
during said Rebellion, but returned thereto and established a
residence therein within the time specified in the decree of the
Court of Claims, rendered February 2, 1886, in the case of Jones
Whitire, trustee, etc., vs. the Cherokee Nation, et al., for the
return of freedmen to the Cherokee Nation, and has since continu-
ously resided within the domain of the Five Civilized Tribes.

The applicants, Ada Humphreys and Mattie Herrall, are
children of the said Sallie Humphreys, were born since 1866, and
have continuously resided within the domain of the Five Civilized
Tribes all their lives.

The other applicants herein are children of the said
Mattie Herrall, and have continuously lived with their mother
since birth.

It is, therefore, the opinion of this Commission that Sallie and Ada Humphreys, Mattie, Willie, Sadie, Ethel, Cora, and Charles Merrill, should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 498), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). *Tame Bixby.*

Chairman.

(SIGNED). *T. B. Needles.*

Commissioner

(SIGNED). *C. R. Breckinridge.*

Commissioner.

Muskogee, Indian Territory,
this FEB 24 1905

"COPY"

Department of the Interior
Commission to the Five Civilized
Tribes.

In the matter of application of
enrollment of Sallie Humphreys,
al. as Cherokee Freedmen,
consolidating the applications
Sallie Humphreys, et. al. CYD
Mattie Merrell, et. al. CYD 70

Attorneys for the Cherokee
Nation in making the Freedmen
Roll.

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

In the matter of the application of the enrollment of
Sallie Humphreys, et. al. as Cherokee Freedmen, consolidating the
applications of

Sallie Humphreys, et. al.-----C.F.D. 958,
Mattie Kerrell, et. al.-----C.F.D.970

Comes the Cherokee Nation by its representatives and respectfully asks the Commission to certify the record in this case to the Commissioner of Indian Affairs for review. They respectfully protest against the decision of the Commission in this case and for objections say, that the records of this case show that it is doubtful whether the principle applicant, through whom the applicant in this case claim, returned to the Cherokee Nation within the time prescribed by the Treaty of 1866, and was an applicant; also they use the testimony of one L. D. Daniels who is wholly unworthy of belief and that it has been so held by the Department of the Commission, and they therefore ask that the decision of the Commission be reviewed.

Attorneys for the Cherokee
Nation in making the Freedmen
Roll.

Cher. Fr. D. 957

Cher. Fr. D. 959

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Motion.

Cherokee Freedman D 959

In the matter of the application for the enrollment of Andy Webber as a Cherokee freedman.

Motion.

Comes now the applicant, by his Attorneys Starr & Patton, and moves that the following copies of parts of the proceedings of the Chambers Court etc introduced in this case for the purposes of impeaching witnesses Daniel and Reuben Sanders be stricken from the files in this case:

First "The Application and statement of Lewis Whitnair, Vs The Cherokee Nation dated June 26, 1878 found on pages 164 Book B Citizenship record"
Second: "The application of Moses Whitnair, Vs The Cherokee Nation, found in the same record beginning on Page 165"
Third: The Record being no 60, of Aaron Whitnair Vs the Cherokee Nation, found in Book A, pages 239 to 247 inclusive."

Argument in Support of Motion.

The Attorney for the Cherokee Nation offered these records in the case in the following language: to wit,

"For the purpose of impeaching the witnesses, Reuben and Daniel Sanders, who has testified in this case, the representatives of the Cherokee Nation desire to offer in evidence from the original records of the Cherokee Nation taken before what was known as the Chambers Court or Commission on citizenship in the year of 1878 the following: First, the application and statement of Lewis Whitnair, Vs the Cherokee Nation, dated June 26, 1878, found on pages 164, Book B Citizenship Record, and also the application of Moses Whitnair Vs the Cherokee Nation found in the same record beginning on Page 165, and also the record, being No 60 of Aaron Whitnair Vs the Cherokee Nation, found in Book A, Page 239 to 247 inclusive."

To the introduction of which, we entered objection and there an objection was then and there overruled.

We were not permitted to examine these records at the trial because the Attorney for the Cherokee Nation had these records in his own office and positively and absolutely refused to permit us to see them and all we were able to see of them were the headlines of the records while he was introducing them or offering them in evidence. He was afraid to let us see look at the book for fear we might see some place, somewhere in that book where one of our clients had been adjudged by that court entitled to citizenship in the Cherokee nation and had now been denied and our examination of that record might inure to the benefit of some poor person whose case might be benefitted by things contained there'in.

We objected to the introduction of this record at the time because we believed from a general principal of law that affidavits of witnesses ~~introduced in another case~~ and statements of witnesses other than Daniel and Reuben Sanders in another entirely different court and in an entirely different proceeding are not admissible in this case to impeach these two witnesses.

When we received a copy of the testimony in this case we read for the first time in full the statements and affidavits from the so called records of the Cherokee Court we we find to be nothing more than the affidavits taken of some of the witnesses in a case that was tried by the Cherokee Court and also the statement of some of the persons who were applicants to that court and nowhere do we find any statements introduced from the records of that so called Court where Daniel and Reuben Sanders testified in that case nor is there introduced in this case from the so called Cherokee Court records any statement in that case made by Daniel and Reuben Sanders which is alleged to be contradictory to the statements now made. Certainly affidavits of other witnesses in another case and statements of other parties are not admissible as impeaching evidence against Daniel and Reuben Sanders.

There is taken from these cases tried in the Cherokee Court the affidavits, (in parts so far as we are concerned and so far as they

concern this case) of Mike Fields, Bluford Alberty Mose Whitmire and these appear to have been statements purporting to have been made under oath and have been written down by the Clerk D. L. Nicholson and two of them are signed by mark and no witness to the mark except that this name D. L. Nicholson seems to attest where Mose Whitmire signed. If the Nation wanted Mike Fields, B. W. Alberty and Mose Whitmire in these cases why did the Nations Attorney not call them instead of bringing in these affidavits and burdening this record with them in violation of the Departmental ruling in the case of Catherine Mix et al Payton Martin et al both of which are Cherokee Freedmen enrollment cases.

In so far as these affidavits are concerned and these statements made for Moses Whitmire in a Cherokee Freedmen case before the Chambers court by his Attorney we certainly can not be bound in any way by them; we were not there to cross examine them; we had no business there, we were mere children then and the rights of this applicant were not called in question in that case, in that court or at that time and these ex parte affidavits and statements are certainly foreign to the case at bar.

Our right to cross examine these witnesses certainly can not be brought in question.

McKelvey on Evidence Sec. 245 Page 332, Says:

"The right of cross examination of a witness is a very important means toward bringing out the truth of the facts testified to. Every witness is subject to cross examination."

Mr Elliott in his work on Evidence Vol 2 Section 893 says:

"After a witness has been called by one party and has given his testimony, the opposite party has a right to cross examine him."
See Notes 12 L R A 693;

In the case of Cole Vs People, 2 Lane (N Y) 370, we note the following:

"Where a party without his own fault, neglect or consent, lost the opportunity to cross examine a witness examined by the opposite party, the testimony of such witness given on the direct examination should be stricken out."

In Greenleaf on Evidence (16th Ed) Vol 1 P 570 Sec 445 we find:

"When a witness has been examined in chief, the other party has a right to cross examine him."

In Kissam Vs Forrest 25 Wend 681, we find the following language used:
"If a witness dies after he has been examined in chief, and before his cross examination, it has been held that his testimony is inadmissible."

We might go on and cite cases by the hundreds, the law books and reports of decisions of the courts of the land are full of these decisions and it is clear that these affidavits of Mike Fields, Blufford Alerty and Mose Whitmire should not be introduced as testimony in this case; they belong to another case in another proceeding, in another court concerning a matter to which the applicant was not a party and in a court that had no jurisdiction to render a decision that would in any manner bind this applicant Andy Webber. This court had no jurisdiction or authority to decide any freedmen case much less to render a decision that would affect in any manner the rights of Andy Webber who was not a party to the proceedings.

If the Attorney for the Nation wanted to introduce the testimony of these witnesses whose affidavits he seeks to get in the record in this case why did he not bring the witnesses in and put them on the stand so we could cross examine them and ascertain their means of knowledge of the facts about which they attempt to testify. The National Nation makes no excuse for his failure to produce these witnesses. We have seen cases where applicants attempted to introduce testimony before the Department on ex parte affidavits and this same Attorney for the Cherokee Nation actually fought the air in his briefs and arguments against such practice and now we find him resorting to the very same practice himself. "Oh Consistency thou art a jewel"

But to make bad matters worse we find among the papers the National Attorney wants made a part of the record in this case statements made, not under oath even, by W. P. Beadinot as Attorney for Lewis Whitmire and Mose Whitmire before the Chambers court. These statements not even made by Lewis White Mire and Mose Whitmire but made by their attorney

We are certainly entitled to the right to cross examine Moses Whitmire and Lewis Whitmire on those statements they made to this Chambers Court "BY W. P. BOUDINOT." We are entitled to have them put under oath if they want these statements considered in a case and then when they swear to these statements then we are entitled to cross examine them. Why are they not brought before the Commissioner now and their testimony taken in the case just as we are required to do if we want testimony taken on part of the applicant in the case? No excuse is given why they are not produced? No reason is given? It is not shown by what authority W. P. Boudinot did when he made these statements; it is not shown that they are the statements of Moses and Lewis Whitmire; it is not shown that these persons ever saw these statements or that they ever knew that W. P. Boudinot made them or that they ever read them before they were filed with this Cherokee Court which had no jurisdiction in the case it sought to try and determine?

These statements by W. P. Boudinot, and not by Moses and Lewis Whitmire, and not made under oath are certainly not admissible for any purpose in this case.

Now lets see what Counsel for the Cherokee Nation puts when in fact:

"MR. HASTINGS: FOR THE PURPOSE OF IMPAIRING THE WITNESSES, RUSSELL AND DANIEL SANDERS, WHO HAS TESTIFIED IN THIS CASE, THE REPRESENTATIVES OF THE HEROIC NATION DESIRE TO OBTAIN EVIDENCE FROM THE ORIGINAL RECORDS OF THE CHEROKEE NATION TAKEN BEFORE WHAT WAS KNOWN AS THE CHAMBERS COURT OR COMMISSION ON CITIZENSHIP IN THE YEAR 1878 THE FOLLOWING: Here he described the records he wants introduced, which we learned when we got a copy of them afterwards turned out to be this stuff which we have referred to to wit: These were affidavits in some other case tried in a Cherokee Court and the statement of Lewis and Moses Whitmire made by counsel W. P. Boudinot for them and not even sworn to.

All of this has been brought in here now and this record encumbered by it for no other purpose as Mr. Hastings says (very innocently?) than "For the purpose of impeaching the witnesses, Russell and Daniel Sanders, who has testified in this case."

The only possible statement that would be admissible in this case for the purpose which Mr Hastings says he offers these affidavits and statements made by Attorney not under oath, would be former statements of Daniel and Reuben Sanders which would be contradictory to the statements they now make and the method for introducing such statements are plainly laid down in Greenleaf on Evidence, Elliott on Evidence, McKelvey on Evidence and all other standard Authorities on Evidence. Quoting from Elliott on Evidence Vol II Sec 974, 975, 976 and 977 we find the rule of testimony that applies in this case well settled:

"974. Impeachment By Proof of inconsistent or contradictory statements made out of Court--Laying the Foundation. --- The mode most

frequently resorted to in the impeachment of a witness is by proving that he made statements out of court inconsistent with or contradictory to what he has sworn to on the trial. In order to do this the proper foundation must be laid by asking him if he made such a statement, and, to give the witness full opportunity to understand all of the circumstances, so as not to be taken off his guard, his attention must be directed to the time and place and person to whom or in whose presence the statement was made. But this rule is to be given a practical application, and it is sufficient if the time, place, person, and substance of the statement are designated with reasonable certainty, so that the witness will clearly understand the matter and not be misled. Indeed, it is some times impracticable to fully and specifically state all these matters, and, in such cases, if the attention is clearly called to the alleged conversation or statement, and circumstances are so detailed, that there can be no misunderstanding, it will be sufficient, even though time, place and person are not all fully and specifically designated. If a witness on being interrogated as to whether or no he has at a certain time and place made certain statements, replies that he does not remember whether he did or not, or where he refuses to answer at all to the question no further foundation for impeachment is necessary, and proof of the alleged contradictory statements may then be introduced. But there are a few authorities that hold that such evidence is not admissible if he says that he does not remember or has no recollection of the matter."

"975. Impeachment by Contradictory statements continued--Writings. A witness may also be contradicted by proof of a written statement inconsistent with or contradictory to the one made on the witness stand during the trial of the cause, but the proof of the written statement must generally be made by producing the writing or a certified copy of it. A mere opinion expressed by a witness inconsistent with the fact testified to by him can not be given in evidence to impeach his credibility. But inconsistent acts and conduct as well as inconsistent statements may be shown in a proper case. The testimony of a witness at a former trial is frequently introduced for the purpose of impeaching him and there is no doubt that a witness may be contradicted and impeached in a proper case and in a proper manner. The rules already stated, as well as the rule hereafter stated in the next section, generally govern, and the same principal is applied to impeachment by proof of statements on preliminary examinations, coroner's inquests, and in depositions, affidavits and various other documents of a similar character."

Where the contradictory statement is in writing, and it is intended to impeach the witness thereby, the attention of the witness should be called to the contradictory part, and, usually, the writing must be shown to him and he must be asked if he wrote it or made such statements. The rule in England is thus stated by an English Writer: 'a witness under cross examination (or a witness whom the judge has permitted to be examined by the party who called him as to previous ~~statements~~ statements inconsistent with his present testimony) may be questioned as to previous statements made by him in writing; or reduced to writing relative to the subject matter of the cause, without such writing being shown to him (or being proved in the first instance); But if it is intended to contradict him by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of contradicting him.'

§977 Contradictory Statements must be relevant and not collateral- The contradictory statements alleged to have been made by the witness to be impeached and on which he has been cross examined, must be material and relevant to the issues presented by the trial; proof of contradictory statements which are immaterial and collateral or irrelevant is not competent to impeach the witness. If a party seeking to impeach a witness cross-examines him in regard to a matter which is irrelevant, immaterial and collateral to the issues on trial, such party is, as a general rule, bound by the answer of the witness, and can not introduce evidence to "disprove them" etc etc etc.

In Greenleaf on Evidence, Vol II Sections 402a; 402f and 462 practically the same rule is laid down.

Under the rules of Evidence as laid down by these eminent authorities it is clear that only contradictory statements made by Daniel and Reuben Sanders themselves could be introduced in this case by complying with the rules of evidence as herein laid down. But the rules of evidence have not been complied with and the testimony of Daniel and Reuben Sanders in the Meigs case has been put in this case over our objection at the request of the Attorney for the Cherokee Nation and he has not laid the foundation therefor nor complied with any rule of evidence whatever and we insist on our objection made in the record to the introduction of that testimony ~~also~~ also.

Under the mere pretext of impeaching our witnesses Daniel and Reuben Sanders the Attorney for the Cherokee Nation brings in statements of Moses and Lewis Whitmore, by Attorney, not under oath, and ex parte affidavits of Mike Fields, Blueford Alberty and Mose Whitmore. These are not former contradictory statements made by Daniel and Reuben Sanders and they are in this case in violation of the Departmental letter dated June 20, 1906 D C 25268, remanding for rehearing the Cherokee freedmen Enrollment case of Payton Martin et al.

Now is the time to call a halt to this plan adopted by the Attorney for the Cherokee Nation "TO DODGE THE DEPARTMENTAL INJUNCTION" by saying that he wants testimony from various and sundry cases injected into

this case under the mere pretext of taking affidavits from some other case, and statements for some other applicant made by Attorney and not even signed by them and not even sworn to by them, a part of the record in this case under the alleged theory of impeaching Daniel and Reuben Sanders when in truth and in fact he uses that term for a dodge and attempts to get statements made in these various and sundry affidavits and statements not sworn to in evidence in this case to help him make out the case. This practice ought to be stopped and we believe that the Department will put an end to it. If this practice is permitted the policy of the Department in the Catharine Mix case and in the Barton Martin case will be violated at every trial under the pretext of taking affidavits out of some other case and introducing them in these cases to impeach somebody. Affidavits of witnesses who have never testified before the Commission or its successor the Commissioner to the Five Civilized Tribes.

For these reasons we submit that our motion to strike out the testimony referred to we submit, should be sustained.

Respectfully,

Starr & Patten

Attorneys for Andy Webber.

Case 60

Aaron Whitmire ()
 vs () Tahlequah
 Cherokee Nation () July 3rd 1878

Mike Fields a witness for claimant called & sworn--

I am -I think I am about 47 years old--I live in Illinois District C.N. Am a citizen of the Nation--I have been on the Doubtful roll--but had my rights proven up before the Supreme Court as a citizen under the treaty of 1866 I went north to the State of Kansas in '62 I returned in August 21st or 22nd 1866. I left my family in Fort Scott when I came--I came down to get me a claim I staid about three weeks that time and then returned to Fort Scott--After I returned to Fort Scott there were others who started down the Whitmires were of that number. The claimant was one of them. They came down along in Decr. 1866. They returned to Fort Scott before I left there- I left Kansas about the 2nd week in January 1867 and got to the crossing of the Neosho river about the last of Jan'y. When I first came down there was about 15 in the party--They left there families in Kansas when they came down here. There was some of party came with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels Sam Webber Jr. Aaron Webber Reubin Sanders, Tuck Sanders.

The Whitmire party proper were Aaron, Lewis, Mose, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting homes. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the Country was because that part of the Country was so sparsely settled--and bare of subsistence--As I was coming down the first time we were overtaken by the Cherokee Delegation. There were some who came here were authorized by others to locate claims for them one was by McKoy requesting Abe Fields to locate for him. The original request filed.

----Cross Examined----

I cannot remember the date I arrived here the first time from Kansas. The claim I made we got 3 sets of house logs, hauled them and piled them up some of the men put up houses I did not put up a house. I started back to Kansas about the middle of September. When I first left the Country it was in Feb'y 1862. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Brushy Mountain on this side Arka river. When the Whitmires returned to Ft. Scott I do not know when they left there to come to this Country as I left there when I left--It was reported when they returned to the Nation that the Whitmire party had built houses but I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think I did not know it myself but people told me who could read. I did not know myself that it was the month of Aug. when I came here first but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires came down first to select & improve claims.

his
 Mick X Fields
 mark

Aaron Whitmire ()
vs ()
Cherokee Nation ()

August 1, 1878.

Blueford Alberty Witness for Claimant called and sworn.

I reside in Cooweescoowee District C.N. I am a native Cherokee Citizen--I left the nation during the war I returned to the Nation on the West side of Grand River Cooweescoowee District on the 3rd of Sept. 1866. I had occasion some time in the last of October or the first of Nov. or probably it might have been as late as the middle of November to go out to the Virdigris I went out to the Salt Creek on the Virdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Couches I did not go to the camp. They were colored people I knew most all of them. Their names were old Sam Webber Aaron Whitmire and a younger brother and Lewis Whitmire. There was another person whom I was told was a Landrum. I do not recollect any of the others and cannot identify them. The Whitmires were Johnson and George Whitmire Aaron. Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me that they had come to pick themselves homes or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man but that he had sent his son down to work for him and make him a claim--he then asked what chance there was to get provisions over on the river I told him there was none there but that there was a lot of condemned flour at Gibson and if they would go there they might get some--He also represented that they had come down to make claims for others who had remained in Kansas to build them houses &c they also stated that they were notified to come and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas as near as I can recollect it was some time in October or November that I saw these parties. It was not very cold weather at the time I recollect as I camped out at night. Did not see any of the parties after this time May 1867. There was no provisions to be had in the country at that time provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least--Major Wright belonged to Cornelius Wright before the war.

Cross Examined---

I heard after this that some of them went back to Kansas At the time I meet them I do not know whether their families were with them I did not suppose their families were with them I think I seen Dennis Whitmire with this party but am not certain of seeing Dennis or Nelson. I know their was four of the Whitmire boys. They were owned in the Nation & resided here up to the breaking out of the war.

B. W. Alberty-----

Aaron Whitmire)
)
) VS
)
-Cherokee Nation)

I know Mellissa Ratliff. She was 12 or 13 years old at the close of the war. She was living with me then and still lives in my family Jack Landrum was one of the band above referred to also Ransom Daniels I learned from our leaders Uncle Mike & Sam Webber that the Cherokee Delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at McClane's ferry in 1866. The Chief ferryman who crossed us was Bill Martin While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him--but Sam Webber had in my presence--

----Cross Examined----

I am a Claimant before this Court for Citizenship I am a half brother of Aaron Whitmire Louis, Dennis and Nelson are also my brothers Mariah Whitmire is my sister--Major Wright is my step father. The names of the party that came with me to the Nation are as follows Mike Sanders, Sam Webber, Peter Meigs Bill Foreman, Tuck Sanders Ransom Daniels Sam Webber Jr. Louis Whitmire Nelson Whitmire Dennis Whitmire Aaron Whitmire is all I recollect now. Witness and my brothers were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright I can't name any others Witness was a man of family in 1866 when we came on from Kansas My family was at Fort Scott Mellissa Ratliff Ed Wright and my wife and myself composed my family. Louis had no family Aaron & Nelson did. Major Man Nelson & Allen were Aarons children and his wife Sarah. They were left the wife and children in Fort Scott, when we came in 1866. Eliza Sanders Thos Sanders were Nelsons family and back at Fort Scott. We went back 1st January 1866 to Kansas--after coming to the Nation. When witness returned in 1867 to the Nation. Aaron Louis Nelson, Dennis, Ransom Daniels Tuck Sanders Peter Meigs and the families of those who had families all came as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation at least mine Aarons' and Nelsons' The first time Mariah Whitmire was in the Nation after the war closed was after our party returned in families in 1867. The first time Major Wright returned was on our first trip in 1867. Mellissa Rateliff was owned by one Alec Rateliff at breaking out of war. She first came in March 1867 to the Nation along with me when I moved. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Alberty as a witness in this case.

-----Re Direct-----

Mariah's family at close of the war was a separate family-- Harry Whitmire her son represented his mother on the first trip in 1866 Witness is about 53 yrs old Major Wright was an old man at the close of the war Louis Whitmire had been back to the Nation before 1866

Attest D. L. Nicholson
Clerk----

His
Mark X Whitmire.
mark

I hereby certify that the above and foregoing is a true and correct copy of affidavits by, Nick Fields, B.W. Alberty, and Ness Whitmire, which appear of record in docket "A" of the Chambers court on Cherokee citizenship, pages 239 to 247 inclusive, said docket being in my lawful custody.

Muskogee, Indian Territory.
July 11, 1906.

Wm. F. Dixie

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 22d 1901.

RUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant. (Examined by the Commission)

- Q What is your name? A Ruben Sanders.
Q How old are you? A I suppose I am about 50
Q What is your post office? A Centralia.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.
Q Who did you belong to? A James Sanders.
Q Were you taken to Kansas during the war? A Yes sir.
Q You have a wife named Alice have you? A Yes sir.
Q How long have you and she been married? A About 30 years perhaps more.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:
Page 175, No. 2657, Reuben Sanders, Cooweescoowee district.

- Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.
Q What court? A The Chambers court
Q Is that the only one? A Yes sir that is the only one; I was admitted by the Chambers court.
Q Where was it sitting? A At Tahlequah.
Q In what year was that? A I cannot tell what year it was
Q Your citizenship had been disputed had it? A Yes sir.
Q When was your right to citizenship first disputed? A It was during the time that Thompson Oochelita was chief.
Q Was that before the 1880 roll was made? A Yes sir.
Q Did the court decide in your favor? A Yes sir.
Q Was there any dispute made then about your being put on the 1880 roll? A No sir.
Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A No sir.
Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
Q Where did they take your name? A I was in Gooseneck Bend, at the time.
Q Do you know the applicant Elizabeth Meigs? A Yes sir.
Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

- Q Peter Meigs' citizenship was disputed the same time yours was? A Yes sir.
Q Did he go before the court at the same time? A No sir, I think not.
Q His wife's citizenship was also disputed? A I judge so.
Q Did she go down before that court? A Not to my knowledge.
Q Did he go down to Tahlequah to the court before that time?
A Yes sir I think he went down to the Bob Daniels court, think he went with my father.
Q Was Bob Daniels Chief Justice of that court? A Yes sir.
Q Just a few years after the war? A Yes sir.
Q In '71 wasn't it? A Yes sir.
Q Was any action taken in that court? A I dont know.
Q You were not there yourself? A No sir.
Q You were about 15 or 16 years old when you come back? A Yes sir
I guess so, I dont exactly know how old I was.

H. Meigs 2.

- Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I dont exactly know how old I was.
- Q You were not married then? A No sir.
- Q How long long after you got back before you married? A Not very long after I got back.
- Q Did you marry on your way down here? A No sir.
- Q How long had you been here before you married? A I have been married twice.
- Q How long had you been here before you married the first time? A Not very long.
- A As much as a year? A Maybe so.
- Q Is that your best judgment? A My best judgment is perhaps that it was that long.
- Q When were you married to your present wife? A Upwards of 30 years, or so.
- Q How long did you live with your first wife? A Not very long, she died.
- Q A year? A Perhaps it was, maybe a little longer.
- Q Then you married your present wife? A. Yes sir.
- Q When you came to the Cherokee Nation how did you come the first time? A In wagons.
- Q The first time? A Yes sir.
- Q Who came with you? A Several were on horse-back; it is beyoung my knowledge how many there were.
- Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the Winter.
- Q Did you come in August? A Yes sir.
- Q Who came with you then? A Some of this family, Peter Meigs and got his place; the heads of these families.
- Q Who else came with you? A My brother Dan and Whitmires.
- Q Which ones? A Several.
- Q Which ones? A Mose and Dennis, and the Webbers.
- Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I dont know who else, I dont know who all come.
- Q Who come when you come in October? A I dont know who all come then, some of that same crowd and some more come in October.
- Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
- Q What was his first name? A Old man Caesar Smith.
- Q You come in both of the detachments yourself? A No sir.
- Q Which one did you come in? A I come in August
- Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utenails when we come in August and left the on the creek.
- Q On Big Creek? A Yes sir
- Q Where Mrs Meigs lives? A Yes sir.
- Q And you returned in October, how long did you stay in October.
- A We all didn't return in October, we didn't all go back, some staid in August, some staid and some come back; some of us brought our things with us and some come to look out homes, we all come with the intention of making our homes here.
- Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time
- Q What time in the winter? A Long in January.
- Q You mean in '67.
- Q No in the winter of '66.

E. Meigs 3

Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of '66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

Q When you moved here permanently
Q When you moved here permanently, tell all that you possible can remember of who came with you in the January or February following? A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
Q I dont mean only of that family, there were other families were there not? A Old man Billie Forman
Q Who else? A He had several children
Q The heads of families I mean? A Fannie Sanders; I dont recollect them all; I dont know as I can call the names of all of them.
Q Were any of the Webbers along? A Yes sir.
Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I has forgotten them I dont think I can remember any of the others.

By the Commission:

Q Did old man Sam Webber come? A Yes sir.
Q Did his son Sam come? A Yes sir.

By W. W. Hastings:

Q Dont you remember any one else? A Rachel Webber.
Q Do you think of any one else? A No sir.
Q You know that it was a mooted question before the Kerns Clifton Commission as to who came at this time and as to when you come? A I have'nt been interested as to any one except for myself.
Q You know that there is a question about who came dont you?
A Yes sir. I guess I do.
Q You say you came to Big Creek? A Yes sir.
Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I dont know that they called it Chetopa then, there was a house or so there.
Q Did you cross the river there? A What river.
Q Neosho? A No sir
Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.
Q You came through what is Chetopa and came on west through the prairie? A We may have.
Q You were in wagons? A Yes sir.
Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had

R. Meigs 4.

come in August or October before that? A I have no knowledge of any one living there before that.

Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.

Q Then the houses were not built before you moved there with your families? A Yes sir some were, there were logs on some up 8 or 10 logs high.

Q Then there were none really completed until you moved there with your families? A No sir.

Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.

Q Do you know Jim Martin? A Yes sir.

Q How far does he live from you now? A 4, 5 or 6 miles.

Q Was he living there when you people moved there? A No sir.

Q He had a brother names William Martin? A Yes sir.

Q Was he living out there then? A No sir.

Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.

Q Was his name Dick Carter? A I think it was.

Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.

Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.

Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '65? A Yes sir.

Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.

Q You didn't bring your families with you then? A Only part of them and some things that we had.

Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at the time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family come in October.

Q When did Peter Meigs go back to Kansas? A I think with my father

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

E. Meigs 5.

- Q Did all the members of your own family come with you? A No sir.
Not all of them come in October
- Q Where was Peter Meigs in October? A He come with us at each trip.
- Q Did he go back to Kansas with you? A Yes sir.
- Q And then you came back here to the Cherokee Nation in October?
A Yes sir.
- Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.
- Q That made the second time that Peter Meigs had been here? A Yes sir.
- Q Where was Peter Meigs in Christmas of '66, do you know? A No sir I dont exactly know where he was in Christmas of '66.
- Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family?
A Yes sir.
- Q How far apart? A Two or three hundred ~~years~~ apart.
- Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.
- Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.
- Q You staid here then? A Yes sir.
- Q When did you come? A In the winter.
- Q Was it in February? A Must have been in December.
- Q What about that February trip you spoke of? A It was in the winter some time. Snow was on the ground.
- Q Did your father come at that trip? A Yes sir.
- Q Your mother? A Yes sir.
- Q Peter Meigs? A Yes sir.
- Q His wife? A Yes sir.
- Q That was your third trip? A Yes sir.
- Q Was that your last trip? A Yes sir.
- Q When did your wife Alice come? A Come then.
- Q On that third trip? A Yes sir.
- Q You say Peter made all three trips with you? A Yes sir.
- Q Every time you came he came? A Yes sir.
- Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.
- Q Did he go there by himself? A No sir.
- Q Do you remember distinctly that you came here in August the first time? A Yes sir.
- Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.
- Q Do you remember distinctly that he came with his family when you made your third and last trip? A Yes sir.
- Q With his family? A. Yes sir.

By Gen'r Breckinridge,-

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the

E. Veigs G.

Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

#####

Chas. von Weise, being 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 Vonweise.

Subscribed and sworn to before me this the 29th of May, 1901 at
Chelsea, I. T.

T. P. Needles,

Commissioner.

Lola M. Champlin being first duly sworn states that as Stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy and that same is a true and correct copy of the original testimony.

Subscribed and sworn to before me this, the 29th
day of May, 1906.

Lola M. Champlin
Charles H. Hester
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 28th 1901.

In the matter of the application of Andy Webber for enrollment as a Cherokee Freedman; he being sworn by Commissioner T. B. Hoodless, testified as follows-

- Q What is your name? A. Andy Webber.
Q What is your age? A. 25.
Q What is your post office address? A. Centralia.
Q In what district do you live? A. Goo-wee-see-see.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who else do you want to have enrolled? A. Just myself.
Q How is your name on the roll of 1880? A. I don't know.
Q What is your father's name? A. Johnson Webber.
Q Is he living? A. No sir.
Q What is your mother's name? A. Frances Sanders.
Q Is she living? A. No sir.
Q Is your name on any of the rolls of the Cherokee Nation? A. Think it is on the Wallace roll.
Q Have you any brothers or sisters? A. Yes sir one, Manda Webber.
Q Has she been enrolled? A. Yes sir under the name of Amanda Hill at Chelsea.

Alicant not found on the 1880 or 1896 rolls.

- Q You say Amanda Hill is your sister? A. Yes sir.

Kern Clifton roll examined and the name of the applicant found as follows: Page 167 No. 4131, Andy Webber, Goo-wee-see-see district

Wallace roll examined and the applicant found as follows-
Page 152 No. 3159, Andy Webber, Goo-wee-see-see district.

- Q Where were you born? A. On Big Creek, Cherokee Nation
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Married? A. No sir.
Q Never have been? A. Yes sir.
Q Have you any children? A. No sir.
Q Are you separated from your wife? A. She is dead.
Q Are you a full brother of Amanda Hill? A. Half brother.
Q Same mother or same father? A. Same father.
Q Were your father and mother slaves? A. Yes sir.
~~Q What was your father's name? A. Johnson Webber.~~
Q Who did your father belong to? A. I don't know.
Q What did your mother belong to? A. I don't know.

Sam Webber called and sworn as a witness for the applicant-

- Q What is your name? A. Sam Webber.
Q What is your age? A. 58.
Q What is your post office address? A. Nowata.
Q Do you know the applicant? A. Yes sir
Q How long have you known him? A. Ever since he was born.
Q What was his father's name? A. Johnson Webber.
Q Was he a slave? A. Yes sir.
Q Who did he belong to? A. Ake Webber.
Q A Cherokee citizen? A. Yes sir.
Q Was he taken out of the Cherokee Nation during the war? A. Yes sir
Q Where to? A. Kansas.
Q When did he return? A. Late in the fall of '64
Q Did you know his mother? A. Yes sir.
Q Was she a slave? A. I don't know

- Q Do you know when Johnson Martin and Frances Sanders were married?
 A After the war.
 Q You dont know the citizenship of his wife? A. She returned in '06 with her father.
 Q But you dont know if she was a slave or not? A. No sir I dont of my own knowledge.
 Q Did they live together as man and wife until one of them died? A. Yes sir.
 Q And Andy is their child? A Yes sir.

By Hastings-

- Q He was married before? A. Yes sir to one of the Wards.
 Q Did his first wife die? A. Yes sir.
 Q And then he married this Sanders woman? A Yes sir.
 Q A Sister of Dan? A Yes sir.
 Q And that is the mother of this applicant? A Yes sir.

Dan Sanders called and sworn as a witness for the applicant-

- Q What is your name? A. Dan Sanders.
 Q What is your age? A. 58.
 Q What is your post office address? A. Centralia
 Q Are you a recognized Cherokee freedman? A. Yes sir.
 Q Do you know the applicant? A. Yes sir
 Q How long have you known him? A. All his life.
 Q Did you know his father? A. Yes sir his name was Johnson Webber.
 Q Was he a slave? A. Yes sir.
 Q Who did he belong to? A. Abe Webber.
 Q Was Johnson Webber taken out of the Cherokee Nation during the war?
 A Yes sir to Kansas.
 Q When did he return? A. In '06
 Q How do you know that? A. They were in our crowd.
 Q Do you know the mother of Andy Webber? A. Yes sir she was my sister, Frances.
 Q Was she a slave? A. Yes sir.
 Q Who did she belong to? A. Levi Keys.
 Q Was she a Cherokee citizen? A. Yes sir.
 Q Was she taken out of the Cherokee Nation during the war? A. Yes sir
 Q When did she return? A. With me in '06.
 Q Did she live in the Cherokee Nation from that time until her death?
 A Yes sir.
 Q Do you know that she and Johnson Webber were married? A. Yes sir, they lived right there by me, 3 or 4 miles from me.
 Q Did you see them married? A. No sir.
 Q While they were living together as man and wife was Andy born? A. Yes sir.
 Q And has he lived in the Cherokee Nation all his life? A. Yes sir

By Hastings-

- Q What time in the year did you first come back here? A. About in January, the last of January or the first of February.
 Q You men folks had come before? A. Yes sir.
 Q You built houses the first time? A. Yes sir.
 Q And then went after your families? A. Yes sir.
 Q What January was that you came with your families? A. '07.
 Q Did you come to Big creek? A. Yes sir.
 Q You were about the first people to locate on Big creek? A. Yes sir.

Q Who was with you? A I dont know just how many families, some of them came part of the way and stopped on the Neenah.

Q Name all that you came? A Peter Hedge, the Webber's, Andy Sanders Fannie Soales, Henry Soales; I disremember who else.

Q You reached there in January or February with your families? A. Yes sir.

Q And have been there ever since? A. Yes sir.

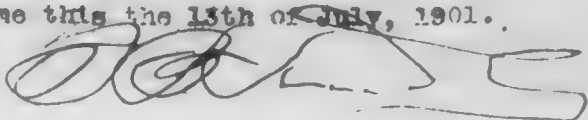
By Com'r Needles-

Andy Webber applies for himself; he is only identified on the Kern Bliften and Wallace rolls; he is the child of Johansen Webber and Frances Sanders, and makes satisfactory proof that both his parents were slaves and taken out of the Cherokee Nation and returned in '66; makes satisfactory proof as to residence. The Commission is satisfied that the said Andy Webber is entitled to be listed for enrollment as a Cherokee Freedman and he will therefore be so listed on a straight card.

Chas. von Weise, being sworn states that as stenographer to 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 13th of July, 1901.



Commissioner.

A COPY OF THIS TESTIMONY IS ORDERED FILED WITH THE APPLICATION OF AMANDA HILL, U. F. D. #135.

File with Cherokee Freedman D-301, Elizabeth Meigs.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs
et al., for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. B. Bell, of counsel for Cherokee Nation.

Daniel Sanders, being duly sworn by Commissioner
Needles, testified as follows:

By L. T. Brown:

- Q State your name? A Daniel Sanders.
Q What is your age? A About 29.
Q What is your postoffice address? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear upon the authenticated roll of 1880?
A I think it does.
Q You knew Elizabeth Meigs and George Meigs? A Yes sir.
Q What relation is George Meigs to Elizabeth Meigs? A Her son.
Q Did you know Peter Meigs during his life time? A Yes sir.
Q Do you know whether Peter Meigs, Elizabeth Meigs and George
Meigs were out of the Cherokee Nation during the war? A Yes sir.
Q When did they return to the Cherokee Nation? A They came in
'66.
Q With whom did they return? A They came with me and my father
and the Webbers.
Q Have they had a continuous residence in the Cherokee Nation
ever since? A Yes sir.
Mr. Bell: When did you come to the Cherokee Nation yourself
after the war? A In '66.
Q What time of the year? A First of December.
Q That was the first time? A Yes sir.
Q When did you make your second trip? A Along in first part
of January.
Q That was January, 1867? A Yes sir.
Q Now which one of these trips was it that Peter and his family
came with you? A They came both times.
Q Came both times? A Yes sir, the old man came the first time
and then the last time the family came.
Q Peter came with you alone the first time? A Yes sir.
Q Then the second time he brought his family? A Yes sir.
Q What did his family consist of? A Mary, George, Alice, Harry,
Simon, and Perry.
Q Then was his children? A Then was his children.
Q Well he had his wife Elizabeth with him, didn't he? A Yes sir.

Commissioner: This testimony will be filed and made
part of the record in the case at bar and part of the record in
D-304, D-305, D-306, D-401, D-402, D-403, D-407, D-775.

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 7th of November, 1901.

T. B. Needles,
Commissioner.

Lola M. Champlin being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original testimony.

.....*Lola M. Champlin*.....

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

.....*Chas. E. Webster*.....
Notary Public.

Andy Weir v. C. F. D. 959

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Vinita, I. T. October, 29th 1901.

In the matter of the application of Abraham Ward et al., C. F. D. #607
SUPPLEMENTAL TESTIMONY

Appearances:

W. W. Hastings for the Cherokee Nation.
Mellette & Smith for the applicants

By Mr. Hastings: I desire to file a certificate from J. A. Gady, County Clerk of Linn County, Kansas, showing that from the Assessment rolls of Mound City Township in Linn County Kansas, for the year 1867, there appears the following: " Peter Ward, one Female dog."

By Mr. Smith: The applicants object to the introduction in evidence of the above mentioned instrument, because it appears from the face that the same is not a certified copy of any record, but a statement of one J. A. Gady, certified to by him, the same not being within the rules of law in this jurisdiction in regard to the introduction of certified copies of records, and not being the best evidence, and for the further reason that the person named therein is in no way identified with the applicant in this case.

By Commissioner C. B. Breckinridge: The document in question will be filed in this case, the objection of counsel for the applicant will be noted and the matter will receive the further consideration of the Commission.

=====
(COPY)

State of Kansas:
County of Linn:

I, J. A. Gady County Clerk within and for the above named County and State, do hereby certify that I have examined the Assessment rolls of Mound City Township in Linn County, Kansas, for the year 1867 and find that Peter Ward is listed on said rolls as follows: " Peter Ward, one Female dog." said entry is on page 75 of said rolls. Said assessment rolls were filed in the office of said County Clerk on July 1, 1867, and said assessment and list of property owners was taken during the month of March, 1867, and based upon residence of said County for March 1, 1867, by said assessor.

Witness my hand and official seal at Mound City, Kansas, this 28th day of October, A. D. 1901.

(Signed) J. A. Gady
County Clerk of Linn County, Kansas.

(SEAL)

=====
By Commissioner Breckinridge: In the matter of the foregoing alleged certificate of the records of Linn County, Kansas, it is directed that copies of the alleged certificate and the objection to their filing of Counsel for the applicants, be filed in the case to which this case refers and all suggestions thereto as found upon the records of this Commission.

=====
Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the above proceedings, and that the above copy of the certificate filed in this connection is a true and correct copy of the original, and further that the above is a full and correct transcript of his stenographic notes in said proceedings.

Subscribed and sworn to before me this 29th of November, 1901.

[Signature]
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 21, 1906.

SUPPLEMENTAL PROCEEDINGS, had in the matter of the application for the enrollment of ANDY WEBBER as a Cherokee freedman.

APPEARANCES:

For Applicant, Starr & Patten.

For Cherokee Nation, W. W. Hastings and J. S. Davenport.

The records of this office show that on May 7, 1906, this case was remanded by the Secretary of the Interior to permit the applicant and the attorneys for the Cherokee Nation to offer such testimony as they may desire to submit as to whether Frances Webber, mother of the applicant, was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. The records further show that on May 25, 1906, the applicant, his attorneys, and the attorneys for the Cherokee Nation were duly advised of the Department's action, and notified that they would be permitted to appear and introduce such testimony before this office on June 21, 1906, at nine o'clock A. M., at which time the following proceedings were had.

JAMES M. KEYS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A James M. Keys.
Q What is your age? A 63.
Q What is your post office? A Fryer Creek, I. T.
Q What is your occupation? A Special Marshal for the Cherokee Nation.
Q Are you acquainted with the applicant Andy Webber? A Yes sir.
Q Are you acquainted with his mother? A Yes sir.
Q What was her name? A Her name was Frances Sanders.
Q Did you know her at the commencement of the war of the rebellion?
A Yes sir.
Q Where did she live then? A She lived on Caney near Tahlequah.
Q Was she a slave at that time? A Yes sir.
Q To whom did she belong? A To my Uncle Levi Keys and Lucinda, in fact she belonged through his wife.
Q Did she belong to these people at the commencement of the war of the rebellion? A Yes sir.
Q Were they Cherokee citizens at the commencement of the war? A Yes sir.

BY MR. HASTINGS:

- Q Was Andy Webber born since the war? A I don't know to my personal knowledge, but judging from his looks I think he was.
Q Do you know anything about the return of Frances? A Nothing.
Q When did you first see her after the war? A I never saw her after the war, I have no recollection of ever seeing her after the war.

- Q All you know about Andy being her son is what he claims? A Yes sir.
Q You are only testifying as to the ownership of Frances Sanders?
A Yes sir.

W I T N E S S E X C U S E D .

REUBEN SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A Reuben Sanders.
Q What is your age? A 55, I don't know my age exactly.
Q What is your post office? A Centralia.
Q What is your citizenship? A I am an 1860 roll Cherokee citizen.
Q Cherokee freedman? A Yes sir.
Q Are you acquainted with the applicant Andy Webber? A Yes sir.
Q Were you acquainted with his mother? A Yes sir.
Q What was her name? A Frances Sanders, sometimes she went by, but after she married she became Frances Webber.
Q Did you know her at the commencement of the war of the rebellion?
A Yes sir.
Q To whom did she belong? A She belonged to Keys as near as I can recollect, Levi Keys and Lucinda.
Q Was Levi Keys a citizen of the Cherokee Nation at the commencement of the war? A Yes sir.
Q What became of Frances Sanders at the beginning of the war? A She went to Kansas.
Q When did she return after the war? A She returned with us in August.
Q What year? A '66.
Q Where did she come to? A Big Creek where we now live.
Q Big Creek in the Cherokee Nation? A Yes sir.
Q Did she do anything in the way of making improvements at that time? A Yes sir.
Q What did she do? A Built the wall of a house, at least she had us to do it.
Q Did she after that continue these improvements? A Yes sir.
Q What did she do afterwards in the way of building these improvements? A We completed the house for her.
Q What relation is Frances Sanders to you? A She is my sister.
Q Who else was with you at the time you came in August, 1866? A There was quite a number of others with us, my brother Dan, some of the Whitmires, the Majors and others.
Q Did she build this house for the purpose of making it her home at that time? A Yes sir.

BY MR. HASTINGS:

- Q Was she the only woman in the crowd? A No sir.
Q Did you come down there in wagons? A Yes sir.
Q You afterwards then went back to Kansas? A Yes sir.
Q Where was this house built? A It was built there near where I am living now.
Q On Big Creek? A Yes sir, it is on Big Creek.
Q How far from the mouth of Snow Creek? A Well Big Creek is about 15 miles from Snow Creek country, east and south of there.
Q What became of the house? A The house is there now.
Q The house is still there? A Yes sir.
Q Who lives in it now? A I owned part of it since that time, I own the place where the house was.
Q Who filed on the land? A I filed on it since that time.
Q Who is living in the house? A Nobody never did live in the house.

- Q No one never lived in the house? A No sir, she lived with us.
Q The house just rot down? A No sir, the house aint rot down.
Q You said no one never lived in it? A I said no one didn't live
in the house, she never lived in the house, she lived with us until
she married. She didn't use the house afterwards.
Q She never lived in the house at all? A No sir.
Q No one never lived in the house at no time? A No sir.
Q The house out in the middle of the field? A It was her place.
We made the place for her, she was a member of our family and she
lived with us.
Q How old was she when the war closed? A I don't know.
Q Had she any children before the war? A I don't know whether
she did or not, I don't recollect.
Q You don't remember whether she had any children at the close of
the war? A She had a child or two after the war.
Q You don't remember whether she had any children when you come
down here? A I think she had one child when she came down here.
Q You don't remember as to the? A Yes sir.
Q What is its name? A His name was John O'Neil, but he is dead.
Q Did she have a husband then? A No sir.
Q Where was John O'Neil born? A He was born in Fort Scott.
Q How old was he when she came down here? A I don't know.
Q About, your best judgment? A Why he was a baby.
Q Could he walk, talk, or was he nursing? A I think he could
walk around some.
Q Did she have any other children? A Not to my knowledge at that
time.
Q Well after you started the foundation and started the house you
went back to Kansas? A Yes sir.
Q Did she marry in Kansas? A No sir, not in Kansas.
Q Did she ever marry here? A Yes sir.
Q Well you all came back here about the last of February or first
of March following that did you? A We came back along in the
winter.
Q Well the following February, the last of February? A We came
along in January as near as I can remember is when we came back.
Q Didn't come until after Christmas? A It was along in January
when the snow was on the ground.
Q I say it was after Christmas? A Yes sir, it might have been
after Christmas, but it was in the winter.
Q You and the Whitmires come along close together? A No sir, not
at that time.
Q They come a little ahead of you? A No sir, they didn't come
with us at that time. There were several crowds of us came.
Q That is when you moved down here was it? A We moved down here
in January.
Q Well where was the Whitmires when you left up there? A The
Whitmires had been down here, they come in a gang to themselves.
Q They moved their families just ahead of you? A No sir, I
don't know that they did.
Q Well now how many years after you came down the following spring
before Frances came? A Frances came with us.
Q That following spring? A No sir, it was in the winter.
Q You testified in the Aaron Webber case didn't you? A No sir.
Q You testified in the Elizabeth Meigs case, F. D. 391? A Yes sir.
Q You married one of the Meigs? A Yes sir.
Q You testified about them searching your wagons on the trip as you
came down here? A Yes sir.
Q You said there was considerable excitement up there, and that
your wagons were searched; that a fellow named Hayford was killed.
You said they searched your wagons up there for Mackey the fellow
that killed him? A Yes sir.
Q And you said the country was up in arms when you were moving
your family? A Yes sir.

- Q You said there was lots of wagons with you on that trip? A It was my family at that time, went back at that time and was moving my family.
- Q You didn't think to tell that on the stand before? A I corrected that, I told you how that was.
- Q You didn't make that correction when you were on the stand before did you? A I told you when we were coming back they were living down here at the time, that they were living down here at the time of that killing.
- Q Now how many of you were along there when they were searching your wagons for Eli Mackey? A Myself, and the women I brought with me and Peter Meigs and George Meigs and the ~~old~~ man named Henry Hare and Abe Thurman.
- Q That was all along with you at the time they searched your wagons? A There was some women along in that crowd at that time.
- Q What women were along? A Their wives.
- Q Now when was that? A That was along in sometime in March or February, sometime along about that time. It was after we had come down here.
- Q When were you first married? A I married sometime perhaps about '67.
- Q What time in 1867? A I don't know exactly what time.
- Q What month? A I suppose it must have been along in the winter of '67.
- Q You don't know then what month it was? A No sir.
- Q You don't know the day of the month? A No sir, it was along in '66, the last part of '66.
- Q You are certain as to that? A Yes sir, I am certain it was sometime in '66, it must have been when I married.
- Q Haven't you previously testified that you married in 1867? A I don't know as I have. I haven't got no marriage license.
- Q Where was you married? A I was married on Big Creek. I was married in Port geott, that is the place.
- Q Why did you say Big Creek? A I was just mistaken, I was married in Port geott.
- Q Who married you? A A man by the name of parson Brown.
- Q Did you get any license there? A Yes sir, I had ----
- Q Who did you marry? A A woman by the name of Mag Johnson.
- Q That was her name then? A Yes sir, I believe that was her name.
- Q Was par ganders married when you come down here? A Yes sir.
- Q Where was he married? A I don't know.
- Q Was he married in Kansas or the Cherokee nation? A I don't know where he got his woman, she was around with him in the army.
- Q Did he bring her down here with him? A Yes sir.
- Q With whom did Frances live after you come down here? A She lived in a house with her parents, her mother polly ganders and her father wike ganders.
- Q She didn't have any husband then? A No sir, not then.
- Q But she had this child John O'Neil? A Yes sir.
- Q Whatever became of that child? A He died.
- Q How long after you come down here? A I don't know.
- Q Was he alive when you come? A Yes sir.
- Q Buried down here? A Yes sir.
- Q How long did he live after he come here? A He lived to be a young man after he came here.
- Q Did she marry after she come down here? A Yes sir.
- Q Who did she marry? A Johnson Webber.
- Q How long after she come? A I don't know how many years.
- Q Who married her? A I don't know.
- Q You say this house they started was never completed and nobody never lived in it? A It was completed, but nobody never lived in it. she had no occasion to live in it.
- Q Never was lived in? A No sir.

- Q Was your first wife a state raised woman? A Yes sir.
- Q You had married that first wife before your folks come down here?
- A No sir,--Yes sir, I had married her before we came down here.
- Q And before your folks moved down here? A Yes sir, I had been sleeping with her before then.
- Q Had you married her? A I married her shortly afterwards.
- Q You married her after that time? A I married her about that time.
- Q Now I want to know if you married her before your folks moved down here? A Yes sir.
- Q How long did you remain down here before you went back after your wife? A Until about, along in as near as I can recollect, along in February or March is when I went back.
- Q Who went back with you? A Uncle Peter Meigs and George Meigs. They were the two that went back with us.
- Q The only two? A Yes sir.
- Q Who else went back of your family? A No one else of my family at that time.
- Q You have never given any testimony in this case before? A Not to my knowledge.
- Q You ever have any children by this woman? A Yes sir.
- Q When was your oldest one born? A Born in about '67.
- Q What is its name? A Rosa.
- Q Rosa what, is she alive? A Rosa Sanders.
- Q She has never been married? A Yes sir.
- Q She has been enrolled? A Yes sir.
- Q Where was she born? A In Kansaw. Now that child was born before I married that woman, I got the child before I married the woman.
- Q What time of the year was she born? A Must have been born in about August.
- Q Born in Kansas? A Yes sir.
- Q It was after that time you moved her and her mother down here?
- A Lets see,--the child was born, as near as I can think I moved the mother down in March.
- Q You moved her down in March after the child was born? A Yes sir, in March after the child was born.
- Q You said the child was born in ~~the~~ Kansas? A I haven't just got the date of the child now.
- Q You know whether the child was born in Kansas? A Yes sir.
- Q It was the next March you moved the mother down? A I moved her down sometime along in March, '67, or sometime about February, about that time.
- Q Well that was February or March after the child Rosa was born?
- A Well, it wasn't---
- Q Don't talk about years, I am talking about the date of the birth of that child? You know whether or not the child was born before you moved the mother down here? A It was in August.
- Q I am not asking you about August, September, October or November? Was that child born in Kansas as you testified? A The child was born,--No sir, I am mistaken as to its being born in Kansaw, she was born here, Rosa was.
- Q Is that the oldest child you had by that woman? A No sir.
- Q What is the other one? A Josephine.
- Q Is she now living? A No sir.
- Q How long ago? A A good many years ago.
- Q Did she live to be a grown woman? A No sir, died when she was a child.
- Q Where was she born? A She was born in Kansas. Rosa she was the one born at the time I speak about.
- Q Rosa was born? A No, Josephine

- Q Josephine was born in Kansas? A Yes sir.
- Q How long before you come down here in August? A Well I don't recollect. Rosa is the one that was born on Big Creek.
- Q I have departed from that to new fields, I am asking you about where and when Josephine was born? A Josephine was born in, must have been born in August, '66.
- Q Was she born before you come down here? A Yes sir, that was our child.
- Q Was it by this same woman that you afterwards married? A Yes sir.
- Q You swear that? A As near as I can recollect as to dates.
- Q I am not asking you about dates, I am asking you if ~~that~~ that was your first child by this woman, and if it was born in Kansas? A I wont positive say as to my recollection that it was born in Kansas.
- Q Do you mean to tell the Commissioner that you don't know where your first child was born? A I mean to say Rosa was my child born in the Territory after I come down here.

On Behalf of the Commissioner: You answer his question as well as you can.

- Q I am asking you where your oldest child was born by this same woman, that is the mother of Rosa? You have now stated that it was Josephine, now where was she born? A Josephine was born in Kansas.
- Q How old was Josephine when you moved her mother here? A Josephine she died when she was a baby, she may have been two or three months old.
- Q I am asking you to tell me about how old Josephine was when you moved her mother down here? A I don't know exactly.
- Q Did you bring Josephine here? A Yes sir.
- Q About how old was she when she died? A I suppose she was two or three months old when she died.
- Q Where was she buried? A On Big Creek.
- Q What month was she born in? A I don't recollect, I haven't got the date down, don't know what month.
- Q You don't know anything about the month of the birth of your first child? A No sir.
- Q How long after you come here before Rosa was born? A Rosa was born along in about '67, sometime I guess.
- Q What time in the year? A I don't know exactly what time in the year.
- Q Was it in the early part of the year or the last part of it? A I think it was sometime maybe along in the middle of the year.
- Q In June? A I would not say positively.
- Q What is your best judgment? A I just haven't got no best judgment.
- Q Do you know what month you were married in now? A No sir, I don't recollect what month.
- Q And you don't know what month neither of your first two children were born? A No sir, I haven't got it down, I don't recollect now.
- Q Did you have any child to die in Kansas? A No sir.
- Q Did you have any other child to be born in Kansas except Josephine? A No sir.
- Q Were you and Josephine's mother married at the time Josephine was born? A No sir.
- Q Did your brother Dan have any children when he come down here that he brought with him? A I don't think he did, I don't know.

BY MR. STARR:

- Q You say you lived with this woman Maggie sometime before you were married to her? A Yes sir.
- Q Was this child Josephine born before you married this woman?
- A Yes sir.
- Q What was the occasion of you going to Fort Scott with Peter Meigs and George Meigs? A I went back after her and they went back to get some provisions.
- Q Went back after who? A I went back after Maggie and they went back after some provisions and some things.
- Q Well now when was it that Frances Sanders came back to the Cherokee Nation after she went to Kansas in 1866? A She came in January with us when we came.
- Q Did she make a trip down here before you went up there after this wife? A The first time was in August and the next time was in January, and she didn't go back after this time.
- Q Was she here when you went back after your wife? A Yes sir, here, living at that time on Big Creek.
- Q Was anything happened in Fort Scott when you went back there with Peter and George Meigs? A Just before we got back there Eli Mackey killed that fellow and skipped out.
- Q Was that the time you said they searched your wagon? A Yes sir.
- Q At that time Frances Sanders was living in the Cherokee Nation?
- A She was on Big Creek at that time.
- Q Do you remember the circumstances of the killing of Dyer Hafford?
- A Yes sir, I recollect it.
- Q Where was Frances Sanders living then? A Here at that time.
- Q Did she ever go back to Kansas after that? A Not to my knowledge.
- Q Always lived here until her death? A Yes sir.

BY MR. WASHINGTONS:

- Q How far did you live from Whitmires in Kansas? A They lived two or three miles from us.
- Q You knew them there? A I knew some of them, yes sir.
- Q Which ones did you know? A I knew Lewis and Moss.
- Q Had they come down here? A I don't know, they didn't come when I did.
- Q You knew whether they had left Kansas or not? A No sir, I don't know, I lived in town and they lived in the country.
- Q But you knew whether they were down here below you on Big Creek?
- A No sir, I don't.
- Q You asked when they come? A No sir.
- Q You don't have any idea when they came? A I have an idea when they say they come.
- Q You never kept any particular account of the dates? A No sir.

ON BEHALF OF THE COMMISSIONER:

- Q What relation are you to Frances Sanders? A She was my sister.
- Q Did she come to the Cherokee Nation the first trip you did? A Yes sir, in August, she cooked for us while we worked.
- Q You state she went back to Kansas then in the winter and returned?
- A In September is when we went back.
- Q She went back with you? A Yes sir.
- Q Did she come back to the Cherokee Nation at the time you did?
- A Yes sir, she came back in January.
- Q This is the first time you have ever testified in this case?
- A Yes sir.

BY MR. WASHINGTONS:

- Q Your last marriage was to a Meigs? A Yes sir.
- Q Daughter of old Peter Meigs or George? A Peter.

BY MR. STARR:

- Q How long did you live with this first wife after you married her until you married the Meigs woman? A I think she died in '72, I think as near as I can recollect.
- Q And you have since married the Meigs woman? A Yes sir.

WITNESS EXCUSED.

DANIEL SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A Daniel Sanders.
- Q What is your age? A 62.
- Q What is your post office? A Centralia.
- Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
- Q Do you know his mother? A Yes sir.
- Q What was her name? A Frances.
- Q Frances ~~my~~ what? A Keys, I guess, she belonged to Mrs. Keys.
- Q Did you know her at the commencement of the war of the rebellion? A Yes sir.
- Q Was she a slave? A Yes sir.
- Q Who did she belong to? A Lucinda Keys.
- Q Was Lucinda Keys a citizen of the Cherokee Nation at the commencement of the war? A Yes sir.
- Q Did Frances go out of the nation during the war? A Yes sir.
- Q When did she return to the Cherokee Nation after the war? A In '66.
- Q Who did she come with? A With my father and me and Reuben, and several others.
- Q What time in 1866? A Along in August.
- Q Where did you come to? A Over on Big Creek.
- Q How long did you stay on Big Creek at that time? A Stayed there and built a foundation of our house and made some boards and covered one house.
- Q Did Frances Sanders have any improvements made on the public domain at that time for her? A Yes sir.
- Q What was it? A About an eight log house.
- Q Did she come back to Kansas after that? A Yes sir, we all went back.
- Q How long did you stay? A Stayed there until the last part of December.
- Q Did she come back again? A Yes sir.
- Q Where did she come to at that time? A To Big Creek where we live now.
- Q Has she lived in the Cherokee nation all the time continuously until now? A Yes sir, until her death.
- Q When did she die? A She died in, if I mistake not, in '83.
- Q Did she own any improvements from August, 1866, afterwards? A Yes sir, that old residence that is there now, it is part of my mother's old place.
- Q Were the improvements continued on that place at that time? A Yes sir all in the field now.
- Q Was the house completed? A Yes sir.
- Q This woman is the mother of the applicant Andy Webber? A Yes sir.

BY MR. HASTINGS:

- Q What time did you come back down here when you moved? A In January, I don't know just the exact date.
- Q What time in January, the first? A Sometime in January, there was snow on the ground.

- Q Did you come from Fort Scott? A Come from Fort Scott, I was living at Fort Scott.
- Q Was that the trip your wagons were searched? A No wagons were searched in my attachment.
- Q Did the Whitmires come with you? A Not at that time, not all of them.
- Q Who all did come at that time of the Whitmires? A At that time it must have been old man Mose Whitmire.
- Q He come with you did he? A I think old man Mose and Lewis.
- Q And Moses and Lewis Whitmire come when you came here in January of 1867? A Yes sir.
- Q You know what family Mose have with him at that time? A No sir.
- Q Was Lewis? A No sir.
- Q Were they married? A Mose was married but I don't think Lewis was.
- Q Did any other Whitmires come with you at that time? A No sir.
- Q Was that the time you brought Frances? A Yes sir.
- Q And Reuben was along that time was he? A Yes sir, lets see, I think Reuben was.
- Q Was he along the time you brought Frances? A Yes sir.
- Q Did the Whitmires come in wagons? A Some of them.
- Q Well Lewis and Mose? A Yes sir.
- Q Was there any others besides them? A I don't know whether Dennis was in that outfit right then or not.
- Q Did they come on down below you on Big Creek? A They come and went back.
- Q Did they come on down below you then? A Yes sir, and then when they come they moved in the settlement they lived.

Mr. Starr: Comes now the Attorneys for the applicant and insists that this witness be examined in this case, and then if the nation desires to call the other witnesses it can do so.

BY MR. HASTINGS:

- Q Where were you married? A I was married in Linn County, Kansas.
- Q When, what year? A '62.
- Q Where was Reuben married? A I think he was married at Fort Scott.
- Q When? A I think it was along in '67, I think.
- Q What time in the year 1867? A I don't know, I wasn't at the wedding.
- Q Was he married when you and him come down here with Frances? A No sir, not at that time.
- Q How long after that was it before he married? A He married along, I don't know just exactly what time, but it was along in the spring?
- Q About how old was Reuben when you first come down with Frances? A I don't know just exactly his age, but he was about grown.
- Q But he had never been married up to that time? A No sir.
- Q But that he afterwards married? A He married old man Meigs daughter.
- Q Was that his first wife? A No sir, second wife.
- Q Who was his first wife? A Her name was Maggie.
- Q Maggie what? A Frazier if I aint mistaken.
- Q Did he have any children by her? A One.
- Q What was its name? A Rosa.
- Q Was Rosa the only child he had by her? A No sir, I think he had one or two, the others died.
- Q Was Rosa the oldest child? A The oldest child, one of the other two may have been older than her.
- Q Where was his first child born? A I don't recall recollect, I couldn't answer that.
- Q Well was it born in the Cherokee Nation? A I expect it was, I couldn't say.
- Q Well now did Frances have any children when you come down here?

- A Yes sir.
Q How many did she have? A One.
Q What was its name? A John O'Neil.
Q How old was it when you come down here? A It was a baby, I don't know just how old it was.
Q It wasn't a year old? A No sir, I don't think he was.
Q Had Reuben ever lived with anybody as his wife before you come down here with Frances in January, 1867, as you stated? A No sir.
Q Then this Maggie as the first woman he ever lived with? A Yes sir.
Q And that was in the spring after you came down here? A Yes sir.
Q Did you know his wife before you came down here? A Just had seen the woman.
Q Did you have any children when you came down here in January with Frances? A No sir.
Q None at all? A No sir.
Q You have testified in this case before have you? A I think I testified before.
Q You are the same Dan Sanders aint you? A I think so.

BY MR. STARR:

- Q Dan did Reuben live with this Maggie before they were married, do you know anything about that? A No sir, if he did, I didn't know it.

BY MR. HASTINGS:

- Q You never heard of it? A No sir.

WITNESS EXCUSED.

GEORGE O. SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A George O. Sanders.
Q What is your age? A 69 years.
Q What is your post office? A Wauhatchie.
Q What is your citizenship? A Cherokee by blood.
Q Are you acquainted with Andy Webber, the applicant in this case?
A No sir.
Q Did you know Frances Sanders, his mother? A Yes sir.
Q Did you know her at the commencement of the war of the rebellion?
A Yes sir.
Q Was she a slave? A She belonged to my sister.
Q She was a slave of your sister? A Yes sir, give to her by my father.
Q What was your sister's name? A Lucinda J. Keys.
Q She was a citizen of the Cherokee Nation at the commencement of the war of the rebellion? A Cherokee by blood.
Q Did you ever see Frances Sanders after the war? A Not after the war, up to the war I knew her as a slave of my sister.
Q Did you see Daniel Sanders and Reuben Sanders any time immediately after the war? A In 1866 I think at Fort Scott, Kansas, saw them.
Q What were they doing there? A They were in the act of moving to the Territory.

- Q What time in 1866? A Probably in October, '66.
Q What were they doing there? A Why I don't know suppose they were general residents.
Q Were they at that time making preparation to moving to the Cherokee Nation?

Mr. Davenport: Objected to as incompetent, irrelevant and immaterial and a declaration in the interest of the applicant.

On Behalf of the Commissioner: The objection will be noted.

A So far as I was informed.

BY MR. DAVENPORT:

- Q You know nothing about what preparation they were making of your own knowledge? A No more than what they told me.
Q I say of your own knowledge you know nothing about what preparation they were making? A No sir.
Q And they were there at Fort Scott in 1866? A Yes sir.
Q What time of the year? A I think it was in October, if I remember right.

BY MR. STARR:

- Q Had they been to the Cherokee Nation at that time when you saw them there? A They informed me that they had located claims and was just then preparing to move.

Mr. Davenport: We object to what they told him and move to strike it out of the record on the ground it is hearsay.

On Behalf of the Commissioner: The objection will be noted.

W I T N E S S E X C U S E D.

REUBEN SANDERS RECALLED by Attorney for the Cherokee Nation:

BY MR. HASTINGS:

- Q I believe I asked you awhile ago if you know where the Whitmires were when you came down here with Frances, did I not? A I don't recollect.
Q To refresh your memory, don't you know you said you didn't know, that you lived in town and they lived in the country? A Yes sir, I recollect that.
Q Did any of the Whitmires come with you when you brought Frances?
A Aaron Wright moved with us.
Q Was he the only one of the Whitmires that come with the crowd?
A That is the only one I had any knowledge of at that time.
Q You knew Lewis and Mose? A Yes sir.
Q Did they come? A I don't recollect of them coming.
Q Well do you know? A I would not positively say.
Q Do you deny they come? A No sir, I don't deny that they come with us.
Q You are the same Reuben Sanders who at Vinita, on May 22, 1901, gave some testimony in the matter of the application of Elizabeth Meigs for enrollment as a Cherokee freedman? A I was there but I don't just recollect what year it was.
Q You gave some testimony in that case? A Yes sir.
Q Did any of the Whitmires come with you when you came here in August?
A I don't recollect but seems to me like they did.
Q Do you remember now? A I don't just positively state that they came here with us in August. It appears to me like some of them did.

- Q But you are not certain about that now? A No sir, I would not positively say they did.
- Q You say then that Peter Weigs didn't bring his family until after he went back and came back the next time? A No sir, not at the time I speak, Peter Weigs brought his family at the time he moved in January.
- Q What did he go back for? A After provisions and some things he had left. His family was here at that time.
- Q Didn't you at the same time that you are testifying about say that your father didn't bring his family down here; that he didn't bring them in August, 1866? A His family, what I mean by his family was all the children.
- Q Was Frances his daughter? A Frances was his daughter, and Nancy was his daughter. My mother was at Fort Scott.
- Q Didn't you then in answer to another question say that you brought your family here in October? A No sir, I haven't no knowledge that I made that statement.
- Q Well did you come down here any more after you were here in August before you come in January? A Yes sir, we came once in October. Just three days travel from where we lived to come down here.
- Q Did you live up there right close to where Dan lived when you come down here? A Yes sir.
- Q You and Dan lived together? A Yes sir, we lived together.
- Q And had lived together from the close of the war up until the time you come down here? A Well I don't know about that, whether we had or not.
- Q Why don't you know it? A Well he wasn't right with us all the time, he had a family.
- Q You lived in the same town? A Yes sir.

W I T N E S S E X C U S E D .

Mr. Hastings: For the purpose of impeaching the witnesses, Dan and Reuben Sanders, the Cherokee Nation asks that the testimony in the case of Elizabeth Weigs, Freedman Debutful 391, being the case in which they testified, be introduced and made a part of the record in this case.

Mr. Starr: To which applicant objects for the reason that it is lugging into this case a great bulk of testimony, and that applicants were not present to cross-examine the witnesses in that case.

Mr. Hastings: The Cherokee Nation insists upon the right to introduce this for the reason that these two witnesses, Dan and Reuben Sanders, made statements under oath in that case which the representatives of the Cherokee Nation say are inconsistent and contradictory of the statements made under oath today.

On Behalf of the Commissioner: In view of the Department's ruling in the Cherokee Freedman case of Catherine Mix of May 21, 1906 (I.T.D. 9556-1905), the request of the Attorneys for the Cherokee Nation that the testimony taken in the Cherokee Freedman enrollment case of Elizabeth Weigs will be denied as to the testimony taken of all witnesses except Daniel and Reuben Sanders. These two witnesses being present this day, their testimony taken in connection with the Elizabeth Weigs case will be filed with and made a part of the record in this case.

DANIEL SANDERS RECALLED by Attorney for the Cherokee Nation:

BY MR. HASTINGS:

- Q Are you the same Dan Sanders who testified at Nowata on June 29, 1901, in the matter of the application of Columbus McHair for the enrollment of his wife, Chaney? A Yes sir.
- Q Are you the same Dan Sanders that on June 28, 1901, at Nowata testified before the Commission in the case, Freedman doubtful 844, being an application of Joshua Holt, et al., to be enrolled as freedmen citizens of the Cherokee Nation? A Never testified in that case.
- Q Did you testify in the Mary Johnson case? A Yes sir, Anderson Johnson, yes sir.
- Q You are the same party who testified in that case, are you? A Yes sir.

Mr. Hastings: For the purpose of impeaching this witness the representative of the Cherokee Nation ask that the record show what final disposition has been made of these two cases, namely, Freedman doubtful 964, being that in the matter of the application of Chaney McHair, and that of Freedman doubtful 864, being in the matter of the application of Mary Johnson, being the cases in which the witness Dan Sanders has acknowledged to have previously testified.

Mr. Starr: To which request of the Cherokee Nation the applicants will have no objection if the final disposition by the Secretary of the Interior be shown in these cases.

On Behalf of the Commissioner: The records of this office show that the Cherokee Freedman enrollment cases of Chaney McHair, F D 964, and Mary Johnson, F D 864, have not been finally decided, being now pending before the Secretary of the Interior.

Mr. Hastings: For the purpose of impeaching the witnesses, Reuben and Daniel Sanders, who has testified in this case, the representatives of the Cherokee Nation desire to offer in evidence from the original records of the Cherokee Nation taken before what was known as the "Chambers Court" or Commission on Citizenship in the year 1878 the following: First the application and statement of Lewis Whitmire, vs. The Cherokee Nation, dated June 26, 1878, found on pages 164, book B, Citizenship Record, and also the application of Moses Whitmire, vs. The Cherokee Nation, found in the same record beginning on page 165, and also the record, being No. 60, of Aaron Whitmire, vs. The Cherokee Nation, found in book A, page 239 to 247 inclusive.

Mr. Patten: Attorney for applicant objects to the introduction of this record in evidence in this case upon the ground that it is irrelevant and immaterial because ~~it~~ it is testimony given by witnesses in an entirely different case and before a different court, and for the further reason that the applicant in this case was not present as shown by the records and could not have cross-examined the witnesses whose evidence is sought to be introduced, and for the further reason that Lewis Whitmire is now living and his testimony in person would be the best evidence, and no reason is shown why it is not introduced, and that if it was introduced, this would give the applicant the right to cross-examine.

Mr. Bixby, Commissioner: I think I will over-rule the objection and let the record be introduced.

Mr. Starr: To which ruling the applicant excepts.

Mr. Hastings: I request that the ruling of the Commissioner a few moments ago relative to the disposition of the cases of Chaney McNair and Mary Johnson show that they have been refused by this office and is now pending before the Department.

Mr. Bixby, Commissioner: I think it is sufficient to let it stand as it is. I will have to deny your request Mr. Hastings:

Mr. Hastings: To which ruling the Attorneys for the Cherokee Nation except.

Mr. Hastings: For the purpose of impeaching the witness, Dan Sanders, the Cherokee Nation offers in evidence the decision of the Commission, dated March 16, 1905, denying the application of Chaney McNair to be enrolled as a freedman citizen of the Cherokee Nation.

Mr. Starr: To which applicant objects for the reason that the records show that this case is pending before the Department of the Interior and has not been finally denied by the Department of the Interior, and would not tend to impeach the witness until it is finally decided by the Department of the Interior.

On Behalf of the Commissioner: The motion of the Attorneys for the Cherokee Nation will be denied.

Mr. Hastings: To which ruling the Cherokee nation excepts.

Mr. Hastings: The representatives of the Cherokee Nation offer in evidence the decision of the Commission to the Five Civilized Tribes rejecting the application for the enrollment of Mary Johnson, et al., P D 864, for the purpose of impeaching the testimony of Dan Sanders, who has admitted to have testified in that case.

Mr. Starr: To which Attorneys for applicant objects for the same reason as made to the last motion made by the Attorneys for the Cherokee Nation.

On Behalf of the Commissioner: The request for the introduction of said decision will be denied.

Mr. Hastings: To which ruling Cherokee Nation excepts.

By agreement between attorneys for Cherokee nation and applicant, this case will be closed and a decision rendered on the evidence heretofore introduced.

-----oO-----
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.

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

Geo. H. Lessley
Chas. E. Lester
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES .
MUSKOGEE, I. T., NOVEMBER 22, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ANDY WEBBER as a Cherokee Freedman.

APPEARANCES:

For Applicant, Starr & Patten.
For Cherokee Nation, W. W. Hastings.

JERRY FIELDS, being first duly sworn, by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Jerry Fields.
Q What is your age? A 65.
Q What is your postoffice? A Muskegee.
Q Indian Territory? A Yes sir.
Q Are you acquainted with Andy Webber, the applicant in this case?
A Yes sir.
Q How long have you known him? A Nearly for 45 years, the family.
Q I mean Andy? A Ever since he was born.
Q What was the name of his mother? A Frances Sanders.
Q What was the name of his father? A Johnson Webber.
Q How long have you known Johnson Webber? A About the same length of time, forty years I guess.
Q Where did Johnson Webber and his wife Frances live during the time you knew them? A On Big Creek.
Q In the Cherokee Nation? A In the Cherokee Nation four miles east of Seedy's Bluff.
Q Did they live together as husband and wife until the time one of them died? A Yes sir.
Q Did you live near them at the time Andy Webber was born? A Yes sir, very near, off and on until Andy was ten or twelve years old.
Q Was Frances and Johnson living together as husband and wife at the time of the birth of the applicant, Andy Webber? A Yes sir.
Q Do you know when they were married? A I don't remember just exactly the date when they married.
Q Where were you living at the time they were married? A I was at Waklequah.

- Q Did they live together continuously after that as husband and wife until Frances died? A I never heard of them being parted. I would see them together.
- Q Were they recognized in the community in which they lived as husband and wife? A Yes sir.
- Q They held each other out to the community as husband and wife, did they? A Yes sir, no dispute about that.

BY MR. HASTINGS:

- Q You know when Andy Webber was born? A Well, as near as I can remember he was born in 1876.
- Q Who told you that? A I was old enough to remember that much; nobody didn't have to tell me that.
- Q What year is this? A This is 1906.
- Q How long ago was 1876? A Thirty years ago.
- Q Where were you living then? A When he was born?
- Q Yes? A I was living at Tahlequah. My home was Tahlequah.
- Q How far from Big Creek? A Well, it must be 80 or 90 miles, but my father lived there and I often visited him.
- Q But you lived 80 or 90 miles distant? A Yes sir.
- Q You had never lived any nearer to his parents after the war than that, and before the birth of Andy? A No sir, I hadn't never lived no closer than that before the birth.
- Q When did you move upon Big Creek? A Well I didn't just move there, I went there and stayed with them. I went up there in '78 or '79 and stayed a year, sometime.
- Q Do you know when Johnson died? A He died since I come down here.
- Q About how long ago was that? A I can't remember just how long since he died.
- Q Ten or fifteen or twenty years, or five or four? A It must be ten or fifteen years ago.
- Q How long has his mother been dead? A His mother has been dead to the best of my knowledge about twenty four years.
- Q You don't know then when Johnson and Frances commenced living together as husband and wife? A I know pretty well about the time.
- Q Had they ever been previously married, either of them? A I don't know how they married.
- Q You don't know whether a Preacher married them or not? A No sir, I don't know that. I know they lived together as man and wife.
- Q Had they ever been living with anybody else, either of them, as husband and wife. Had Frances ever lived with any other man? A Not as I know of.
- Q Had she ever had any children before Andy was born to her? A She had two before that.
- Q By what name did they go? A Went by the name of Martin,---one by Martin and one by O'Neal.
- Q Did their reputed fathers live up in that country? A Don't know anything about their fathers.
- Q You don't know whether she was married to their fathers? A No sir, she was never married to them.

- Q Well you don't know, do you? A I never heard of it. She was my own sister and if she was married, I don't know it.
- Q Do you know whether Johnson was ever married before? A I think so, because he has a daughter older than Andy.
- Q What became of his first wife? A She died.
- Q When? A I don't know.
- Q Was she dead when he took up with and began living with Frances, the mother of Andy? A She died before that, but I don't know just when she died. I remember her family.

ON BEHALF OF THE COMMISSIONER:

- Q Is Johnson Webber living now? A No sir, he is not.
- Q How long has he been dead? A I don't remember just exactly the number of years he has been dead.

(Witness excused).

AMANDA HILL, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Amanda Hill.
- Q What is your age? A 40 years old.
- Q What is your postoffice? A Vinita.
- Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
- Q Are you related to him? A Yes sir.
- Q What relation are you? A Brother.
- Q You mean he is your brother? A Yes sir.
- Q A full brother? A Half brother.
- Q What was your mother's name? A Margaret Webber.
- Q What was your father's name? A Johnson Webber.
- Q What was Andy Webber's mother's name? A Frances Webber.
- Q How is your mother dead? A Yes sir.
- Q When did she die? A I don't know, I was quite small then, I don't remember my mother at all.
- Q Was she dead before Johnson Webber married Frances? A Yes sir.
- Q How long after she died until Johnson Webber married Frances? A I don't remember anything at all about that.
- Q Did Johnson Webber and his wife Frances, who was Frances Sanders, live together as husband and wife from the time you can recollect about the matter until her death? A Yes sir.
- Q Was Andy Webber born while they were living together as husband and wife? A Yes sir.

BY MR. HASTINGS:

- Q You don't know anything about the marriage of Johnson and Frances? A No sir, I don't know anything about that. My Grand-mother had me until they married and then I went and lived with them until she died.

- Q Was Frances ever married before? A No sir, not that I ever knowed of.
- Q Did she have some children? A Yes sir, she had a couple of children, boys.
- Q You don't know whether she had been married to the father of these children or not? A No sir, I don't know about that.
- Q Was Johnson ever married except to your mother? A No sir, not as I know of. I just know he married my mother and there was two children of us.
- Q You were born since the war? A Yes sir.

(Witness excused).

JERRY FIELDS RECALLED:

BY MR. STARR:

- Q Where were you living in 1870, and 1871? A In the town of Tahlequah, Cherokee Nation.
- Q Did you see Johnson Webber down there at any time while you were living there? A Yes sir, right there to my house.
- Q What was he doing there? A He went before that Daniels Court to prove their citizenship.
- Q Made an application to that Court did he, or was he summoned? A Went there with an application before the Court.
- Q Is this Johnson Webber, who is the father of the applicant, Andy Webber, the same Johnson Webber that you speak of coming to Tahlequah and making application to the Cherokee Court? A The same Johnson Webber.
- Q What Court was that? A It was the Daniels Court to my best remembrance.
- Q Who was the Judge? A Judge Robert Daniels.
- Q He was one of the Judges? A Yes sir, he was one of the Judges.

BY MR. HASTINGS:

- Q Were they receiving applications for the enrollment of freedmen at that time? A They told me as he come down to my house, that they all come there,--had their certificates and I seen some of them.
- Q Were they receiving applications for the enrollment of Cherokee Freedmen at that time, that Court? A Yes sir.
- Q They were hearing their cases? A Yes sir.
- Q They were hearing the cases of all those who wanted to appear before the Court at that time? A There was, yes,--a certain Court, the Webbers and Sanders,---
- Q Now you answer me, when one of those Cherokee freedmen wanted to apply, they heard his application? A Yes sir.
- Q And they heard their testimony? A Yes sir.
- Q And they passed upon the case? A Yes sir.

- Q And you claim among a great number that were there Johnson Webber was one of them? A Yes sir, Johnson Webber was one of them and his father and my father and brothers.
- Q They were there? A Yes sir, all came in the same wagon.
- Q And this Court heard the application of those people who wanted to apply? A Yes sir.
- Q They received their application and heard their testimony? A Yes sir.
- Q And they passed upon their cases? A Yes sir.
- Q What is your postoffice? A Muskogee.
- Q You live right here do you? A No sir, not here.
- Q Where do you live? A I live west of here.
- Q But your postoffice is here? A Has been but I am moving it to Taft.
- Q Do you know whether there is any other Johnson Webber ever in that country? A I never have heard of another one, --just like my name Jerry Fields, never heard of another Jerry Fields in the Cherokee Nation.
- Q Could there have been another Johnson Webber up there without you knowing it? A I don't believe they could.
- Q You think this man, who is the father of Andy, was down there and applying for citizenship? A I know the man and knowed him well, yes sir.
- Q How were any of those people that come down there and wanted to apply, did they let or allow all of them to apply, ---that is heard their cases? A I never heard of any objections.
- Q How you live about eight miles west of here? A Yes sir.
- Q You lived right then in Tahlequah? A Yes sir.
- Q And you continued to live there awhile after that? A Yes sir.
- Q How long? A Quite awhile.

(Witness excused).

By agreement between the Attorneys for Applicant and the Cherokee Nation, this case was here continued for further hearing until December 7, 1906.

-----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 18th day of December, 1906.

B. W. ...
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Huskogee, Indian Territory, December 5, 1906.

In the matter of the application for the enrollment of Andy
Webber as a Cherokee freedman, (Cher. F. D.- 959).

APPEARANCES:

For Applicant, ----- In person, and by Starr & Patten,
Attorneys.

For Cherokee Nation, ----- W. W. Hastings, Attorney.

COMMISSIONER.

Witnesses on behalf of the applicant.

George Meggs, after having been duly sworn by B. P. Rasmus,
a Notary Public, testified as follows:

BY MR. STARR:

- Q. What is your name? A. George Meggs.
Q. What is your age? A. I couldn't tell you -- about 60 I guess.
Q. What is your post office address? A. Vimer.
Q. Are you acquainted with the applicant, Andy Webber? A. Yes
sir.
Q. How long have you known him? A. Ever since he was born.
Q. Were you acquainted with his father? A. Yes sir.
Q. What was his name? A. Johnson Webber.
Q. What was his mother's name? A. Frances Webber.
Q. Do you know whether Frances Webber and Johnson Webber were
married? A. Yes sir.
Q. How do you know it? A. I was there when they got married.
Q. Where were they married? A. Up on Big Creek, in the bottom.
Q. Who married them? A. Preacher Adams.
Q. Was he a minister of the Gospel? A. Yes sir.
Q. Was he in charge of a church? A. Yes sir.
Q. Who was present at that marriage? A. I don't know. They got
married just after 3:00 o'clock service.
Q. In the church? A. Yes sir.
Q. The house was full of people? A. Yes sir, it was a shed in
the bottom.

- Q. Was that before the birth of Andy Webber? A. Yes sir.
Q. Do you know when it was? A. No sir, I don't.
Q. Did Johnson Webber and Frances Webber live together as husband and wife in that community after that? A. Yes sir.
Q. Did they live together till one of them died? A. Yes sir.
Q. Which died first? A. Frances.
Q. Andy Webber was born while they were living together as husband and wife? A. Yes sir.

CROSS EXAMINATION.

MR. HASTINGS:

- Q. Was Frances ever married before? A. I think she was.
Q. Had she some children when she and Johnson were married? A. Yes sir.
Q. How many? A. One, to my judgment.
Q. Do you know how many times she had been married before? A. No sir.
Q. What was that child's name? A. Osa.
Q. Osa what? A. I couldn't tell you that. We just called him Osa.
Q. Was Johnson ever married before? A. Yes sir.
Q. To whom was he married? A. A woman they called Margaret.
Q. Did he have any children by her? A. Yes sir, -- lets see ---
Q. Do you have any idea about the time that Johnson and Frances were married? A. No sir, I ain't.
Q. About how many years after the war was it? A. I couldn't tell you that.
Q. Do you know one year from another? A. I guess I ought.
Q. I am asking you if you do? A. Why yes sir.
Q. Could you give us anything like an estimate of how many years ago Johnson and Frances were married? A. It has been about 35 years ago I guess.
Q. About how many years after the war was that? A. I couldn't tell you that.
Q. As many as 10? A. I couldn't tell you -- to say to tell you the truth.
Q. 15? A. I couldn't tell you that.
Q. 20? A. I couldn't tell you that.
Q. You have no idea at all about that? A. About the only idea I have about that was that I was there when they were married.
Q. Was that man Adams a white man or a colored man? A. He was a Delaware man, and had charge of a colored church there in the bottom.
Q. Do you know when Andy Webber was born? A. No sir, I don't know when he was born, but I seen him 2 or 3 days after he was born.
Q. Was his father and mother living together then? A. Yes sir.
Q. Where? A. On Big Creek.
Q. Did they keep house up there? A. Yes sir.
Q. Near what present post office was that place on Big Creek, where they were married? Is there any post office near there now? A. There wasn't any there then, but Winer is near there now.
Q. How far from Winer? A. About 6 miles I guess -- between 5 and 6 miles.
Q. Who was Frances' former husband? A. I wasn't acquainted with him.
Q. You don't know what became of him? A. He died, I think.
Q. Did he die after Frances and Johnson were married? A. No, before.

- Q. What became of Johnson's first wife? A. She died.
Q. When did she die? A. I couldn't tell you that.
Q. Did she die after Frances and Johnson were married? A. Before.
Q. How do you know that? A. I was there when she died.
Q. Were you there when Frances' husband died? A. No sir.

MR. STARR:

- Q. You say Johnson was married before he married Frances? A. Yes sir.
Q. Did he have any children by his first wife? A. Yes sir.
Q. What are their names? A. I would have to kinder study on them. Lou and Mandy I think.
Q. Mandy Hill? A. Yes sir.

Witness excused.

Miles Winchester, being first duly sworn by B. P. Rasaus, a Notary Public, testified as follows:

MR. STARR:

- Q. What is your name? A. Miles Winchester.
Q. What is your age? A. I don't know my age.
Q. What is your post office address? A. Centralia.
Q. Are you acquainted with the applicant, Andy Webber? A. Yes sir.
Q. How long have you known him? A. I have been knowing him ever since he was a little fellow -- when he was a baby.
Q. Did you know his father? A. Yes sir.
Q. What was his name? A. Johnson Webber.
Q. Did you know his mother? A. Yes sir.
Q. What was her name? A. Frances Webber.
Q. Were they married? A. Yes sir.
Q. How do you know? A. I was at the wedding.
Q. Where were they married? A. Down in the bottom at the church.
Q. Who else were present at the wedding? A. I couldn't tell you who all. They had meeting and there was quite a congregation.
Q. Did that happen before Andy Webber was born? A. Yes sir.
Q. Were they living together as husband and wife at the time Andy was born? A. Yes sir.
Q. Did they live together as husband and wife until one of them died? A. Yes sir.
Q. Which died first? A. Frances.

CROSS EXAMINATION.

MR. HASTINGS:

- Q. How long did you know Johnson before? A. I don't know exactly how long, but I knew him quite a while.
Q. Are you a citizen? A. No sir, I ain't a citizen.
Q. Where did you come from? A. Fort Scott.
Q. Were you living down there when Johnson and his wife were married? A. Yes sir.

- When was that? A. I can't tellyou just what date it was, for I ain't no scholar.
- Q. Can you read and write? A. I can make out to sign my name, but I can't know no dates. They have been married something about like 35 years.
- Q. Who told you that? A. Nobody told me that. It has been quite a while.
- Q. That never was discussed? A. No sir.
- Q. How long did you know Frances before she and Johnson were married? A. I knew her -- I couldn't say how long, but I knew her quite a while -- ever since I come to Fort Scott -- I seen her there.
- Q. She never was married before she married Johnson Webber? A. Not as I know of. I couldn't tell you that.
- Q. She never had any children? A. I couldn't tell you that.
- Q. Did you know her before she and Johnson were married? A. Yes sir.
- Q. You knew her well? A. Yes sir.
- Q. You never knew her to have any children before she and Johnson were married? A. I couldn't tell you particularly about that, but I think there was a boy there, and I think that was a boy that she called her son.
- Q. Did Johnson have any children by some other woman? A. Yes sir.
- Q. What was his first wife's name? A. I think her name was Margaret.
- Q. What became of her? A. I think she died.
- Q. Where? A. On Big Creek.
- Q. How long before he married Frances?? A. I couldn't tell you that.
- Q. Did she die before or after he married Frances? A. Before.
- Q. Who married Johnson to Frances? A. Adams, a Delaware man.
- Q. How many years after the war was it? A. I couldn't tell you. It was about 35 years or something like that.
- Q. After the war? A. No, I don't know that it was 35 years after the war.
- Q. That is what I am asking you? A. I couldn't tell you that.
- Q. Your best judgment? A. Well, I will say 35 years, or something like that.
- Q. After the war? How long after the war was it? A. I say I couldn't tell you exactly.
- Q. Your best judgment? A. I will say anyhow about 35 years ---
- Q. 35 years after the war? A. No, it couldn't be that long.
- Q. I am asking you how many years after the war this marriage took place? A. I don't know -- I couldn't say.
- Q. Who told you it was about 35 years? A. Nobody. I just know it was.
- Q. How come you to come here as a witness? A. I come because I know Andy Webber.
- Q. Who asked you to come? A. Andy Webber.
- Q. Didn't you and Andy Webber ever talk over the fact of his mother's marriage? A. No sir.
- Q. Didn't you and Heags talk it over? A. No sir.
- Q. Didn't you discuss it with Andy's attorneys? A. No sir, I never seen them till after I come to the meeting. He never said nothing to me about it last night.
- Q. Did he this morning? A. No sir.
- Q. How did you come to say 35 years ago? A. I just suppose it was. I am no scholar, and I don't know no dates.
- Q. How many years after the war was it? A. I tell you I am no scholar, and don't know no dates.
- Q. How can you date the years back from now when you couldn't from the war forward? A. I am just making a guess.

- Q. Were you ever convicted of anything? A. No sir.
Q. Never were tried? A. No sir. I can prove that.
Q. That is one thing you do know, is it? A. Yes sir. I have no date on that, but I know it.

Witness excused.

Andy Webber, being duly sworn by B. P. Rasmus, a Notary Public, testified as follows:

MR. STARR:

- Q. What is your name? A. Andy Webber.
Q. What is your age? A. About 30.
Q. What is your post office? A. Centralia.
Q. Are you the applicant in this case? A. Yes sir.
Q. What was the name of your father? A. Johnson Webber.
Q. What was the name of your mother? A. Frances Sanders.
Q. Are they living now? A. No sir.
Q. Which one died first? A. My mother.
Q. When did she die? A. About 18 or 20 years ago to the best of my knowledge.
Q. When did Johnson die? A. He died afterwards.
Q. Was Frances living with Johnson at the time she died? A. Yes sir.

Witness excused.

MR. STARR:

We ask that the records be examined to see what they show relative to this matter.

Commissioner:

By agreement of the Attorneys for applicant, and Attorney for the Cherokee Nation, this case will be continued to December 6, 1906.

Mula Jeanes Branson, being duly sworn, states that she reported the proceedings had in the above numbered cause on the 5th. day of December, 1906, and that she has correctly transcribed her stenographic notes taken in said cause on said date.

Subscribed and sworn to before me, this the 19th. day of December, 1906.

Mula Jeanes Branson

Edward Hervey
Notary Public.

Cherokee Freedman D 930.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., DECEMBER 7, 1908.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ANDY WEBBER as a Cherokee Freedman.

APPEARANCES:

For Applicant, STARR & PATTEN.

For Cherokee Nation, W. W. HASTINGS.

W. Williams
LEWIS CRITTENDEN, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Lewis Crittenden.
Q How old are you? A 69.
Q What is your postoffice? A Hayden.
Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
Q What was the name of Andy Webber's father? A Sam Webber,-- you mean Andy's father?
Q Yes? A Johnson Webber. Sam was Johnson's father.
Q What was the name of Andy Webber's mother? A Frances.
Q Was Frances and Johnson married? A Yes sir.
Q Was Johnson Webber ever called before what was known as the Daniels' Court? A Yes sir, Johnson was at the Daniels' Court, the time I was.
Q Was he called there on the question of his right to citizenship in the Cherokee Nation? A Yes sir. We went down there before the Court to prove our rights. That was what they called us there for.
Q What Court was that? A It was the Bob Daniels' Court. Mr Bob Daniels was Commissioner at that time.
Q How this Johnson Webber who you say is the father of Andy Webber, was that the same Johnson Webber that was called before the Daniels' Court? A It was the same Johnson Webber.
Q What was done with him by that Court, do you know? A I don't know what was done with his case. I was a witness for Johnson's father at the Court before Mr. Bob Daniels and the rest of the Commissioners.
Q They tried his case did they? A Yes sir, they tried old man Sam Webber's, the father of this Johnson.

BY MR. HASTINGS:

- Q Johnson was just a boy then? A He was a young man.
Q Wasn't hardly grown yet? A Oh, he was a grown man. He wasn't no boy but he was with his father.
Q Did you testify in Johnson's case? A I testified in his father's case.
Q Well then they were trying freedmen citizenship cases then, were they? A Yes sir, the Court was trying cases of that kind; started in to try cases of that kind.
Q And they took testimony in it did they? A Yes sir.
Q And you don't know what was done with it? A Why I have a reason to believe.
Q Well, do you know? A Well, I know there was,---what was done with them, what his witnesses said, they admitted them; that was Johnson's father.
Q All you witnessed for at that time were admitted? A Yes sir, Harry Still and Johnson's father, I witnessed for, and the Court adjourned for a day or two and held us there, and wouldn't give us no more hearings and then told us to go back home, that they wasn't ready for us.
Q How many applied at that time? A I couldn't tell how many went there to apply, but they didn't apply.
Q Did you apply? A No sir.
Q Didn't apply? A Not to that Court.
Q But you did later? A Yes sir.

BY MR. STARR:

- Q You say that Court quit trying cases after that? A Yes sir, they quit trying cases after that and told these people to go home, they wasn't ready for them yet.
Q Were there lots of people there? A There was lots of them there.
Q Waiting for their cases to be tried when they went home? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q Is this applicant Andy Webber, the son of this Johnson Webber about whom you have been testifying? A Yes sir, he is a son.
Q Was Andy born at the time Johnson was before the Daniels' Court? A No sir, born since.

BY MR. HASTINGS:

- Q When were you married? A I was married in '67 at Tahlequah.
Q What time of the year? A In the summer.
Q Your wife lived at Tahlequah then? A Yes sir, she was living at Tahlequah then when I married her.

(Witness excused).

SAM WEBBER, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Sam Webber.
Q How old are you? A 60 some odd.
Q What is your postoffice? A Nowata.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q Enrolled on the regular roll? A Yes sir.
Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
Q Are you acquainted with his father? A Yes sir.
Q What was his father's name? A Johnson Webber.
Q What was his mother's name? A Frances Sanders.
Q Was Johnson Webber and Frances Sanders married? A Yes sir.
Q Was Andy Webber born to this marriage? A Yes sir.
Q Do you know whether or not Johnson Webber ever applied to the Bob Daniels' Court or was ever called before that Court on the question of his citizenship in the Cherokee nation? A Yes sir.
Q When was that? A Well, the time the Bob Daniels' court set at Tahlequah.
Q Well, did they try the Johnson Webber case? A Yes sir.
Q You remember who was his witnesses? A Why, Lewis Wright, and Peter Meigs made a statement there. They didn't witness close like they do now.
Q Were you there at the time? A Yes sir.
Q Do you know what was done with the case of Johnson Webber? A They put him on the roll. Put Johnson and my father on. My father was old man Sam Webber, then Johnson and me and left my little brother off.
Q Was this Johnson Webber admitted by that Court the same Johnson Webber who is the father of the applicant, Andy Webber? A Yes sir, he is my brother you know.
Q How many of these cases did they try at that time? A They tried five.

Mr. Hastings:

I object to that because it is irrelevant and immaterial and move that that question and answer be stricken from the record, because we are only trying now the question of the admission of Johnson Webber.

On Behalf of the Commissioner:

The objection and motion will be noted.

- Q Was there a number of cases being tried by that Court at this time?

Mr. Hastings:

I want to object because it is irrelevant and immaterial, the only question is as to the admission of Johnson Webber, the alleged father of this applicant.

On Behalf of the Commissioner:
The objection will be noted.

- Q Is Johnson Webber living? A No sir, he is dead.
Q How long has he been dead? A I don't know exactly, it is several years now.
Q Is his wife dead, Frances? A She died first; before he did.
Q Did they live together as husband and wife until Frances died?
A Yes sir.
Q What children did Johnson Webber have? A Why this Andy and Carrie, she is dead, and Annie, her husband killed her, and a baby; the baby died too. Andy is living yet. And this first wife's child is Mandy Hill now, she is at Vinita.
Q The only ones living now is Andy Webber and Amanda Hill? A Yes sir, the others are all dead.
Q And Amanda Hill is a half sister of Andy and the daughter of Johnson Webber? A Yes sir.

BY MR. HASTINGS:

I have no questions I care to ask.

(Witness excused).

On Behalf of the Commissioner:

The "Docket of Doubtful cases for Cherokee Citizenship tried in 1871," commonly known as the Daniels' Court shows the following entries:

"R. A. 16, Johnson Webber, decided in favor of defendant June 6th, 1871."

This entry follows the entry as to the case of Sam Webber.

On Behalf of the Commissioner:

The Attorneys for applicant and the Cherokee Nation announce that they have no further testimony to introduce in this case, the same will be closed and a decision rendered on the evidence heretofore introduced.

-----oO-----

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.

Subscribed and sworn to before me this 18th day of December, 1904.

Geo. H. Lessley
B. P. Rasmus
Notary Public.

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

In the matter of the application for the enrollment of
Amanda Hill, et al., as Cherokee Freedmen, consolidating the ap-
plications of--

Amanda Hill, et al.,
Andy Webber,

Cherokee Freedmen D-625,
Cherokee Freedmen D-959,

DECISION.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Amanda Hill for herself and her minor children, Della, Flossie and Sadie Hill, and by Andy Webber for himself. The testimony in the matter of the applications of Abraham Ward, et al. and Daniel Thompson, et al. are made a part of the record herein.

The evidence shows that the applicants, Amanda, Della Flossie and Sadie Hill, were born since 1866 and are the descendants of Johnson Webber and Margaret Ward; that Andy Webber was born since 1866 and is a descendant of said Johnson Webber and Frances Webber.

The evidence further shows that Johnson Webber and Margaret Ward were the slaves of Cherokee citizens at the commencement of the rebellion; that they were taken out of the Cherokee Nation during the rebellion, but did not return thereto within the time specified, in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee Nation, et al., for the return of freedmen to said nation. It does not appear that the said Frances Webber was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the rebellion. None of the names of the applicants herein are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Amanda Hill, Della Hill, Flossie Hill, Sadie Hill and Andy Webber should be denied, 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) _____ Tans Bixby
Chairman.

(Signed) _____ T. E. Needles
Commissioner.

(Signed) _____ G. E. Brockington
Commissioner.

Muskogee, Indian Territory,

this JUL 23 1904

C7B

Cherokee Freedman D 959.

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

In the matter of the application for the enrollment of
Andy Webber as a Cherokee Freedman.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That at Nowata, Indian Territory, June 29, 1901, Andy Webber appeared before the Commission to the Five Civilized Tribes, and made application for enrollment as a Cherokee freedman; that July 23, 1904, the Commission to the Five Civilized Tribes consolidated the Cherokee freedmen cases of Amanda Hill et al., C.F.D. 625, and Andy Webber, C.F.D. 959, and rendered its decision therein, denying all the claimants the right to enrollment; and that September 30, 1904 (I.T.D. 7582-1904), its decision was approved by the Department. Thereafter, on May 7, 1906 (I.T.D. 7582-1904) 875-1905, 1596-1905), a motion to reverse said decision insofar as it denied Andy Webber the right to enrollment as a Cherokee freedman having been filed with the Department, the Department rescinded its decision of September 30, 1904, insofar as it denied said Andy Webber the right to enrollment, and returned his case to this office with instructions to permit the applicant and the attorneys for the Nation to furnish such testimony as they might desire to submit as to whether Frances Webber (mother of said Andy Webber) was the slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, June 21, November 22, and December 8 and 7, 1906. Copies of the testimony of Dan Sanders and Reuben Sanders, taken in the Cherokee freedmen cases of Elisabeth Neigs, C.F.D. 391, Chaney McNair, C.F.D. 964, and Mary Johnson, C.F.D. 864; and the application and statement of Lewis Whitmire vs. the Cherokee Nation, taken before the "Changlers Court" on June 26, 1878, found on page 164, Book "B", citizenship record; and the application of Moses Whitmire vs. the Cherokee Nation, found in the same record, beginning on page 165; and also record No. 60, of Aaron Whitmire vs. the Cherokee Nation, found in Book "A", pages 239 to 247, inclusive, are filed herewith and made a part of the record herein.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Andy Webber, was born in the Cherokee Nation since 1866, and is a son of Johnson Webber and Frances Webber, both deceased, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, and claims the right to enrollment as a Cherokee freedman as a descendant of his said parents; that the said Frances Webber left the Cherokee Nation during the progress of said rebellion and after ample opportunity having been afforded, it is not, by satisfactory evidence established that she returned to and established an actual personal bona fide residence in the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., and as provided by Section three of the Act of Congress approved April 26, 1906, (34 Stat. 137), for the return of Cherokee freedmen to said Nation. Hence the right to enrollment of said Andy Webber as a descendant of his said mother, comes within the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D.544-1904), Ed Williams (I.T.D.4230-1904), William Rector (I.T.D.1468-1904), Minnie Duncan, et al. (I.T.D.1470-1904), Samantha Chambers, (I.T.D.2296-1904), Moses Ross, (I.T.D.6056-1904), Florence Bratcher (I.T.D.12692-1904) and Frankie Grimmett (I.T.D.17902-1905). The Commission to the Five Civilized Tribes of July 23, 1904, found that the said Johnson Webber, deceased, did not return to the Cherokee Nation after the close of the rebellion within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation, and on September 30, 1904, (I.T.D.7582-04), its finding was approved by the Department.

The evidence introduced subsequent to the date of the decision rendered by the Commission to the Five Civilized Tribes July 23, 1904, and the Departmental decision of September 30, 1904 (I.T.D.7582-04), shows that Johnson Webber, father of the said Andy Webber, made application for admission to freedman citizenship in the Cherokee Nation to the Supreme Court of said Nation, commonly known as the "Daniels Court" in 1871, and was adjudged by said Court entitled to freedman citizenship in the Cherokee Nation, and that said applicant now bases his right to enrollment on said decision. The Honorable Frank L. Campbell, Assistant Attorney-General in his decision rendered October 5, 1905, (I.T.D.7658-04), in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, held as follows:

"The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat. 321-339), and is entitled to all the respect of a judicial

determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appears that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years".

The evidence further shows that said applicant has resided continuously in the Cherokee Nation since birth and is identified on the Kern-Clifton and Wallace rolls of Cherokee freedmen.

It is considered by this office that the evidence in this case wholly fails to show that the decision of the "Daniels Court" adjudging said Johnson Webber the right to freedman citizenship in the Cherokee Nation, was vitiated by "fraud" or that it on account of "lack of evidence then available was clearly wrong", and that following the rulings of the Department in the cases of Harry Still (I.T.D.7658-04,13208-05,23952-06), John and Cynthia Morgan (I.T.D.7235-05,8896-05,10716-05), and Amos Adair, et al., (I.T.D.15372-06), Andy Webber is entitled to enrollment as a descendant of his said father.

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), Andy Webber is entitled to enrollment as a Cherokee freedman and his application for enrollment as such is accordingly granted.

Commissioner.

Dated at Muskogee, Indian Territory,

this JAN 12 1907

COPY.

Before the Commission setting at Tahlequah to try claims to Cherokee Citizenship.

The undersigned Claimant in the case of Lewis Whitmire V.S. Cherokee Nation.

Respectfully presents the following statement of his claim according to requirement of the Commission.

Claimant claims under classification 5th of Claimants in the law creating this Commission that is as a Colored person formerly a slave owned by a citizen and resident of the Nation at the beginning of the late war freed by law and made a citizen of this Nation by provision of the Treaty of 1866 For

Claimant was at the time and place above said owned by George Whitmire a Cherokee citizen left the Country during the war and returned in the summer of 1866 to select and prepare a home for his family (they being then without one) and again the following year prosecuting the work as his circumstances and the condition of the Country at that time prevented and leaving his family in the intervals of time when they could subsist without discomfort and exposure and until a removal of them was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimant for theirs and his home in the Spring of 1867.

Claimants rights have been called in question by competent authority and he therefore presents them to the important examination of this Commission as authorized so to do by law.

This June 26 1878.

Lewis Whitmire.

By W. P. Boudinot, Atty.

Before the Hon Commission setting at Tahlequah to
try rights to Cherokee Citizenships.

In the case of

Moses Whitmire.

V.S.

Cherokee Nation.

Claiming Cherokee Citizenship.

Claimant claims under the 5th specification of the
classes of Claimants to citizenship as found in the law creat-
ing this Commission to wit as a colored person formerly a
slave owned by one George Whitmire Cherokee citizen resident
in this Nation at the beginning of the late war and freed by
law and made a citizen by provision of the Treaty of 1866

Claimant respectfully refers to the statement made
by claimant Lewis Whitmire as embracing the facts which the
present claimant would submit to the Commission as the grounds
of his claim.

Respectfully submitted

Moses Whitmire.

June 26 1878. By W. P. Boudinot.

I hereby certify that the above and foregoing is a true and correct copy of the affidavits by Lewis and Moses Whitmire, which appear of record in docket B of the Chambers Court on Cherokee citizenship, pages 164, 165 and 166. Said docket being in my lawful custody.

Muskogee, Indian Territory.
July 11, 1906.

Commissioner.

COMMISSIONERS
TAMM BIXBY,
THOMAS B NEEDLES
& BRECKINRIDGE

WM O BEAL
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen

D-959 D-625

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 28, 1904.

Hastings, Bell & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated case of Amanda Hill, et al., rejecting the applications for the enrollment of Amanda, Della, Flossie and Sadie Hill and Andy Webber as Cherokee freedmen.

The decision, with the record of proceedings, 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,



Commissioner in Charge.

Encl. 2-149.

-Copy-

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

J.F.Jr.

May 7, 1906.

D. C. 17741
I.T.D. 7582-1904.
875-1905.
1596- "

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On September 30, 1904, the Department affirmed the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated Cherokee freedman case of Amanda Hill et al. (F.D.959--D.625).

On January 25, 1905, a motion for review of the decision and reconsideration of the case was filed by the attorneys for the applicants. This motion refers to certain affidavits which were submitted with a communication from Andy Webber, an applicant, dated August 6, 1904, which communication on January 18, 1905, the Department declined to entertain as a motion to reopen the case.

It is considered that the papers in the case, in so far as they apply to Andy Webber, tend to show that said decision may be erroneous. That portion of departmental decision of September 30, 1904, relative to the application of Andy Webber, is rescinded

and you are directed to reopen said case and permit the applicant and the attorneys for the nation to offer such testimony as they may desire to submit as to whether Frances Webber was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation.

Fully advise all parties in interest of the points in issue. The record, together with the affidavits and motion, are returned herewith.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

Through the Commissioner
of Indian Affairs.

4 inclosures.

REPORT IN REPLY TO THE FOLLOWING:
Cherokee Freedman

D-989.

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

Muskogee, Indian Territory, May 25, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Andy Webber as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of May 7, 1906, in which its decision of September 30, 1904, affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Andy Webber for enrollment as a Cherokee freedman, is rescinded and the case remanded to this office for further hearing as to whether or not Frances Webber, mother of said Andy Webber, was a slave of a Cherokee citizen at the commencement of the war of the rebellion, and as to her return to the Cherokee Nation after the war.

Said applicant has this day been advised that he will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, June 21, 1906, at nine o'clock A. M., and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it may desire in the case.

For your information there is inclosed herewith a copy
of Departmental letter referred to.

Respectfully,

W. O. Beall
Acting Commissioner.

Incl. S-110
LS

REFER IN REPLY TO THE FOLLOWING:

Cherokee
F D 959.

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

Muskogee, Indian Territory, July 12, 1906.

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

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings taken at Muskogee, Indian Territory, June 21, 1906, in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman. There is also inclosed a copy of the testimony of Daniel Sanders taken at Vinita, Indian Territory, on October 19, 1901, and a copy of the testimony of Reuben Sanders taken at Vinita, Indian Territory, on May 22, 1901, in the matter of the application for the enrollment of Elizabeth Meigs as a Cherokee freedman, and also a copy of the proceedings had before the Chambers Court on Cherokee citizenship in the cases of Lewis and Moses Whitmire.

Respectfully,

Incl. GL-2
GHL

Commissioner.

REFER IN REPLY TO THE FOLLOWING:

Cherokee F.
D. 959.

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

Muskogee, Indian Territory, November 12, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation.

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee Freedman case of Andy Webber, you are advised that a rehearing in said case is hereby ordered for the purpose of determining the relationship, if any, existing between said Andy Webber and one Johnson Webber, in whose favor a decision was rendered by the Supreme Court of the Cherokee Nation (Daniels Court) June 6, 1871.

The applicant and his attorneys have this day been notified that they will be permitted to appear before the offices of the Commissioner on November 22, 1906, and present such testimony as they desire, tending to show whether or not Andy Webber is related to said Johnson Webber.

Respectfully,



Commissioner.

LMC

REFER IN REPLY TO THE FOLLOWING:

Cherokee F.
D 959.

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

Muskogee, Indian Territory, January 12, 1907.

W. V. Hastings,
Attorney for 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 January 12, 1907, granting the application for the enrollment of Andy Webber as a Cherokee freedman.

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,

Encl. N-163.
JMH

Commissioner.

Cher. Fr. D. 960

Cher. Fr. D. 960

Department of the Interior,
Commission to the Five Civilized Tribes,
Newata, I. T. June, 28th 1861.

Hollette & Smith for the applicants
Jas. Davenport
~~W. H. Hastings~~ for the Cherokee Nation

In the matter of the application of Jesse Rowe for the enrollment of himself and four grand children as Cherokee freedmen; he being sworn by Commissioner T. B. Needles, testified as follows:-

- Q What is your name? A. Jesse Rowe.
Q What is your age? A. I think I am 55.
Q What is your post office address? A. Ketchum.
Q In what district do you live? A. ~~Nebraska~~. Delaware.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who else do you want to have enrolled? A. Myself and four grand children.
Q What are their names? A. Ademiah Seals
Q How old is she? A. 18 years
Q Next? A. Alveta Seals.
Q How old? A. 18 years
Q Next? A. Pearle Seals.
Q How old? A. 14 years
Q Next? A. Clifford Seals
Q How old? A. 18 years.
Q Who is the father of these children? A. Joshua Seals.
Q Is he alive? A. I don't know.
Q What was their mother? A. Lizzie Seals.
Q Is she alive? A. No sir.
Q Where are these children now? A. Living with me
Q You have them in your possession now? A. Yes sir
Q You say you are the grandfather of them? A. Yes sir, they are my daughters children.

By Smith-

- Q How long have you lived at Ketchum? A. 8 or 10 years.
Q Have you lived there all that time or have you been out some? A. I visited in Texas some.
Q What is your occupation? A. Minister.
Q How long have you been a minister? A. 38 years.
Q What church do you belong to? A. The Missionary Baptist
Q Where were you born? A. Canadian district, Cherokee Nation on Grand River.
Q Were you a slave? A. Yes sir.
Q Who did you belong to? A. Dick or Dave Rowe.
Q Was he a Cherokee Indian? A. Yes sir.
Q Where did he live? A. On Spring creek in Canadian district, so they tell me.
Q Where were you when the Civil war commenced? A. In Texas
Q Who took you there? A. My master at that time was George Starr.
Q Was he an Indian? A. Yes sir.
Q Where did he take you from? A. Flint district, I am told.
Q Had he ever lived in the Cherokee Nation himself? A. No sir.
Q How old were you when you were taken to Texas? A. Quite a young boy.
Q I don't know how old I was.
Q What became of George Starr? A. Died.
Q Where did he die? A. In the Cherokee Nation.
Q He came back here did he? A. Yes sir.
Q Was he a citizen here when he died? A. Yes sir.
Q You were a child when you were taken away? A. Yes sir.
Q When did you first come here after the war? A. In the winter of

Q What time of the winter? A. January, I left there Christmas and got here after Christmas
 Q Where did you come to? A I suppose it was Fort Gibson , but I don't really know where I first came to.
 Q How long did you stay there? A. Just a short time.
 Q About how long? A. Some where between six weeks and two months,
 Q What age were you then? A. 17 or 18 years old, my master told me in '62 as best I can recollect that I was 14 years old then
 Q Where did you go after that? A. Home, went home in March.

By the Commission-

Q What do you mean by HOME? A To my master's in Texas.

By Smith-

Q Your master had not returned then? A. No sir.
 Q When did he return? A. In the winter or fall of '67 or '8'
 Q When did you come home next? A. In '70'
 Q When did you get married? A. In '63 that is how I come to remember my age, my master made fun of me and told me I wasn't but 14 years old and too young to marry.
 Q How old was you when you commenced preaching ? A 18 or 20, just after the war I commenced to preach, I reckon you would call it preaching; time of the war I was out to services and learned to pray and talk and the people then called it preaching.
 Q How long did you stay here when you came the second time? A. Just a little while.
 Q What did you do when you were here? A. I stopped here just this side of Fort Smith in Sequoyah district knocking around there and then went back to Texas.
 Q When did you ever come back to the Cherokee Nation after that? A. A The next time must have been in '78 or '80 I brought my children out here, my father in law was in Sequoyah and I brought my children out here then.
 Q Where was your wife up to '78? A. In Texas with me sir.
 Q Are you still preaching? A. Yes sir.
 Q How do you preach, in other words, in what places? A. I have three churches.
 Q Is there any rule or regulation in your church as to how and where you are to preach or do you go wherever you want to? A. We are called by the voice of the church, the majority of the members govern that.
 Q The Methodists have of Conference , what do you have? A Associations
 Q Is that similar to the Conference of the Methodists? A. Not exactly.
 Q What do you have in place of Bishops? A Missionaries
 Q What are you? A. I was a Missionary when I was in Texas, I a Moderator now.

By the Commission-

Q You are not called by the to any particular church now? A. I am the presiding officer or Moderator of the churches in this district now.
 Q When to become the minister of a church you are called there by the members of that church? A. Yes sir.
 Q And not by a general Conference? A. No sir.
 Q That is the difference between the Methodists and Baptists in selecting their ministers? A. Yes sir.

By Sawyer-

Applicants not found on any of the Cherokee rolls now in the possession of this Commission.

By Davenport-

- Q When did your master George Starr go to Texas? A. I don't know
 Q Was your born before he went there? A. Yes sir I was born before he took me there. ; my understanding is that my master Dave Rowe was a very wild and reckless man and owed a great deal of money and we got sold off, and George Starr got us and took us to Texas.
 Q You were in Texas several years before the war? A. Yes sir.
 Q When you brought your family to the Cherokee Nation to live it was in '79 or '80, you brought your children here then? A. Yes sir.

By the Commission-

- Q Have you and your family lived continuously in the Cherokee Nation since that time? A. My children have, I brought my wife here in '90, I kept her with me in Texas up to then.
 Q Was you a slave of Dave Rowe first? A. I was born his slave.
 Q How did you get into the hands of George Starr? A. For a debt.
 Q Are these four children living now? A. Yes sir.
 Q Where were they born? A. In Texas.
 Q Is their mother living? A. No sir.
 Q Did she die in the state of Texas? A. Yes sir.
 Q She never came here at all? A. Yes sir, I brought her first.
 Q When? A. In '79 or '80.
 Q Was she married then? A. No sir, she married after she went back to Texas.
 Q She lived and died there after marrying? A. Yes sir.
 Q How long have these children been in the Cherokee Nation? A. Ten years old.
 Q You brought them here with you when you brought your wife? A. Yes sir.
 Q How old was Lizzie when she came here with you? A. Must have been about 14 or 15 years old, she was born in '65.
 Q What year was she married? A. I don't know her.
 Q How old was she when she married? A. I don't remember.
 Q How old was she when she died? A. She died in '90 and she was born in '65, in August.
 Q She was 26 years old when she died? A. Yes sir.

By Davenport-

The mother of these children was born in Texas? A. Yes sir.

By Gen'l Needles-

Jesse Rowe applies for himself and four grand children Adeniah, Alverda, Pearl and Clifford Seal. His name is not on any of the rolls of the Cherokee Nation now in the possession of this Commission; he avers that he was a slave of Dick Rowe, who was a Cherokee citizen; he avers that he was taken to Texas by one George Starr, having been turned over to the said Starr by Dick Rowe for a debt. He avers that he returned to the Cherokee Nation in January of 1877 and returned to Texas in a few weeks; that he remained in Texas until 1878 or 1880 and then brought his children to the Cherokee Nation and returned again to Texas where he and his wife remained until 1890 at which time he and his wife came to this country to live; he avers that his oldest child was named Lizzie that she was born in the state of Texas, married there to one Seal and died there when she was 26 years of age; that there were born to her the four grand-children of the applicants now applied for, said children having been born in Texas, but now

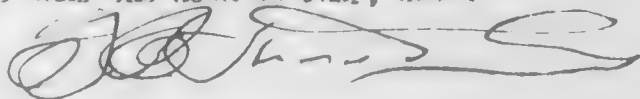
live with the applicant in the Cherokee Nation. The attorney for the applicant asks that said applicant, Jesse Rowe and the four children applied for, be placed on a doubtful card for further consideration, stating that there may be other testimony taken in connection with this case, and asks that this testimony may be made a part of the application of Pamela Rowe on Cherokee Freedman D. card #881. At the present time the Commission cannot see any ground for placing the applicant and his four grand children on a doubtful card even, but it will be done at the request of the attorney for the applicants; therefore the said Jesse Rowe and the four grand-children mentioned herein will be listed for enrollment as Cherokee Freedmen on a doubtful card and when the final decision is arrived at by the Commission he will be notified by mail. It is further ordered that a copy of this testimony be filed in the case of Pamela Rowe, C. F. D. #881.

* * * * *

Chas. W. Weise, being 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. W. Weise

Subscribed and sworn to before me this the 15th of July, 1901.



COMMISSIONER.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 25th 1901.

In the matter of the application of Permelia Rowe, C. F. D. 661.

SUPPLEMENTAL TESTIMONY.

Appearances:

James S. Davenport for the Cherokee Nation.
Mellette & Smith for the applicant.

James M. Bell, being first duly sworn before Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

- Q What is your name? A James M. Bell.
Q How old are you? A 68.
Q Where do you live? A Delaware district, Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A Ever since 1839
Q Have you ever been outside of the Cherokee Nation and if so where?
A My father moved to Texas in '47 to Russ county.
Q When did you return from Texas? A In '52, after his death.
Q Did you know a lady known as Aunt Sallie Mayfield? A Yes sir.
Q Where did she live when you first got acquainted with her? A In the Cherokee Nation.
Q Did she ever live anywhere except in the Cherokee Nation? A She moved to Texas.
Q When did she move to Texas? A In '47.
Q How long did she live in Texas? A She lived there until after the war.
Q Do you know whether or not they owned any slaves? A Yes sir they owned a good many.
Q Do you know the names of any of them? A No sir.
Q Do you know Permelia Rowe? A No sir.
Q Do you know Jess Rowe? A Yes sir.
Q Where did you know him? A In Texas.
Q Did he have a wife at that time? A I dont know exactly about that.
Q Did you ever know a colored woman that belonged to Aunt Sallie Mayfield named Phillis? A Yes sir I knew old Phillis.
Q Where was she when you know her? A In Texas. she was cooking there
Q Was that before or after the war? A That was before and after both.
Q Where was Aunt Sallie Mayfield living at the breaking out of the war? A She lived in Texas.
Q Was Phillis and her family there with her at the breaking out of the war? A Yes sir she was.
Q Do you know what year Aunt Sallie Mayfield came back to the Cherokee Nation after the war? A No sir.
Q Who did Jess Rowe belong to? A George Starr.
Q Where did he live at the breaking out of the war? A In Texas, Russ County.
Q When did he go to Texas? A In '47, my father's family went with him.
Q Did he have Jess Rowe with him when he went there? A Yes sir, that is my impression--he was there and grew up there.
Q Do you know anything about where Jess was at the close of the war?
A No sir, I am not certain where he was then.
Q Your father and Mrs. Mayfield and George Starr went to Texas together? A They went the same year.
Q What year was that? A '47.
Q Had they lived in Texas continuously from '47 until the breaking out of the war? A Yes sir.

(By Smith)

- Q They claimed to be citizens of this Nation at the breaking out of the war? A No sir they were not citizens, I think they were considered citizens of Texas.
Q What did they claim, I am not asking you for your opinion? Well

they were Cherokees by blood.

Q They had moved from this country? A Yes sir.

Q And they still claimed to be citizens of this country? A No sir, they voted there of my knowledge.

Q How do you know? A They had elections there and they voted.

Q Did you see them vote? A I dont know as I can specify the one they voted, but they voted.

Q How do you know it? A They were recognized as citizens and paid taxes and were old enough, and every one down there who was old enough, voted.

Q You didn't see them vote? A No sir, but I have every reason to believe that they voted.

Q Do you know of your own personal knowledge that they voted in Texas? A I am satisfied that they voted.

Q Do you know it? A Yes sir as well as I know anything that I didn't see.

Q As well as you know anything that you dont know? A A man knows things sometimes that he dont see.

Q You dont know anything, that is in favor of these freedmen do you? A If I did and was asked about it I would tell it.

Q Have you ever testified in behalf of a single one of them here? Q I have not directly, I have not been called upon.

Q You have been right active in testifying in favor of the Cherokee Nation? As well as my knowledge of the facts goes I have been, and I think I have a right to.

Q You dont really know what these folks did in Texas as to voting or not do you? A I am pretty sure that they voted.

Q You can say if they did or did not?

A I can say they did.

Q Did you see them? A No sir.

Q How do you know that they voted? A They were citizens there.

Q How do you know that? A They owned property there and were taxed.

Q How do you know that they were taxed? A The assessor went round and taxed everybody.

Q Do you know that George Starr was taxed? A I have every reason to believe that he was.

Q You dont know that Sallie Mayfield was taxed? A I think that they were taxed.

Q You dont know it though? A Well as a man can know it I do.

Q Did they ever come back to the Cherokee Nation? A Yes sir.

Q They were recognized as citizens when they did come back here? A They were re-admitted then.

Q They were recognized then? A Yes sir.

Q You dont know where Jess Rowe was in '66? A No sir.

Q You dont know where Fernelia Rowe was in '66? A No sir.

(By Davenport)

Q Have any one of these applicants that belonged to your father, or to Sallie Mayfield, or to George Starr ever asked you to testify for them? A No and never have.

Q You would not have failed to obey a subpoena if they had had you subpoenaed to testify, would you? A No sir.

ZECK STARR, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

Q What is your name? A Zeck Starr.

Q What is your post office address? A Tahlequah.

Q What is your age? A 52.

Q How long have you lived in the Cherokee Nation? A Ever since '68.

Q Where did you live before you came to the Cherokee Nation? A Texas, Boss county.

- Q What was your father's name? A George Starr.
- Q Did you know a lady known as Aunt Sallie Mayfield? A Yes sir.
- Q Where did she live when you first recollect? A In Texas.
- Q Did she own any slaves in Texas? A Yes sir, several.
- Q Do you remember the names of any of them? A Of some of the older ones.
- Q Did they own a woman named Phillis? A Yes sir.
- Q Did she have any children? A Yes sir I think she had some children.
- Q Do you know Jess Rowe? A Yes sir.
- Q Who did he belong to? A To my father.
- Q Do you know if your father had him with him when he went to Texas in '47? A That is before I recollect.
- Q Where was Jess when you could first remember? A He was living there with us in Texas.
- Q Who did Phillis belong to? A To Aunt Sallie Mayfield.
- Q Do you know where Jess Rowe and his family were when the war broke out? A He was living with us when the war broke out.
- Q Where were you living at that time? A Boss County Texas.
- Q You were born in Texas, yourself? A Yes sir.
- Q Have you seen Jess Rowe since he came to this country? A Yes sir.
- Q Do you know him to be the same Jess Rowe that belonged to your father in Texas? A Yes sir the same Jess Rowe.
- Q Have you seen his wife since he came here? A I guess I have I dont know as I know his wife exactly though.
- Q When did you come to the Territory after the war? A In 1868.
- Q Where was Jess Rowe and his family when you moved back? A As far as I know he was in Texas.
- Q Where was he when you started away from Texas? A There.
- Q Where was he when the war closed? A In Texas with us.
- Q When did you first see Jess Rowe in this country? A 10 or 11 years ago.
- Q Did he have his family with him at that time? A I dont know if he had his family or not.
- Q At the breaking out of the war was your father a citizen of the Cherokee Nation? A He was a citizen of the State of Texas I guess.
- Q Were you recognized as citizen of the Nation when you came back?
- Q He had to be re-admitted as a citizen of the Cherokee Nation on his return is my understanding.
- (By Smith)
- Q How many slaves did your father have, Mr. Starr? A 50 or 60.
- Q A good many? A Yes sir.
- Q How old were you when the war closed? A I guess I was 15 or 16 years old.
- Q A Boy? A Yes sir.
- Q Where were you then? A In Texas.
- Q How long did you remain there after the war closed? A We left Texas in the spring of '68.
- Q Were you at home all the time there? A Yes sir, except when I was going to school.
- Q Where did you go to school? A At Selvia, close to where we lived I went there one or two sessions and part of the time I boarded with Aunt Sallie Mayfield, she lived closed then we did.
- Q Where was Jess Rowe when you were boarding with Aunt Sallie Mayfield? A At home on our farm.
- Q How far was your farm from your Aunt Sallie Mayfield's? A Six or seven miles.
- Q Did you have any special reason for recollecting Jess Rowe during that time, or did you just remember that he was one of your father's slaves? A He was there on the place.
- Q As far as Jess Rowe himself is concerned, can you state from your own knowledge and recollection that he was there all the time during the years '65, '6 and '7? A Not by anything particular, but they

was all there like the other slaves and I thought he was there too.

Q Where was Parnelia Rowe? A She was there.

Q Was that Jess' wife? A I think she was, he married one of Aunt Sallie Mayfield's niggers.

Q Where had your family gone from to Texas? A Cherokee Nation

Q They were citizens here? A Yes sir.

Q Did they have any property here? A They sold it I understand and went to Texas.

Q Where had your aunt Sallie Mayfield lived before she went to Texas? In the Cherokee Nation I have been told.

Q Did she ever come back? A Yes sir.

Q They were recognized as citizens here? A She lived here a while and then went back to Texas.

Q She was a Cherokee by blood? A Yes sir.

Q Was your father a Cherokee? A Yes sir.

(By the Commission)

Q Where was Jess born? A I dont know, he is older than I am.

Q Was Jess taken to Texas when your father went there? I suppose he was, I dont know, I was born in Texas in '49.

Q You dont know where Jess was born? A No sir.

(By Davenport)

Q When your family returned here were they recognized as citizens of the Cherokee Nation or did they have to be readmitted? A-

BY MR. SMITH: " The applicant's object to the testimony as to the re-admission for the reason that the record would be better evidence.

(By Davenport of witness)

Q You don't know what took place as to their citizenship? A No sir

Q You do know that they moved to Texas before the war and lived there until after the war? A Yes sir.

Q When your father came back here did he have any property here? A No sir.

(By Smith)

Q You were born in Texas? A Yes sir.

Q You are a citizen of the Cherokee Nation now? A Yes sir.

Q By blood? A Yes sir.

Q You came here from the State of Texas? A Yes sir.

(By Davenport)

Q Your understanding is that it was after your return that you were re-admitted? A Yes sir.

(By the Commission)

Q How did you get to be a Cherokee citizen if you were born in Texas?

Q After father was re-admitted I suppose the whole family was re-admitted with him.

=====
This will be filed in Cherokee freedmen cases, D-681; D-682; D-685; D-684; D-685; D-728; D-960; D-1018; D-1014; D-1024 and D-1063.

Chas. von Weise, being 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 18th of October, 1901.

Chas von Weise
[Signature]

Commissioner.

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

McGOWAN & SERVEN,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Jesse Row, et al.

960

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1868.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

F. D. 960

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in 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 SEP 23 1901, 1901.
Walter S. Smith

Attorney for applicant.

UNITED STATES OF AMERICA, |
INDIAN TERRITORY, | S. S.
NORTHERN DISTRICT |

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190

Subscribed at before me
this

Notary Public

**Proof of Service made
and original filed with the
DAMES COMMISSION
SEP 24 1901**

NOTICE!

IN THE MATTER OF the application of Jesse Rowe
for enrollment as Cherokee Freedmen:

Case No. F. D. 960

To Jesse Rowe or Mellette & Smith his Attys.

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 14th 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L B Bell

M. W. Hastings

Attorneys for the Cherokee Nation.

Cher. Fr. D. 961

Cher. Fr. D. 961

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 28th 1901.

In the matter of the application of Charles H. Nave for the enrollment of himself as a Cherokee freedman; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. Charles H. Nave.
Q What is your post office address? A. Joplin, Missouri.
Q What district do you live in? A. I work in Joplin Missouri in a barber shop
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Just myself.
Q Is your name on any of the rolls of the Cherokee Nation? A. No sir.
Q Have you never been recognized by the Cherokee authorities? A. I was before the Kern Clifton roll.
Q But you were not enrolled by them? A. No sir.
Q They didn't receive your name? A. No sir.
Q What proof have you of your citizenship? A. Some witnesses here.
Q What is your age? A. I think I am 45 years old to the best of my conception
Q What was your fathers name? A. Charles Timberlake.
Q What is your mothers name? A. Kate Nave
Q Do you claim your citizenship through your father or mother? A. Mother
Q Is your mother living? A. No sir.
Q Was she a slave? A. Yes sir.
Q Who did she belong to? A. Mary Nave.
Q Were you born a slave? A. Yes sir.
Q Who did you belong to? A. Mary Nave.
Q Was Mary Nave a Cherokee citizen? A. Yes sir.
Q Were you and your mother taken out of the Cherokee Nation during the war? A. No sir.
Q Never left the Cherokee Nation during the Civil war? A. No sir.
Q Lived here all your life? A. Until '76, in the fall.
Q Where did you go then? A. Fort Scott.
Q Are you married? A. Yes sir.
Q What is your wifes name? A. Mariah.
Q Is she a citizen? A. No sir.
Q Have you any children? A. No sir.
Q Where is your residence now? A. I work in Joplin Missouri, my home is in Fort Gibson.
Q Where is your wife? A. In Joplin.
Q You and she are keeping house there now? A. Yes sir.
Q Did your mother ever go out of the Cherokee Nation? A. No sir.
Q Where did she live all the time? A. Fort Gibson.
Q When did she die? A. 1883

The 1880 roll examined and the name of the applicant's mother found on the same as follows:
Page 561 No. 1309, Kate Nave, Illinois district.

- Q Why is your name not on the roll of 1880? A. I wasn't there at that time, I was in Kansas.
Q Have you any brothers or sisters? A. Yes sir, Sallie Hughes, Jane Nave, Vera Nave, Henry Nave.
Q Are their names on the roll of 1880? A. All but Sallie.
Q Are these full brothers and sisters? A. Yes sir

By Davenport—

- Q You haven't lived in the Cherokee Nation since you were grown? A. Yes sir I lived here in '76
Q You haven't lived here since '76? A Off and on.
Q How much of the off part have you been here? A. A good deal of it.

- Q Didn't you testify before the Mason Circuit Court that you had been here just 3 or 4 months before that since 1870? A. I don't think I did.
- Q How long have you lived in Joplin Missouri? A. I have worked there for 10 or 12 years.
- Q You kept house there, your home has been there? A. Yes sir I live there
- Q Live there now? A. Yes sir.
- Q Your home is there now? A. No sir it is always in Fort Gibson.
- Q But you live in Joplin now? A. Yes sir.

By the Commission:

- Q How old were you in 1870? A. 18 years old.

L. D. Daniels called and sworn as a witness for the applicant.

- Q What is your name? A. L. D. Daniels, age 58, post office Clarence
- Q Do you know the applicant? A. Yes sir
- Q How long have you known him? A Got acquainted with him time of the war.
- Q What was his mother's name? A. Kate Hare.
- Q Was she a slave? A. Yes sir as said to be
- Q Did she go out of the Cherokee Nation during the war? A. No sir.
- Q When was this applicant born? A. I don't know, he was just a little boy during the war.
- Q Where were they living then? A. A mile east of the Bayou at Fort Gibson
- Q Where has the applicant been living since 1865? A. No sir I can't say. I used him in '67—I used him at Gibson a while after the war, up to '70 something, I don't know just when he left from there and I don't know where he went—I met him again time of the payment at Gibson in 1897.
- Q You don't know where he was living then? A. No sir.

By Deponent of the applicant:

- Q You lived in Denison Texas before you went to Joplin? A. Yes sir
- Q How long did you live there? A. 3 or 4 months

Othelrus Lasley, called and sworn as a witness for the applicant:

- Q What is your name? A. Othelrus Lasley
- Q What is your age? A. 55
- Q What is your post office address? A. Fablequash.
- Q Do you know the applicant? A. Yes sir.
- Q How long have you known him? A. Near since he was a small boy.
- Q Was he born a slave? A. Yes sir.
- Q Who did he belong to? A. Alex Hays.
- Q Do you know where he was in 1865? A. Fort Gibson.
- Q Was his mother with him? A. Yes sir.
- Q How long have you known him since and where? A. He was there 3 or 10 years, he left and I haven't seen him for some time since.
- Q You don't know where he has been living since? A. No sir.

By the applicant or witness Lasley:

- Q You know where I was born? A. Yes sir.
- Q In Flint district? A. Yes sir.
- Q Do know I went to school at Fort Gibson to old man Hittcock? A. Yes sir I know that.

By Davenport-(of witness Lasley)

Q Do you know how old the applicant is? A. 45.

Q Not as old as you? A. No sir.

Q You dont know where he has been living since he left Fort Gibson?

A No sir.

Statement by the applicant:

I have worked at the barber trade, and went out of the Nation simply because it wasn't a very good business to make a living at here then and I wanted to help my mother, and so I went out and worked in the states where there was more work and helped my mother sending her money until she died. I have been from place to place where I could make the most money, have worked at several places and have been back to Fort Gibson off and on all the time.

By the Commission of applicant:

Q Just in and out? A. Yes sir.

Q Have you no children now? A. No sir.

Q Have you lived with your wife continuously since your marriage to her? A. Yes sir.

Q When did you marry? A. In '80

Q Did you ever vote in Missouri? A. No sir.

Q Never did? A No sir, the only election I ever voted in was at Fort Gibson, I voted at one election there.

Q Never voted in the state of Missouri, Kansas or Texas? A. No sir.

Q Do you own any property in Joplin? A No sir.

Q Just went there? A. Yes sir.

Q Live with your wife there? A. Yes sir.

By Davenport-

Q What election did you vote at in the Cherokee Nation? A. Some election they had there in a log house.

Q Didn't you say you left here when you were 15 years old? A. I said when I was about 15, and I never said for sure it was that for I don't exactly know, I said I thought about that time.

Q And you never voted at the State or National election at Joplin? A No sir.

Q Didn't you vote in Joplin last year? A. I don't think I did

Q Dont you know if you did or not? A. I do.

Q Well did you? A. I didn't.

~~By Com'r Needles-~~

~~Charles H. Nave applies for himself~~

The applicant not found on any of the rolls of the Cherokee Nation now in the possession of the Commission.

By Com'r Needles,-

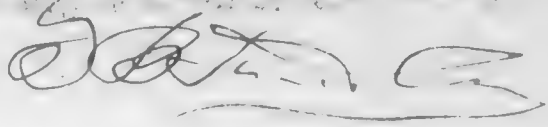
Charles H. Nave applies for himself, he is not found on any of the rolls of the Cherokee Nation in the possession of the Commission, and has never been recognized as a freedee by the Cherokee authorities; he avers that he is the son of Kate Nave and Charles Timberlake, that he was a slave and belonged to one Mary Nave a Cherokee citizen; he avers that neither he nor his mother left the Cherokee Nation during the war, that

his mother never did leave here, but that he left Fort Gibson where he had been living, in 1870, at which time he avers he was about 18 or 19 years old, that he went to Missouri and has lived there ever since; he married there in 1890 and his wife and he have lived there together ever since. The name of his mother is found on the ~~see~~ authenticated roll of 1880, and the names of his brothers and sisters are also found thereon. ~~Because of the fact that his mother's name is~~ ~~found on the authenticated roll of 1880 which gave the applicant~~ ~~color of title to be enrolled, he will now be listed for en-~~ ~~rollment as a Cherokee freedman on a doubtful card and when~~ ~~the final decision is arrived at he will be notified by mail~~

* * * * *

Chas. von Weise, being 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 15th of July, 1901.

Chas. von Weise


Commissioner.

Cherokee Freedman 2-941.

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

Admitted

In the matter of the application of Charles H. Nave for enrollment as a Cherokee freedman.

DECISION.

The record herein shows that on July 29, 1901, Charles H. Nave appeared before the Commission at Nowata, Indian Territory, and made application for the enrollment of himself as a Cherokee freedman.

The evidence shows that the applicant herein was the slave of a Cherokee citizen at the commencement of the rebellion, and that he remained in the Cherokee Nation until the year 1870, when he removed from the Cherokee Nation and has since resided beyond the limits of the Indian Territory.

It further appears that the applicant has never owned any property in the Cherokee Nation; that he is married and for the last fifteen years has resided in the State of Missouri.

The applicant is not identified on any of the tribal rolls of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the application for the enrollment of Charles H. Nave as a Cherokee freedman, should be denied under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat. 496), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED,

Tams Bixby.

Chairman.

SIGNED,

J. B. Needles.

Commissioner.

SIGNED,

C. R. Breckinridge.

Commissioner.

Nowata, Indian Territory,

CHAS

JUN 16 1905

COMMISSIONERS:
JAMES REXBY,
THOMAS B. NEEDLER,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

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

866
REFER TO ONLY TO THE FOLLOWING:
Cherokee Freedman
D-961.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 16, 1905.

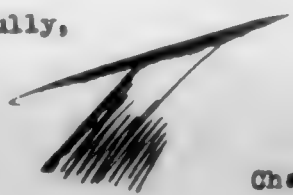
Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting the application for the enrollment of Charles H. Nave as a Cherokee freedman.

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.

Incl. 3-118

C O P Y .

Refer in reply
to the following:
Land 47212-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Washington, June 23, 1905.

The Honorable,

The Secretary of the Interior.

Sir::

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 16, 1905, transmitting the record of the application for enrollment as a Cherokee Freedman by Charles H. Nave.

June 16, 1905, the Commission decided adversely to the applicant.

The record shows that the applicant was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that he remained in the Cherokee Nation until 1870 when he removed from the Nation and has since resided beyond the limits of the Indian Territory. It is further shown that he has never owned any property in the Cherokee Nation; that he is married and for the last fifteen years has resided in Missouri. He is not identified on any tribal rolls of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to the applicant is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MM

V

I.T.D.7760-1905.
D.C.No.45155-1905.
L.R.S.

C O P Y .

W.C.F.
LLB

DEPARTMENT OF THE INTERIOR.

Washington, September 23, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 16, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application of Charles H. Nave for his enrollment as a Cherokee Freedman.

Reporting June 23, 1905, the Indian Office recommended that the Commission's decision, adverse to the applicant, be approved. A copy of its letter is enclosed.

The Department concurs in said recommendation and the Commission's decision is hereby affirmed.

Respectfully,

(Signed) Thos Ryan,

Acting Secretary.

1 inclosure

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen

D-961.

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

Muskogee, Indian Territory, October 5, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting the application for the enrollment of Charles H. Nave as a Cherokee freedman, was affirmed by the Secretary of the Interior on September 23, 1905.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,



Commissioner.

Incl. S-38

Cher Fr. D. 962

Cher. Fr. D. 962

File with C.F. D-962, Lewis Daniels.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 25, 1901.

In the matter of the application of Ibbie Daniels for the enrollment of herself, one child, one grandchild and husband as Cherokee Freedmen; said Daniels being sworn and examined by Commissioner T. B. Wadlow, testified as follows:

Appearances:

Messrs. Vellotte & Smith, for applicants.

Messrs. Hastings and Davenport for Cherokee Nation.

- Q What is your name? A Ibbie Daniels.
Q How old are you? A I don't know how old I am. (Takes paper to Commissioner.)
Q What is your post-office? A Dewey.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as Cherokee Freedman? A Yes, sir.
Q What do you want to enroll besides yourself? A My children.
Q How many children have you got under 21 years of age and not married? A I ain't but but three married.
Q Well, you haven't got any children under 21 years of age, have you? A No, sir.
Q Is Frankie your son? A Yes, sir.
Q What is Martha Ann? A That is my child.
Q Josephine? A That is my daughter.
Q You haven't got but one child here under 21; what is that one's name, Frankie? A Yes, sir. (17 years of age.)
Q You got a grand child here named Martha Ann? A Yes, sir.
Q Born in 1869; is your name on the roll of 1890? A It ought to be.
Q Well, is it? A I could not tell you whether it is or not.
Q What was you father's name? A Thomas Watie.
Q Is he living? A No, sir.
Q What is your mother's name? A My mother's was Peggie Wann.
Q Is she living? A No, sir, she is dead.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Andy Daniels.
Q Is he a citizen? A Yes, sir.
Q Has he been enrolled? A Yes, sir.
Q Why didn't he enroll you when he enrolled himself? A He was enrolled.
Q Has he been enrolled by us? A No, sir, He can't come here to wheel him around on a chair.
Q Do you want to enroll him? A Yes, sir.
BY MR. SMITH:
Q Mrs. Daniels, how many children have you older than the child Frankie for whom you apply? A I have got two, Frankie is the baby, I got three that is older than is on the rolls.
Q How many children have you over 21 years of age? A I have not got but three.
Q Who are they? A Charley, Nancy and Lucinda.
Q Is Nancy's name still Daniels? A Nancy Claggett.
Q Is Lucinda Daniels yet? A Yes, sir, she is living with me.
Q Where do you live? A I live on Caney.
Q Cherokee Nation? A Yes, sir.
Q How long have you lived on the place you live on now? A 27 years or longer.
Q Have you got a farm there? A I have had it fenced, we haven't out there.
Q Where is Nancy living? A She is living over here on California Creek.
Q What is her husband's name? A John Claggett/
Q Where does he live? A Right there near me at Dewey.
Q How old is Charley? A I don't know.
Q Was he born after the war? A Born long before the war.

Ibbie Daniels et al 2

- Q Where was Nancy born? A She was born down here at Gibson after the war.
- Q How old is youisa, where was she born? A On Caney.
- Q How many children did you have at the close of the war?
- A Didn't have but the three.
- Q What were their names? A Jim, Emiline and Charley.
- Q What has become of Jim and Emiline? A They are dead.
- Q What is your husband's name? A Andy Daniels.
- Q When were you and Andy married? A Married long before the war.
- Q Are these children whose names you have mentioned all his children and yours? A Yes, sir.
- Q Were you a slave before the war? A Yes, sir.
- Q What did you belong to? A Thomas Carey and his wife.
- Q Were they citizens of the Cherokee Nation? A Yes, sir.
- Q Where did they live before the war? A Lived right on Grand river.
- Q Were you living at the time the war come up?
- A Living on Grand river.
- Q Were you taken out of the Cherokee Nation during the war?
- A Taken down to Fort Smith, my old boss took me down there and hired me out to work.
- Q When did you return to the Cherokee Nation after the war?
- A I come back after Abraham Lincoln got killed; come back to Gibson.
- Q How do you know that? A They all said so.
- Q Who did you come back with? A I come back with Government troops.
- Q Who was with you when you come back? A There was a whole lot of Cherokees and Creeks.
- Q Did you have any children at that time? A I had three.
- Q Did you bring them back with you? A Yes, sir.
- Q Where was your husband? A I could not tell you, he was in the army then.
- Q How long a time you got back before he got back? A It was about a year and he come back to see me, we was down at Gibson.
- Q How long were you about Fort Gibson at that time? A I stayed down there pretty near two year when I moved up to Caney.
- Q And where have you been living since you moved to Caney? A I aint been living at no other place.
- Q This child, Frankie, you apply for is that a boy or girl? A Boy.
- Q Does Frankie live with you? A Yes, sir.
- Q Has he ever lived any where except the Cherokee Nation?
- A No, sir, never did.
- BY MR. HASTINGS:
- Q What is the reason your husband ain't here? A He is paralysed and could not walk.
- Q Not able to work? A No, sir.
- BY MR. HASTINGS:
- Q You say the troops brought you back from Fort Smith up to Fort Gibson? A Yes, sir.
- Q How far below Fort Smith were you when you got with the troops?
- A Right in Fort Smith.
- Q Right in the town? A Yes, sir.
- Q And you come back up from there to Fort Gibson? A Yes, sir.
- Q Now, with whom did you live when you come up to Fort Gibson?
- A I lived with old Aunt Sallie Mason, she is a grandmother of my daughter.
- Q Now, where did Sallie Mason live? A Lived right in the bottom.
- Q How far was that from Fort Gibson? A It is no very far from Fort Gibson, right on the edge of the lake.
- Q What family did Sallie Mason have at that time? A No one out her country.

- Q What was her daughter's name? A Named Polly Hivens.
- Q They were living together at that time? A Yes, sir.
- Q Is she a witness in your case? A Yes, sir.
- Q Did you have her called up here awhile ago? A No, sir.
- Q Was any of your children born there? A Had a little girl born there.
- Q What was her name? A Nancy Jane.
- Q Is Nancy alive? A Yes, sir, she is alive.
- Q How old is Nancy? A I could not tell you exactly how old she is.
- Q Have you got it down on your paper? (No response.)
- Q Well, now how long did you continue to reside there with Sallie Bacon? A I stayed there a year and a half.
- Q Now about what time of the year did you get there? A I came there in the fall.
- Q In the fall of '65? A Yes, sir.
- Q What time did you leave there? A I left there in the spring.
- Q Now, was that the spring of '66 or '67? A I could not tell you what time.
- Q You stayed there two winters? A Yes, sir.
- Q Now, where did you go from there? A I went to Caney where I am living now.
- Q Direct from there? A Yes, sir.
- Q Now, did you go with your husband out there to Caney? A Yes, sir.
- Q And by what you mean your husband, Andy Daniels? A Yes sir.
- Q You and him continued to reside there ever since have you? A Yes sir.
- Q Now let's get it right, you claim to have come there in the fall of '65, you stayed there a year and a half? A Yes, sir.
- Q And left there in the spring? A Yes, sir.
- Q And you stayed there two winters? A Yes, sir.
- Q And left there in the spring of '67? A Yes, sir.
- Q Now, how far from Bartlesville was it you went? A Three miles.
- Q Was there a town there at that time? A No, sir.
- Q Who were you neighbors at that time out there? A Nobody but the Osages.
- Q Any of the Delawares living out there at that time? A No, sir.
- Q Did you and your husband settle down at that time, you and Andy? A Yes, sir.
- Q And you continued to live together? A Yes sir.
- Q He never went off and you never went off? A He went off to work.
- Q After you moved up there? A No, sir.
- Q He never left and you never? A No, sir.
- Q That was in the spring of '67? A Yes, sir.
- Q Now, about what direction from Bartlesville was that, on Caney? A North.
- Q And you continued to stay right there ever since? A Yes, sir.
- Q From that day to this? A Yes, sir.
- Q Well, what was your first child born on that place? A Thomas.
- Q Tom was the first one born there was he? A Yes, sir.
- Q Now, how old is Tom? A I could not tell you how old he is.
- Q How long had you been living up there when Tom was born? A About a year and a half.
- Q And you don't remember how many years old Tom is? A No, sir.
- Q You didn't bring Eseline back from Fort Smith with you? A I did.
- Q Is she here? A She is dead.
- Q Well, then when you were living with Sallie Bacon you had three children? A Yes, sir.
- Q And another one was born there? A Yes, sir.
- BY COURT REPORTER:
- Q You say you didn't see Andy for about a year after you got to Fort Gibson? A No, sir, he was in the service.

- Q Soldier? A Yes, sir.
Q He come there about a year after you did? A Yes, sir.
Q He been with you ever since? A Yes, sir.

BY MR. HASTINGS:

- Q How long did you and he live together at Fort Gibson, before you moved to Caney? A I told you he stayed down there a year.
Q I mean with Andy, how long did Andy stay down there with you at Fort Gibson before you and he moved to Caney? A A year and a half.
Q Was Andy there with you all the time? A Yes, sir.
Q And you and he lived together and you moved from there up to Caney? A Yes, sir.

BY MR. SMITH:

- Q Yes, Daniel, I asked you awhile ago the names of your children besides Frankie and you spoke of James, Henry and Charley, one of them and of Emeline and stated that Emeline and James were dead?
A Yes, sir.
Q Now, these children whose names I have just called are not all of your children? A Yes sir.
Q Did you have any other? A Yes, sir, of course I have got some other, there is Josephine and Thomas.
Q Is Josephine still Daniels? A Yes, sir.
Q Where is she? A She is at home.
Q Living with you? A Yes, sir.
Q Where was she born? A Living in Caney.
Q Was she always lived with you? A Yes, sir.
Q Well, now, you spoke of a Thomas awhile ago? A Well, he is with me too.
Q Is he married or single? A No, sir, single.
Q Is he your child? A Yes, sir.
Q Well, was there any others, how about Freeman? A He is dead.
Q How about Lucinda? A Lucinda is my daughter.
Q Is her name still Lucinda? A Yes, sir, she is married.
Q Is she living with you? A Yes, sir; Lewis; Jon's ain't married.
Q Where does Lewis live? A He lives with me.
Q Where was he born? A Caney, Cherokee Nation.
Q Has he lived anywhere else except the Cherokee Nation? A No, sir.
Q Where does Jon live? A Cherokee Nation.
Q Now about Martha Ann? A She ain't never lived n. where else either.
Q Who was the mother of Martha Ann? A She was a Gaskin.
Q Who was the father? A My son Jim.
Q Is she living with you? A Yes, sir, I have had her ever since she was a babe.
Q How old is she? A 12 years old.
Q The father is dead? A Yes, sir.
Q The mother is dead? A Yes, sir.

BY COURT REPORTER:

- Q What is the father's name now of Martha? A Jim.
Q Well, who is the mother? A The mother is dead, she is a Gaskin.
Q Is she a citizen? A No, sir.
Q Was James and the mother of this Martha ever married?
A Yes, sir.
Q What was her name? A Ellen Gaskin.
Q Was that non-citizen was she? A Yes, sir.
Q Well, were they ever married? A Yes, sir.
Q How do you know that? A The preacher married them.
Q Did you see them married? A I didn't see them married.
Q You will have to prove that married? A Well I think I can prove it.

BY MR. SMITH:

- Q Do any of the witnesses that you called here know about this

Ibbie Daniels et al 5

marriage of your son? A Lewis Daniels, I guess know it.

Q Where were they married? A On Gandy.

Q How long did they live together? A About eight or nine years.

Q Did they live together as man and wife? A Yes, sir.

Q In the house where you were living? A Yes, sir.

Q Did he ever have any other wife? A No, sir, not as I know of.

Q Did she ever have any other husband? A Not as I know of.

Q Did the people in the community call them husband and wife, regard them as husband and wife and receive them as husband and wife? A Yes, sir.

BY C. HASTINGS:

Q Did she have any children before she married him? A No, sir.

Q I believe you stated that you and your husband lived together down there at Fort Gibson for a year and a half before you moved up to Caney? A Yes, well, so did.

Q Now, you lived down there with your husband, did you, Andy Daniels? A Yes, sir.

Q About how long had you been at Fort Gibson until your husband come, or did he come first? A He come after he was mustered out. I don't know when he was mustered out.

Q I want to know how long that was after he come up there?

A Little over a month.

L.D. DANIELS, being first duly sworn by Commissioner T. Needles, testified as follows: BY C. HASTINGS:

Q State your name? A L. D. Daniels.

Q Where do you live? A Claremore.

Q How old are you? A 55.

Q How long have you lived in the Cherokee Nation? A All a life.

Q Are you a Freedman of the Cherokee Nation? A Yes, sir.

Q Recognized citizen? A Yes, sir.

Q Do you know this applicant, Ibbie Daniels? A Yes, sir, I do.

Q How long have you known her? A I have knowed her ever since '65.

Q Did you see her in 1865? A I seen her sir.

Q Where? A Fort Gibson.

Q What time in '65? A It was in the fall.

Q State the circumstances of your seeing her? A Well, there was wagons come from Fort Smith and there was a good many people come up in the wagons; they were going on to Fort Scott and she stopped there and inquired for a certain family there and I told them where they were and then after that I seen her very frequently.

Q For long did she stay in that settlement, do you know?

A Well, she remained there I guess a year or such a matter.

Q You don't know exactly how long she stayed? A No, because sometimes I could see her sometimes twenty days and sometimes more than that, because I would see her every twenty days, or by time they would come to draw wagons I would see her there.

Q Do you know where she lives now? A Yes, sir.

Q Where? A Over in Caney four miles above Bartlesville, north.

Q Do you know how long she has been living there? A I have been living up here 25 years and when I moved up here they were living over there and living there now, when she is at home.

Q Do you know her children? A Well, she had three to Fort Gibson, two girls and a boy.

Q She had three you say? A Yes, sir, three.

Q Do you know how many she has had since that time? A Yes has got a house full now I haven't been to her house since '89 I was over there then and there was five I know was down with the chills then in '89.

Q You don't know how many there was that didn't have the chills?

A No, sir, there was a good many running around there.

Q Did you know Andy, her husband? A Andy Daniels, Yes sir.

Q Do you know whether Andy is a part of the Cherokee Nation during

Exhibit Daniels et al

the war? A Yes, sir, he belonged to the Second Michigan.

Q Do you know when he came back? A He came back to Gibson after that, he came in '67 and got this money down there, I don't know whether it was in '67 or the latter part of '67.

Q Do you know when Andy was mustered out? A Yes.

Q Do you know of your own personal knowledge when he came back to the country? A Yes, he came back I was living to Gibson and he came in with '67 but there and I could not tell you what time he had the other part of the Cherokee Nation.

Q Was this a date? A I didn't know the former owners at all.

Q You didn't get acquainted with her until '65? A Yes, sir, not until to Gibson.

BY THE COURT:

Q When did you first see Andy Daniel after the war? A I think it was in '67 or either latter part of '66 when he came to Gibson.

Q And that is the time you seen him in Gibson after the war? A Yes, sir, I seen him in the war.

Q With whom was this woman living down there when you know her first after the war? A She came there every time she would come to get rations she would come with Isaac Grap's wife.

Q What was her name? A I don't know, claimed to be her mother.

Q Claimed to be whose mother? A This woman's mother.

Q You don't know whose house she stayed? A She stayed at her own house on the old Lake, about a mile from Gibson Tenge's.

Q You saw her three children at that time? A Yes, sir, and I seen her three children there too.

Q What were the names of these children you saw at that time?

A I don't know, it was strange to see a Cherokee with a little white child and she had a white child at that time.

Q Well do you know that she continued to reside around there at that time? A She stayed around there four or five months to my knowledge.

Q You could see her about then she come and get her feet under the table to get rations? A She come to the old house the people applied to get the rations.

Q You should like to swear that she was there from '65 until '67? A I am willing to swear that she was there in '65 and around there four or five months.

Q To be positive about that? A Yes, sir.

Remainder of application taken by stenographer, Chas. von Reize

J. O. Ross, before 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. (signed) J. O. Ross.

Subscribed and sworn to before me this 12th day of July, 1901.

(signed) J. H. Hodges,

Commissioner.

Continued from Stenographer, J. O. Ross.

Attest, J. F. Ross 20th July 1901.

In the presence of the applicants of Exh. Daniels et al.

WITNESSES: J. F. Ross, Commissioner, Cherokee Nation, Oklahoma Territory.

Witnesses of record for application:

1. That is my name, A. James Williams.

2. That is my name, A. James Williams.

3. That is my name, A. James Williams.

4. That is my name, A. James Williams.

- Q Do you know her children? A No sir.
- Q Where has she been living since you know her? A On Canal.
- Q Do you know who her owners were during the war? A Yes sir, Walker Terry, she said it was, I knowed some of them on Grand river.
- Q Did you know her before the war? A No sir.
- Q Did you know her during the war? A No sir.
- Q You dont know anything about her citizenship? A No sir not personall.

By Mr. Hastings, Cherokee representative:

- Q Did you see her in 1865? A Just about 25 years ago.
- By Mr. Hastings of the applicant:
- Q How far do you live from Jobe Parker? A I dont know.
- Q Do you know him? A Yes sir.
- Q But you dont know how far you live from him? A No sir.
- Q When did you see W.H. Foreman first after the war? A At East City.
- Q Where was that? A I dont know.
- Q Where you left there? A Yes sir.
- Q Was your husband there then? A No sir he was in the army.
- Q What time of the year was it? A Cold so then, I dont know the month.
- Q And you dont know the year? A No sir.
- Q At what place was it? A Right in town where I was hired out.
- Q At whose house? A I dont know, I dont remember the name.
- Q You remember seeing this man though? A Yes sir.

William Foreman, called and sworn as a witness for the

applicant:-

By Mr. STINE:-

- Q What is your name? A William Foreman.
- Q What is your post-office address? A Wagoner.
- Q What is your age? A 54 years.
- Q Are you an Indian? A Yes sir.
- Q A Cherokee Indian? A Yes sir.
- Q How long have you lived in the Cherokee Nation? A All my life.
- Q Do you know this applicant, Charlie Daniels? A Yes sir.
- Q Did you know her before the war? A Yes sir.
- Q Was she a slave? A Yes sir.
- Q Who did she belong to? A Thomas Carey.
- Q Was he a citizen of the Cherokee Nation? A Yes sir, by adoption his first wife was a Cherokee, named Jane Duncan and then she died and he married another Cherokee, named Jane Muskrat.
- Q Both his wives were Cherokee? A Yes sir.
- Q Was he recognized as a Cherokee citizen by the Cherokee Nation? A Yes sir.
- Q How far did they live from you at the time of the war? A I was living 30 miles north of their place when the war commenced.
- Q He was here when the war commenced? A Yes sir in Delaware district Cherokee Nation at Carrey's Prairie.
- Q Do you know if this applicant was taken out of the Cherokee Nation during the war? A No sir I dont.
- Q When did you first see her after the war in the Cherokee Nation? A At Vinita before the Wallace court.
- Q Did you testify for her there? A I might have, I dont recollect, I think I did as to her owners.
- Q Did you know her husband? A Yes sir.
- Q Was his name Andy? A Yes sir.
- Q Was he a slave? A Yes sir.
- Q Who did he belong to? A Jozef Daniels.
- Q Was Jozef Daniels a Cherokee citizen? A Yes sir.
- Q Do you know if he was taken out of the Cherokee Nation during the Civil war? A I cant tell, of my own knowled.

Q When did you first see Andy back here after the war? A At Vinita before the Wallace court.

POLEY WIVENS, called and sworn as a witness for the applicant-
Wm. Smith:

Q What is your name? A Polly Wivens.

Q How old are you? A 56

Q Do you know this applicant here? A Yes sir.

Q When did you first get acquainted with her? A Just after peace was made I met her.

Q You didnt know her before the war? A No sir.

Q You dont know who she belonged to? A No sir.

Q Where did you first see her after the war? A At Fort Gibson.

Q How long after peace was declared? A In the fall, peace was declared in the summer and she came in the fall, the first fall after peace.

Q How long did she stay around there? A I guess she staid there a little over a year, I seed her around there about that long.

Q Did you know her after that when she went up on Caney to live?

A No sir.

Q Never have been at her house on Caney? A No sir.

My lastings-

Q Who did she live with at Fort Gibson? A Her husband was a soldier when I saw her she lived in a little log house and a white girl, yellow girl it was hers though.

Q How far from where you lived? A I was in town and my grandmother lived at the lake and she lived close to my grandmother, closer to town than my grandmother did.

Q What name did she go by then? A Carrye.

Q Was she married then? A I dont know; she said when she came there that her husband was in the army.

Q How long after that before you saw her husband? A I dont remember, didnt pay no attention to him, no I didnt.

Q You dont remember him? A Yes sir, but I dont know how long after that that I seed him.

Q How many children did she have there? A Only that white one.

Q Was that a girl or a boy? A Girl.

Q Do you know Sallie Bacon? A Yes sir that is my grandmother.

Q Did she live in town? A She lived at the lake, this side of Cannan Vann's.

Q And this woman lived down there close? A Yes sir.

My Commission of applicant-

Q Did you ever draw money for warthen? A Yes sir.

Q Did you draw your strip money? A No sir.

Applicant not found on the authenticated roll of 1880.

Applicant not found on the Census roll of 1896.

Applicant not found on the Fern Clifton roll.

Wallace roll examined and the name of applicants found as follows-

Page 111 No. 23 O Andrew Daniels, Cherokee Nation.

Page 111 No. 2361 Ebbie Daniels

Kern Clifton roll examined and the name of applicants child found as follows-

Page 124 No. 3083, Frank Daniels, Delaware District.

Q Did you ever apply to the Cherokee authorities to have your name put on the 1890 roll? A Yes sir.

Q Where did you apply? A At Claremore.

Q That was when they was around taking the census? A Yes sir.

Q You never went to Tahlequah to have it done? A No sir.

Q Did your husband? A No sir.

Q You didnt get your strip money for yourself or husband? A No sir only for the children, me and the old man and Lewis was left out.

Q Is Martha living? A Yes sir.

The Clifton roll examined and the applicants child Martha is identified as follows-
Page 124 No. 3094 Martha Daniels, Delaware District.

By Com'r Needles-

Ebbie Daniels applies for herself, her husband Andy and son Frank, and for a grand daughter Martha, 12 years of age. The said Ebbie and Andy Daniels are not identified on any roll except the Wallace roll; her son Frank is identified on the Fern Clifton roll and also her grand daughter Martha. She avers that she and her husband were slaves of the Cherokee Nation and went out of the Cherokee Nation during the war but returned here in 1865 or 1866. She has lived here ever since. She avers that James Daniels, her son, is the father of Martha, by his wife who was a non-citizen. Makes satisfactory proof between the said James Daniels and his wife Ellen, the father and mother of the said Martha. By reason of the fact that they are not found on the authenticated roll of 1880, and by reason of the protest of the Cherokee Nation the said Ebbie Daniels, her husband Andy, her son and grand daughter will be listed for enrollment as Cherokee Freedmen on a doubtful card and she will be notified by mail of the final decision of the Commission.

=====

Chas. vonWeise, being sworn states that as stenographer to 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 and correct transcript of his stenographic notes therein.

(signed) Chas. vonWeise.

He swore and sworn to before me this 9th of July, 1901.

(signed) T. Needles,
Commissioner.

W. Greer, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that said is a true and complete ~~xxxxxxxixxxxxxxx~~ copy of the original transcript.

Wm Greer

He swore and sworn to before me this November 21, 1901.

Wm Greer

COMMISSIONER

National Archives

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29, 1901.

In the matter of the application of Lewis Daniels for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

Appearances:

Mr. Smith, of Mellette & Smith, for the applicant;
Mr. J. A. Davenport, for the Cherokee Nation.

- Q What is your name? A Lewis Daniels.
Q How old are you? A 27.
Q What is your post-office? A Dewey.
Q What district do you live in? A Coowascoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Is your name on any of the rolls of the Cherokee Nation? A Wallace roll.
Q You apply to be enrolled as a Cherokee Freedman do you? A Yes sir.
Q You want to enroll anybody besides yourself? A No sir.
BY MR. SMITH:
Q Ibbie Daniels your mother? A Yes sir.
Q How old are you? A 27.
Q Where do you live? A Dewey.
Q How long have you lived in the Cherokee Nation? A I was raised there.
Q Is your mother, Ibbie Daniels, the same Ibbie Daniels, who applied for enrollment before this Commission the other day? A Yes sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant identified nowhere thereon;
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

By Com'r Needles:

- Q Where were you born? A On Big Caney.
Q Was that in the Cherokee Nation? A Yes sir.
Q Have you lived in the Cherokee Nation all your life? A Yes sir, all my life.
Q What is your father's name? A Andy Daniels.
Q What is your mother's name? A Ibbie Daniels.
Q Are you married? A No sir.
Q You ever been married? A No sir.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on
page 111 #3384 Lewis Daniels, "Cherokee Nation."

BY MR. DAVENPORT:

- Q Where was you living when the Wallace roll was made? A I was living at Dewey.
Q When the Wallace roll was made? A I was living on Big Caney, when the Wallace roll was made.
Q What direction from Bartlesville? A North of Bartlesville.
Q You was living in the Osage Nation then? A No sir.
Q How long since you lived in the Osage Nation? A I never lived in the Osage Nation.
Q How long since you lived in Kansas? A Never lived in Kansas.
Q How r lived anywhere but the Cherokee Nation? A No sir.

Com'r Needles: Lewis Daniels applies for the enrollment of himself; he cannot be identified upon the authenticated roll of 1880 or the census roll of 1896; he is identified upon the Wallace roll and makes satisfactory proof as to residence; he

Lewis Daniels 2

avows that he is a child of Ibbie Daniels and Andy Daniels, and the testimony taken in the application of Ibbie Daniels, on D card 359, will be made a part of the record in the case at bar, and a copy thereof filed herewith. Said Lewis Daniels will now be listed for enrollment as a Cherokee Freedman on a doubtful card, - he will be notified by the Commission at his post-office address of their action in the premises.

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 July 12, 1901.

[Signature]

Commissioner.

File with Lewis Daniels C.F.D. 962

Department of the Interior
Commissioner to the Five Civilized Tribes,
Tulsa, Ok., October 23, 1901.

SUPPLEMENTAL TESTIMONY in the case of Andrew Daniels, C. F. D. 962

W. H. Hastings attorney for the Cherokee Nation;
Walter A. Smith attorney for the applicant.

JOE B. PARKER, being first duly sworn by Commissioner G. R. Brekinridge, testified as follows on the part of the Cherokee Nation:

- Q What is your name? A Joe B. Parker.
Q How old are you? A I don't know exactly, between 33 and 4.
Q What is your post office? A Veldora.
(By Hastings)
Q How far do you live from the town of Dewey? A About 7 miles north.
Q Do you know a colored man in the vicinity named Andrew Daniels? A
A Yes sir.
Q Do you know his wife? A No sir, I don't.
Q Do you know her name? A No sir, I don't.
Q Is this man an old like man, middle age or young man? A Old like.
Q Has he a family? A Yes sir.
Q Do you know any of the members of his family? A No sir, I don't, I
have never been to their house.
Q How long has he been living out in that vicinity? A Ever since the
Delaware came there.
Q What year did the Delaware come there? A In '68.
Q Do you belong to the Delaware tribe? A Yes sir.
Q Where did you first know this Andrew Daniels? A By here in Kansas
where the Delaware had their reservation.
Q How long did you know him in Kansas? A About a year.
Q Did you come here with the Delaware? A No sir, there was a few
families come first, the first ones that started they stopped here
on Grand river, and I come with them, we stopped with the Wyandotte
first and then come on.
Q About what time did you leave Kansas? A Went through Lawrence
Kansas on the first day of January '68.
Q Prior to that time you had known Andrew Daniels in Kansas about a
year? A Yes sir.
Q Did he come with you? A No sir.
Q When did you next see Andrew Daniels? A That was about in August
some time in '68.
Q Where? A Up there on Dewey.
Q In the Cherokee Nation? A Yes sir.
Q State how you came to see him? A I and another boy got on our horse
and went visiting and we run on to the camp there on Dewey and
saw him.
Q Whose camp? A The Delaware camp.
Q How far was that from where this Andrew Daniels is now living? A
A About three miles below.
Q In the same neighborhood then? A Yes sir.
Q Have you known him ever since? A Yes sir.
(By Smith)
Q How old were you when you came to the Cherokee Nation? A Just as I
said a while ago, I don't know my age exactly.
Q Well, about how old were you? A That was about about twenty.
Q Were you grown? A Yes sir.
Q Married or single? A Married.

- Q Where did you come from the the Cherokee Nation? A Kansas.
- Q Near what place in Kansas, now? A We used to live 2 or 3 miles north east of Lawrence.
- Q You didn't come here when the regular band of Delawareans came? A sir we came before and stopped at the Wyandotte reservation and stay all winter.
- Q You stated that you knew Andrew Daniels in Kansas? A Yes sir.
- Q Can you give the year that you knew him in Kansas? A It must have been about '88 we was working in the hay field when I saw him first.
- Q Did you ever see him any more after '88? A Yes sir.
- Q Where? A He was working not far from where I lived, working for old man Sarcxie.
- Q How long after that before you next saw him? A Must have been about a year.
- Q How long had it been since you saw him before you came here? A I don't know exactly.
- Q A year or two? A Yes sir, about a year or such a matter.
- Q You don't know where he was during that time? A No sir.
- Q All you know is that after you got here in the Cherokee Nation you say in '88 this same man? A Yes sir.
- Q Did he have a wife? A I don't know.
- Q If he had you don't know her name? A No sir.
- Q Don't know any of his children? A No sir.
- (By Hastings)
- Q Did you know this man in Kansas? A Yes sir.
- Q Where was he when you left up there about the first of '68? A I cant tell that I don't know where he was then.
- Q Had you seen him there before that? A Yes sir.
- Q Where had you seen him? A He was working for old man Sarcxie.
- Q How long before you left there had you seen him? A I dont remember that
- Q Have you no knowledge as to about how long you saw him in Kansas before you left there and come down here? A No sir I dont know.
- Q You have no judgment as to whether it was a short time or a long time? A No sir.
- (By the Commission)
- Q Your first recollection of him in Kansas was in '65? A Yes sir in '65 or '66.
- Q Soon after the close of the war? A Yes sir.
- Q Was he living in your neighborhood at that time? A Yes sir, four miles from where we lived.
- Q Where did he live with reference to your home from that time until the first of January 1868? A I don't know.
- Q You don't know if he continued to live there in that neighborhood or not? A No sir.
- Q Have you any distinct recollection of meeting him from '65 until you left in 1868? A No sir I never paid any attention to the fellow; the way I got acquainted with him was in the hay field in '85 or '86.
- Q Have you any recollection of seeing him from that time until '68? A No sir.
- Q If he was living in your neighborhood then you dont recollect it? A No sir.

(Continued by stenographer Bruce C. Jones)

Chas. von Weize, being duly sworn, states that as stenographer to 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 7th of October, 1901.

Commissioner.

Continued from testimony taken by Chas. von Weise.

JOHN YOUNG, being duly sworn and examined by Commissioner Breckinridge, testified as follows, through Joe B. Parker, interpreter:

- Q Give me your full name please? A John Young.
- Q How old are you? A About 56.
- Q What is your postoffice? A Weidon.
- Q Are you a native of the Cherokee Nation? A Yes, sir.
- Q Are you a Cherokee Indian? A Yes, sir.
- Q What are you, a Delaware? A A Delaware.
- Mr. Hastings: How far do you live from the town of Dewey? A About six miles.
- Q What direction? A A little bit northwest.
- Q Do you know a colored man out in that vicinity by the name of Andrew Daniels? A Yes.
- Q Do you know his wife? A Yes, I have seen his wife.
- Q Do you know her name? A No, I don't know her name.
- Q How long have you known Andrew Daniels? A About a year before I left Kansas.
- Q When did you come from Kansas? A I don't know, it has been about 35 years ago.
- Q Did you come with the Delawares when they came to this country? A Yes.
- Q You don't remember the year that the Delawares came here? A No.
- Q Was it before or after the Delaware Treaty with the Cherokee Nation, the Delaware Agreement? A Yes, after the treaty.
- Q What were you doing up there in Kansas? A I was making some ties there on the railroad.
- Q How far was that from where you lived? A About half a mile from where I lived.
- Q Do you know what time of the year you left up there? A Left there in the spring.
- Q Do you know where Andrew Daniels was when you left, where Andrew was when you started to come down here? A No.
- Q Well, what became of Andy? A Well, when I started I don't know, I don't know where Andrew Daniels was, but after the Delawares came together at the camp, why Andrew was there.
- Q What camp? A A little west of Lawrence.
- Q Kansas? A Yes, sir.
- Q Then what became of Andrew Daniels? A He came down with them.
- Q Came down with the Delawares? A Yes, sir.
- Q Where did he come to? A Here on Caney, Cherokee Nation.
- Q Has Andy lived up there in that vicinity ever since? A He went back to Kansas after they came down here.
- Q That is Andrew Daniels? A Yes.
- Q How long did he stay up there, or stay away? A I don't know how long he was gone, but he went after his family up there in Kansas.
- Q When he came back did he have his family? A Yes, he had his family.
- Q Well, have you known him here then ever since? A Yes.
- Q Well, he has a wife and some children, has he? A Yes.
- Mr. Smith: How old were you when you came down to the Cherokee

Nation with the Delawares? A I don't know my exact age, but I was about 24.

Q Did the Delawares all come at one time, or did they come at different times? A Different times.

Q How many times that you recollect about? A Twice.

Q How many Delawares were in the party you speak of, the party you came with? A I don't know, but I know there was seventy wagons in the outfit.

Q Can't you state what year that was in? A No, I think it was about '67.

Q You don't know anything about the man Andrew Daniels up to about the year before you started to the Cherokee Nation, do you? A No.

Q You said something about his going after his wife, and about his returning; when he returned, how close did he come to you to live?

A Five or six miles.

Q How can't you tell us what his wife's name was? A No.

Q Did you see his wife? A Yes, saw her often in her life time.

Q Well, what was her name? A She is dead now.

Q How long has she been dead? A I don't know, it was several years ago.

Q Had Andrew Daniels a wife at this time? A Yes.

Q What is her name? A I don't know.

Q Don't know her name? A No.

Q Would you know her name if you would hear it? A No, I never did know her name.

Q Do you know anything about the children of Andrew Daniels' present wife? A No.

Q Do you know the names of anyone of these children? A No, but I would know the children if I should see them.

Q Do you know the name of any one of them? A No.

Q Did that woman who is dead, about whom you spoke, have any children at all? A Yes.

Q Do you know the names of any of her children? A No.

Q Do you know anything about the woman who is Andrew Daniels' present wife? A No.

Q Do you know how long she has been the wife of Andrew Daniels, how long they have been living together? A No.

Q Is it a short while or a good many years? A I don't remember how long it has been, how long they have been living together, I don't remember, don't know.

Mr. Hastings: Do you know who Andrew came with in that crowd of Delawares? A Yes, he drove a team down here for a widow woman, her name was Widow Pecharcki, that is all I know.

Mr. Smith: Was the wife that you say that Andrew went back to Kansas after the woman that died? A Yes.

Q Do you know of your own knowledge whether Andrew was in the Cherokee Nation after the war closed and before this time that you speak of his coming here with the Delawares, or not? A No, I don't know anything about that.

Commissioner: When did you first know Andrew Daniels? A It was about a year before the Delawares left the reservation up there in Kansas.

Q About a year before the Delawares came down to the Cherokee Nation? A Yes, sir.

Q Was that the first movement of the Delawares or the second time?

A The second time.

Q What season of the year was it when you came down with the Delawares? A Sometimes along in June I think.

Q And you knew Andrew about a year before that? A Yes, sir.

Q Did he live near you? A No.

Q Did you see him often? A He worked pretty near all winter

right close to where I lived making ties.

Q That was the winter before you came down to the Cherokee Nation?

A The winter before.

Q The winter before that? A Yes.

Q Let's understand that; you came down here along in June?

A Yes, sir.

Q Now was it the winter right before that that Andre was cutting ties, or the winter still before that? A No, still the winter before.

Q The second winter before you came? A Yes.

Q Well, what did you see of him between the time he was making ties the second winter before you came, and the time he came with you?

A Never saw nothing more of him till I saw him on the road with the Delawares.

Q How did he happen to fall in with you Delawares? A Well I don't know, I just supposed the old lady Peckaroki hired him to drive a team.

Q He was driving the old woman's team, was he? A Yes, sir.

Q He seemed then to be coming along as a hired man? A Yes, sir.

Q Do you know whether he had ever been down in the Cherokee Nation before that time? A No.

Q Does he live in your neighborhood now? A Yes, right close to Dewey.

Q Has he been living there ever since he went back up to Kansas and got is family? A Yes.

Edmund Duncan Carey, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your full name, please? A My full name, Edmund Duncan Carey.

Q How old are you, Mr. Carey? A Going on 70.

Q What is your postoffice? A Grove.

Mr. Hastings: Well now what was your father's name? A Thomas Carey.

Q Where did your father live before the war? A He lived right on the east bank of Grand river at Carey's Ferry, it was known, about half a mile from the ferry.

Q Near where you live now? A Right was where I live now.

Q Was he a Cherokee citizen? A Yes, sir.

Q You are a recognized citizen of the Cherokee Nation by blood? A Yes, sir.

Q What was your mother's name? A Jane Carey.

Q Was your mother living when the war came up? A No, sir.

Q Was your father? A Yes, sir.

Q Did your father have a colored woman as a slave by the name of Abbie? A Yes, sir.

Q When did you leave home; I mean with reference to the war? A I left in '63, July, sometime in July.

A Joined the army? A Yes, sir.

Q Was your father at home then? A No, he moved across into Missouri just about the time I left.

Q Where was this slave, Abbie? A She was with my father.

Q In Missouri? A Yes, sir.

Q He took her off with him? A Yes, sir.

Q When did you next see your father? A '65, sometime in June.

Q Is your father living or dead at this time? A He is dead.

Q When did he die? A Well, I can't tell you just exactly, about 30 years ago, or 35.

Q Directly after the war? A Just after the war two or three years.

Q Now when you saw your father - I believe you said in June? A Sometime in June.

Q In June of '65, did he have this colored woman, Abbie, with him?

A No, sir.

Q Where did you see your father? A Just with

- Q Did he have any colored people with him? A No, sir.
- Q Did your father remain there in Fort Smith? A No, he went on back up to Butler Creek in Missouri.
- Q Fort Smith, Arkansas, to Missouri? A Yes, sir.
- Q Did he go as you went along? A Yes, sir.
- Q Aloh; as you went? A Yes, sir.
- Q He didn't have any colored people with him? A None at all.
- Q What had become of this colored woman, Abbie? A Well, he said he sold her in Fort Smith.
- Q When did he tell you that? A Well, when I first met him in Fort Smith.
- Q In June of '63? A Yes, sir.
- Q And you saw her no more? A Never saw her any more, never saw her yet..
- Q You have never seen her since the war? A No; if I have I haven't knowed her.
- Q You don't know by what name she goes now? A Well now, her man was by the name of Daniels.
- Q Well, did you know Daniels first name before the war? A Andy.
- Q To whom did Andy Daniels belong before the war? A He belonged to one of the Daniels, I don't recollect his name now.
- Q Anyway, the man and the woman belonged to different people, didn't they? A Yes, sir.
- Q Your father had no control over Andy? A None at all.
- Q Was there any other Thomas Carey, who lived over there on Grand Civer, before the war? A No, sir.
- Mr. Smith: Mr. Carey, how old were you when the war commenced? A I don't know, somewheres about thirty.
- Q Married or single? A Married.
- Q Where were you living? A I was living right on the river bank a. the ferry.
- Q How far from your father's? A About half a mile or more.
- Q What date did you leave there, you speak of going away? A I went away in July sometime.
- Q What year? A '62.
- Q Where was your father at the time you left? A Well he went, when I went to the army, went to Missouri.
- Q He go before or after you left? A He went just the same time, we both went across the line at the same time, I went to the army and he went to a place up there.
- Q Did you leave your home place and travel together until you crossed the Missouri line? A Yes, sir.
- Q That was in July, '62, was it? A Yes, sir.
- Q Then where did you separate from your father? A Separated right there in the edge of Missouri, I went in the army and he stayed there.
- Q Then how long from that time was it until you saw your father again? A Well it was along sometime in June, 1863.
- Q About a year? A Pretty near a year, it wasn't quite.
- Q Are you sure it was '63? A Yes, I am pretty sure it was '63.
- Q Are you quite certain about it? A Yes, sir.
- Q You couldn't be mistaken? A No, sir, don't think I could.
- Q Now what was your father doing in Fort Smith? A He moved down there he said.
- Q Had moved to Fort Smith; was he living there? A Well, he moved down there with some of his darkies, and he said he sold them there; I was in the army, I don't know what he was doing, I met him there.
- Q You see any other members of your father's family there? A No, sir.
- Q How long had your father been in Fort Smith at the time you saw him? A He has been there a week or two.
- Q That was June, 1863? A June, 1863, as well as I recollected.
- Q You know whether it was in the summer or not? A Well yes, sir, it was warm weather.

Q It was in the summer then, was it? A I guess so.
 Q Was it on that trip, or during that time, that your father had sold this woman, as he related it to you? A Yes, sir.
 Q Did he say who he sold her to? A No, sir, I never asked him.
 Q He had sold her then somewhere within a week or two of the time you were talking to him? A Yes, sir.
 Q Did he take her out with him at the time you and he before that left the Nation? A Yes, sir, him and his family went out, his wife and him and his darkies went together, and me, I went with them.
 Mr. Hastings: Mr. Carey, did you continue to see y ur father from June of '63, did he join the army or did you stay in the army? A I stayed in the army, and he stayed back up there.
 Q Did you see your father? A No, I didn't see him for a year afterwards pretty near, we went out on a scout and he went out to Texas with us.
 Q Did he have any slaves along when he went to Texas? A No, sir.

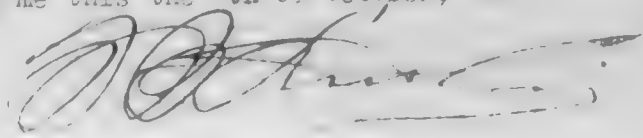
Mr. Hastings: I want to introduce from the laws of the Cherokee Nation, 1892, the date of the Delaware Agreement, made with the Cherokee Nation, about which date I suppose there is no dispute, which shows on the 8th day of April, 1867. I don't care to put the whole agreement in there, it is not necessary except for the purpose of the date when that agreement was entered into.

Commissioner: This testimony will be filed as supplemental testimony in Cherokee Freedman cases D-859, Andrew Daniels et al; and also in Cherokee Freedman Doubtful cases D-912, D-913, D-931, D-962, D-985, and D-1001.

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 7th of October, 1901.



Commissioner

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, T. T., May 31, 1902.

In the matter of the application of PERCY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Kelleys & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F. D. 493, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Louis Daniels, D 962;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1863, or that he had been a continuous resident of
the Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be
entertained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in
all the cases above named with the exception of those which come
within the provisions of the temporary injunction recently granted
by Judge Gill of the United States Court, of the Northern District,
Indian Territory

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed within thirty days to file any of the proof of mat-
ter or all of the record other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothcnberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
P. G. Reuter
Notary Public.

Nov 26 2

**INDIAN TERRITORY,
CHEROKEE NATION.**

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 1901.

W. L. Little & Son
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me
this day of A.D. 1901.

Notary Public.

W. L. Little & Son

Chem. Fr. D. 963

Chem. Fr. D. 963

File with C.F. D-963, Charles Daniels.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 25, 1901.

In the matter of the application of Ibbie Daniels for the enrollment of herself, one child, one grandchild and husband as Cherokee Freedmen; said Daniels being sworn and examined by Commissioner T. B. Needles, testified as follows:

Appearances:

Messrs. Mellette & Smith, for applicants.

Messrs. Hastings and Davenport for Cherokee Nation.

- Q What is your name? A Ibbie Daniels.
Q How old are you? A I don't know how old I am. (Lays paper to Commissioner.)
Q What is your post-office? A Dewey.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as Cherokee Freedman? A Yes, sir.
Q How do you want to enroll besides yourself? A My children.
Q How many children have you got under 21 years of age and not married? A I ain't but but three married.
Q Well, you haven't got any children under 21 years of age, have you? A No, sir.
Q Is Frankie your son? A Yes, sir.
Q What is Martha Ann? A That is my child.
Q Josephine? A That is my daughter.
Q You haven't got but one child here under 21; what is that one's name, Frankie? A Yes, sir. (17 years of age.)
Q You got a grand child here named Martha Ann? A Yes, sir.
Q Born in 1889; is your name on the roll of 1895? A It ought to be.
Q Well, is it? A I could not tell you whether it is or not.
Q What was you father's name? A Thomas Tatie.
Q Is he living? A No, sir.
Q What is your mother's name? A My mother's was Peggie Wann.
Q Is she living? A No, sir, she is dead.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Andy Daniels.
Q Is he a citizen? A Yes, sir.
Q Has he been enrolled? A Yes, sir.
Q Why didn't he enroll you when he enrolled himself? A He was enrolled.
Q Has he been enrolled by us? A No, sir, He can't come here to wheel him around on a chair.
Q Do you want to enroll him? A Yes, sir.
EXAMINATION BY SMITH:
Q Mr. Daniels, how many children have you older than the child Frankie for whom you apply? A I have got two, Frankie is the baby, I got three that is older that is on the rolls.
Q How many children have you over 21 years of age? A I have not got but three.
Q Who are they? A Charley, Nancy and Lucinda.
Q Is Nancy's name still Daniels? A Nancy Clappett.
Q Is Lucinda Daniels yet? A Yes, sir, she is living with us.
Q Where do you live? A I live on Caney.
Q Cherokee Nation? A Yes, sir.
Q For long have you lived on the place you live on now? A 27 years or longer.
Q Have you got a farm there? A I have had it fenced, we haven't put it to.
Q Where is Nancy living? A She is living over here on California Creek.
Q What is her husband's name? A John Clappett.
Q Where does he live? A Right there near me at Dewey.
Q How old is Charley? A I don't know.
Q Was he born after the war? A Born long before the war.

Ibbie Daniels et al 2

- Q Where was Nancy born? A She was born down here at Gibson after the war.
- Q How old is youisa, where was she born? A On Caney.
- Q How many children did you have at the close of the war?
- A Didn't have but the three.
- Q What were their names? A Jim, Emiline and Charley.
- Q What has become of Jim and Emiline? A They are dead.
- Q What is your husband's name? A Andy Daniels.
- Q When were you and Andy married? A Married long before the war.
- Q Are these children whose names you have mentioned all his children and yours? A Yes, sir.
- Q Were you a slave before the war? A Yes, sir.
- Q Where did you belong to? A Thomas Carey and his wife.
- Q Were they citizens of the Cherokee Nation? A Yes, sir.
- Q Where did they live before the war? A Lived right on Grand river.
- Q Where were you living at the time the war come up?
- A Living on Grand river.
- Q Were you taken out of the Cherokee Nation during the war?
- A Taken down to Fort Smith, my old boss took me down there and hired me out to work.
- Q When did you return to the Cherokee Nation after the war?
- A I come back after Abraham Lincoln got killed; come back to Gibson.
- Q How do you know that? A They all said so.
- Q Who did you come back with? A I come back with Government troops.
- Q Who was with you when you come back? A There was a whole lot of Cherokees and Creeks.
- Q Did you have any children at that time? A I had three.
- Q Did you bring them back with you? A Yes, sir.
- Q Where was your husband? A I could not tell you, he was in the army then.
- Q How long after you got back before he got back? A It was about a year and he come back to see me, we was down at Gibson.
- Q How long were you about Fort Gibson at that time? A I stayed down there pretty near two year when I moved up to Caney.
- Q And where have you been living since you moved to Caney? A I ain't been living at no other place.
- Q This child, Frankie, you apply for is that a boy or girl? A Boy.
- Q Does Frankie live with you? A Yes, sir.
- Q Has he ever lived anywhere except the Cherokee Nation?
- A No, sir, never did.
- BY THE COURT:
- Q What is the reason your husband isn't here? A He is paralysed and could not walk.
- Q Not able to come? A No, sir.
- BY THE HASTINGS:
- Q You say the troops brought you back from Fort Smith up to Fort Gibson? A Yes, sir.
- Q How far below Fort Smith were you when you got with the troops?
- A Right in Fort Smith.
- Q Right in the town? A Yes, sir.
- Q And you come back up from there to Fort Gibson? A Yes, sir.
- Q Now, with whom did you live when you come up to Fort Gibson?
- A I lived with old Aunt Sallie Wagon, she is a grandmother of my daughter.
- Q Now, where did Sallie Wagon live? A Lived right in the bottom.
- Q How far was that from Fort Gibson? A It is not very far from Fort Gibson, right on the edge of the lake.
- Q What family did Sallie Wagon have it that time? A No one but her daughter.

- Q What was her daughter's name? A Named Polly Nivens.
- Q They were living together at that time? A Yes, sir.
- Q Is she a witness in your case? A Yes, sir.
- Q Did you have her called up here a while ago? A No, sir.
- Q Was any of your children born there? A Had a little girl born there.
- Q What was her name? A Nancy Jane.
- Q Is Nancy alive? A Yes, sir, she is alive.
- Q How old is Nancy? A I could not tell you exactly how old she is.
- Q Have you got it down on your paper? (No response.)
- Q Well, now how long did you continue to reside there with Sallie Bacon? A I stayed there a year and a half.
- Q Now about what time of the year did you get there? A I come there in the fall.
- Q In the fall of '65? A Yes, sir.
- Q What time did you leave there? A I left there in the spring.
- Q Now, was that the spring of '66 or '67? A I could not tell you what time.
- Q You stayed there two winters? A Yes, sir.
- Q Now, where did you go from there? A I went to Caney where I am living now.
- Q Direct from there? A Yes, sir.
- Q Now, did you go with your husband out there to Caney? A Yes, sir.
- Q And by what you mean your husband, Andy Daniels? A Yes, sir.
- Q You and him continued to reside there ever since have you? A Yes, sir.
- Q Now let's get it right, you claim to have come there in the fall of '65, you stayed there a year and a half? A Yes, sir.
- Q And left there in the spring? A Yes, sir.
- Q And you stayed there two winters? A Yes, sir.
- Q And left there in the spring of '67? A Yes, sir.
- Q Now, how far from Bartlesville was it you went? A Three miles.
- Q Was there a town there at that time? A No, sir.
- Q Who were you neighbors at that time out there? A Nobody but the Osages.
- Q Any of the Delawares living out there at that time? A No, sir.
- Q Did you and your husband settle down at that time, you and Andy? A Yes, sir.
- Q And you continued to live together? A Yes, sir.
- Q He never went off and you never went off? A He went off to work.
- Q After you moved up there? A No, sir.
- Q He never left and you never? A No, sir.
- Q That was in the spring of '67? A Yes, sir.
- Q Now, about what direction from Bartlesville was that, on Caney? A North.
- Q And you continued to stay right there ever since? A Yes, sir.
- Q From that day to this? A Yes, sir.
- Q Well, what was your first child born on that place? A Thomas.
- Q Tom was the first one born there was he? A Yes, sir.
- Q Now, how old is Tom? A I could not tell you how old he is.
- Q How long had you been living up there when Tom was born? A About a year and a half.
- Q And you don't remember how many years old Tom is? A No, sir.
- Q You didn't bring Emelie back from Fort Smith with you? A I did.
- Q Is she here? A She is dead.
- Q Well, then when you were living with Sallie Bacon you had three children? A Yes, sir.
- Q And another one was born there? A Yes, sir.
- BY COURT REPORTER:
- Q You say you didn't see Andy for about a year after you got to Fort Gibson? A No, sir, he was in the service.

Q Soldier? A Yes, sir.
Q To come there about a year after you did? A Yes, sir.
Q Has been with you ever since? A Yes, sir.

BY MR. HASTINGS:

Q How long did you and he live together at Fort Gibson, before you moved to Caney? A I told you we stayed down there a year.
Q I mean with Andy, how long did Andy stay down there with you at Fort Gibson before you and he moved to Caney? A A year and a half.
Q Was Andy there with you all the time? A Yes, sir.
Q And you and he lived together and you moved from there up to Caney? A Yes, sir.

BY MR. SMITH:

Q Yes, Daniel, I asked you while ago the names of your children besides Frankie and you spoke of James, Henry and Charley, and of Nancy and of Emeline and stated that Emeline and James were dead?
A Yes, sir.

Q Now, these children whose names I have just called are not all of your children? A Yes, sir.

Q Did you have any other? A Yes, sir, of course I have got some other, there is Josephine and Thomas.

Q Is Josephine still Daniels? A Yes, sir.

Q Where is she? A She is at home.

Q Living with you? A Yes, sir.

Q Where was she born? A Living in Caney.

Q Was she always lived with you? A Yes, sir.

Q Well, now, you spoke of a Thomas awhile ago? A Well, he is with me too.

Q Is he married or single? A No, sir, single.

Q Is he your child? A Yes, sir.

Q Well, was there any others, how about Freeman? A He is dead.

Q How about Lucinda? A Lucinda is my daughter.

Q Is her name still Lucinda? A Yes, sir, she is married.

Q Is she living with you? A Yes, sir; Lewis; Jim is n't married.

Q Where does Lewis live? A He lives with me.

Q Where was he born? A Caney, Cherokee Nation.

Q Has he lived anywhere else except the Cherokee Nation? A No, sir.

Q Where does Jim live? A Cherokee Nation.

Q How about Martha Ann? A She n't never lived n. where else either.

Q Who was the mother of Martha Ann? A She was a Gaskin.

Q Who was the father? A My son Jim.

Q Is she living with you? A Yes, sir, I have had her ever since she was a baby.

Q How old is she? A 12 years old.

Q The father is dead? A Yes, sir.

Q The mother is dead? A Yes, sir.

BY MR. HASTINGS:

Q What is the father's name now of Martha? A Jim.

Q Well, who is the mother? A The mother is dead, she is a Gaskin.

Q Is she a citizen? A No, sir.

Q Was James and the girl of this Martha ever married?

A Yes, sir.

Q What was her name? A Ellen Gaskin.

Q Was she a non-citizen was she? A Yes, sir.

Q Well, were they ever married? A Yes, sir.

Q How do you know that? A The preacher married them.

Q Did you see them married? A I didn't see them married.

Q You will have to prove that marriage? A Well I guess I can prove it.

BY MR. SMITH:

Q Do any of the witnesses that you called up here know about this

Ibbie Daniels et al 5

marriage of your son? A Lewis Daniels I guess know it.

Q Where were they married? A On Caney.

Q How long did they live together? A About eight or nine years.

Q Did they live together as man and wife? A Yes, sir.

Q In the house where you were living? A Yes, sir.

Q Did he ever have any other wife? A No, sir, not as I know of.

Q Did she ever have any other husband? A Not as I know of.

Q Did the people in the community call them husband and wife, regard them as husband and wife and receive them as husband and wife? A Yes, sir.

BY THE JUDGE:

Q Did she have any children before she married him? A No, sir.

Q I believe you stated that you and your husband lived together down there at Fort Gibson for a year and then I believe you moved up to Caney? A ~~Yes~~ Well, we did.

Q Now, you lived down there with your husband, did you, Andy Daniels? A Yes, sir.

Q About how long had you been at Fort Gibson until your husband came, or did he come first? A He came after he was mustered out and I don't know when he was mustered out.

Q I want to know ~~how~~ how long that was after he came up there? A Little over a month.

L.D. DANIELS, being first duly sworn by Commissioner T. Needles, testified as follows: BY THE JUDGE:

Q State your name? A L.D. Daniels.

Q Where do you live? A Clarksre.

Q How old are you? A 56.

Q How long have you lived in the Cherokee Nation? A All a life.

Q Are you a Freedman of the Cherokee Nation? A Yes, sir.

Q Recognized citizen? A Yes, sir.

Q Do you know this applicant, Ibbie Daniels? A Yes, sir, I do.

Q How long have you known her? A I have known her ever since '55.

Q Did you see her in 1865? A I seen her sir.

Q Where? A Fort Gibson.

Q What time in '65? A It was in the fall.

Q State the circumstances of your seeing her? A Well, there was wagons come from Fort Smith and there was a good many people come up in the wagons; they were going on to Fort Scott and she stopped there and inquired for a cert in family there and I told them where they were and then after that I seen her very frequerly.

Q How long did she remain in that settlement, do you know?

A Well, she remained there I guess year or such a matter.

Q You don't know exactly how long she stayed? A No, because sometimes I would see her sometimes twenty days and sometimes more than that, because I would see her every twenty days, every time they would come to draw rations I would see her there.

Q Do you know where she lives now? A Yes, sir.

Q Where? A Over on Caney four miles above Bartlesville, north.

Q Do you know how long she has been living there? A I have been living up here 25 years and when I moved up here they were living over there and living there now, when she is at home.

Q Do you know her children? A Well, she had three to Fort Gibson, two girls and a boy.

Q She had three you say? A Yes, sir, three.

Q Do you know how many she has had since that time? A She has got a house full now, I haven't been to her house since '89 I was over there then and there was five I know was down with the child then in '89.

Q You don't know how many there was that didn't have the child?

A No, sir, there was a good many running around there.

Q Did you know Andy, her husband? A Andy Daniels, Yes sir.

Q Do you know whether Andy was out of the Cherokee Nation during

the war? A Yes, sir, he belonged to the Seema Regiment.
 Q Do you know when he came back? A He came to Gibson after that, he come there and got this woman down there, I don't know whether it was in '67 or the latter part of '67.
 Q Do you know when Andy was mustered out? A No.
 Q Do you know of your own personal knowledge when he came back to the Cherokee Nation? A No, bec use I was living to Gibson and he wasn't mustered out there and I could not tell you what time; he hit the other part of the Cherokee Nation.
 Q Was Ebbie a slave? A I didn't know the former owners at all.
 Q You didn't get acquainted with her until '65? A Yes, sir, not until to Gibson.

BY P. HASTINGS:

Q When did you first see Andy Daniels after the war? A I think it was in '67 or either latter part of '66 when he came to Gibson.
 Q And that is the time you seen him in Gibson after the war? A Yes, sir, I seen him in the army.
 Q With whom was this woman living down there when you know her first after the war? A She come there every time she would come to get rations she would come with Isaac Grapo's wife.
 Q What was her name? A I don't know, claimed to be her mother.
 Q Claimed to be whose mother? A This woman's mother.
 Q You don't know whose house she stay at? A She stayed at her own house on the old Lake, about a mile from Houston Bengo's.
 Q You saw her three children at that time? A Yes, sir, and I see and her children there too.
 Q What were the names of these children you saw at that time? A I don't know, it was strange to see a Cherokee with a little white child and she had a white child at that time.
 Q Well do you know that she continued to reside around there at that time? A She stayed around there four or five months to my knowledge.
 Q You would see her about when she come and get her feet under the table to get rations? A She come to the old house the people applied to get the rations.
 Q You are willing to swear that she was there from '65 until '67? A I am willing to swear that she was there in '65 and around there four or five months.
 Q To be positive about that? A Yes, sir.

Remainder of application taken by stenographer, Chas. von Weise.

-----000000000-----
 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.
 (signed) J.O. Rossen.

Subscribed and sworn to before me this 12th day of July, 1901.
 (signed) T.D. Needles,
 Commissioner.

 Continued from Stenographer, J.O. Rossen. . . .
 Nowata, I. T., June 25th, 1901.

In the matter of the application of Ebbie Daniels et al.
 FRASER WILLIAMS called and sworn by Commissioner T.D. Needles testified as follows:

Q Mr. Smith, of counsel for applicant-
 Q What is your name? A Fraser Williams.
 Q Do you know this applicant, Ebbie Daniels? A Yes, sir, slightly acquainted with her for 25 years.
 Q Do you know where she lived? A Yes sir.

- Q Do you know her children? A No sir.
Q Where has she been living since you know her? A On Canal.
Q Do you know who her owners were during the war? A Yes sir, Walker Terry, she said it was, I knowed some of them on Grand river.
Q Did you know her before the war? A No sir.
Q Did you know her during the war? A No sir.
Q You dont know anything about her citizenship? A No sir not personally.

By Mr. Hastings, Cherokee representative:

- Q Did you see her in 1860? A Just about 25 years ago.
By Mr. Hastings of the applicant:
Q How far do you live from Jobe Parker? A I dont know.
Q Do you know him? A Yes sir.
Q But you dont know how far you live from him? A No sir.
Q When did you see W. I. Foreman first after the war? A At Fort Gibson.
Q When was that? A I dont know.
Q Before you left there? A Yes sir.
Q Was your husband there then? A No sir he was in the army.
Q What time of the year was it? A Cold we ther, I dont know the month.
Q And you dont know the year? A No sir.
Q At what place was it? A Right in town where I was hired out.
Q At whose house? A I dont know, I dont remember the name.
Q You remember seeing this man though? A Yes sir.

William Foreman, called and sworn as a witness for the applicant-

By MR. SMITH:-

- Q What is your name? A William Foreman.
Q What is your post-office address? A Wagoner.
Q What is your age? A 64 years.
Q Are you an Indian? A Yes sir.
Q A Cherokee Indian? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant, Ebbie Daniels? A Yes sir.
Q Did you know her before the war? A Yes sir.
Q Was she a slave? A Yes sir.
Q Who did she belong to? A Thomas Carey.
Q Was he a citizen of the Cherokee Nation? A Yes sir, by adoption his first wife was a Cherokee, named Jane Duncan and then she died and he married another Cherokee, named Jane Muskrat.
Q Both his wives were Cherokee? A Yes sir.
Q Was he recognized as a Cherokee citizen by the Cherokee Nation? A Yes sir.
Q How far did they live from you at the time of the war? A I was living 30 miles north of their place when the war commenced.
Q He was here when the war commenced? A Yes sir in Delaware district Cherokee Nation at Carrey's place.
Q Do you know if this applicant was taken out of the Cherokee Nation during the war? A No sir I dont.
Q When did you first see her after the war in the Cherokee Nation? A At Vinita before the Wallace court.
Q Did you testify for her there? A I might have, I dont recollect, I think I did as to her owners.
Q Did you know her husband? A Yes sir.
Q Was his name Andy? A Yes sir.
Q Was he a slave? A Yes sir.
Q Who did he belong to? A Beck Daniels.
Q Was Beck Daniels a Cherokee citizen? A Yes sir.
Q Do you know if he was taken out of the Cherokee Nation during the Civil war? A I cant tell, of my own knowledge.

Q When did you first see Andy back here after the war? A At Vinies before the Wallace court.

POLLY WIVENS, called and sworn as a witness for the applicant-
By Mr. Smith:

Q What is your name? A Polly Wivens.

Q How old are you? A 56

Q Do you know this applicant here? A Yes sir.

Q When did you first get acquainted with her? A Just after peace was made I met her.

Q You didnt know her before the war? A No sir.

Q You dont know who she belonged to? A No sir.

Q Where did you first see her after the war? A At Fort Gibson.

Q How long after peace was declared? A In the fall, peace was declared in the summer and she came in the fall, the first fall after peace.

Q How long did she stay around there? A I guess she staid there a little over a year, I seed her around there about that long.

Q Did you know her after that when she went up on Caney to live?
A No sir.

Q Never have been at her house on Caney? A No sir.
By Hastings-

Q Who did she live with at Fort Gibson? A Her husband was a soldier when I saw her sh lived in a little log house and a white girl, yellow girl, it was hers though.

Q How far from where you lived? A I was in town and my grandmother lived at the lake and she lived close to my grandmother, closer to town than my grandmother did.

Q What name did she go by then? A Carrye.

Q Was she married then? A I dont know; she said when she came there that her husband was in the army.

Q How long after that before you saw her husband? A I dont remember, didnt pay no attention to him, no I didnt.

Q You dont remember him? A Yes sir, but I dont know how long after that that I seed him.

Q How many children did she have there? A Only that white one.

Q Was that a girl or a boy? A Girl.

Q Do you know Sallie Bacon? A Yes sir that is my grandmother.

Q Did she live in town? A She lived at the lake, this side of Cannon Vann's.

Q And this women lived down there close? A Yes sir.

By Commission of applicant-

Q Did you ever draw money for wartha? A Yes sir.

Q Did you draw your strip maney? A No sir.

Applicant not found on the authenticated roll of 1820.

Applicant not found on the Census roll of 1896.

Applicant not found on the Kern Clifton roll.

Wallace roll examined and the name of applicants found as follows-

Page 111 No. 2310 Andrew Daniels, Cherokee Nation.

Page 111 No. 2361 Ebbie Daniels

Kern Clifton roll examined and the name of applicants child found as follows-

Page 134 No. 3083, Frank Daniels, Delaware District.

Q Did you ever apply to the Cherokee authorities to have your name pur on the 1820 roll? A Yes sir.

Q Where did you apply? A At Claremore.

Q That was when they wa around taking the census? A Yes sir.

Q You never sent to Tahlequah to have it done? A No sir.

Q Did your husband? A No sir.

Q You didnt get your strip money for yourself or husband? A No sir only for the children, he and the old man and Lewis was left out.

Q Is Martha living? A Yes sir.

Kern Clifton roll examined and the applicants child Martha identified as follows:-
Page 124 No. 3084 Martha Daniels, Delaware district.

By Com'r Needles:-

Martha Daniels appears for herself, her husband and one son Frank, and for a grand daughter Martha, 12 years of age. The said Ebbie and Andy Daniels are not identified on any roll except the Wallace roll; her son Frank is identified on the Kern Clifton roll and also her grand daughter Martha. She avers that she and her husband were slaves of the Cherokee Nation and went out of the Cherokee Nation during the war but returned here in 1865 or 1866. She has lived here ever since. She avers that James Daniels, her son, is the father of Martha, by his wife who was a non-citizen. Makes satisfactory proof between the said James Daniels and his wife Ellen, the father and mother of the said Martha. By reason of the fact that they are not found on the authenticated roll of 1880, and by reason of the protest of the Cherokee Nation the said Ebbie Daniels, her husband Andy, her son and grand daughter will be listed for enrollment as Cherokee Freedmen on a doubtful card and she will be notified by mail of the final decision of the Commission.

=====

Chas. vonWeise, being sworn states that as stenographer to 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.

(signed) Chas. vonWeise.

Subscribed and sworn to before me this the 9th of July, 1901.

(signed) T. B. Needles,
Commissioner.

M. D. Green, being first duly sworn, stated that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete transcript of the original transcript.

M. D. Green

Subscribed and sworn to before me this November 21, 1901.



COMMISSIONER.

Notary Public.

RECORDED, as to wife, Susan.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29, 1901.

In the matter of the application of Charles Daniels for the enrollment of himself as a Cherokee Freedman and for his wife as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

Appearances:

Mr. Smith, of Hollette & Smith, for the applicant;
Mr. Davenport, for the Cherokee nation.

- Q What is your name? A Charles Daniels.
Q How old are you? A 59 years old.
Q What is your post-office? A Bartlesville.
Q What district do you live in? A Coowasooowoo.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Why do you want to enroll besides yourself? A My wife.
Q Anybody else? A No sir.
Q What is your wife's name? A Susan Daniels.
Q How old is she? A I don't know exactly how old she is.
Q Well about how old? A Between 50 or 60.
Q She is older than you are then? A Yes sir.
Q Is she a citizen? A Non-citizen.
Q You apply to have her enrolled as an intermarried citizen?
A Yes sir.
Q What is your father's name? A Andy Daniels.
Q What is your mother's name? A Ibbie Daniels.
Q Where were you born? A In the Cherokee nation.
Q Where have you lived all your life? A Right north of Bartlesville.
Q Where were you married? A In the Cherokee nation.
Q When? A After the Lightning Creek Payment.
Q Have you got any certificate of marriage? A (Produces papers)
Com'r: The applicant presents a marriage license and certificate of marriage, certifying that he was married according to the laws of the United States on the 26th day of April, 1898, to one Miss Susie Johnson.
Q Your wife was named Susie Johnson when she married was she?
A Yes sir.
BY MR. SMITH:
Q Where do you live? A I live north of Bartlesville.
Q How long have you lived there? A All my life.
Q How far from Bartlesville? A Three miles.
Q In the Cherokee nation? A Yes sir.
Q Is the Ibbie Daniels who applied here for enrollment the other day your mother? A Yes sir.
Q Andy Daniels your father? A Yes sir.
BY MR. DAVENPORT:
Q You say you have lived over there about Bartlesville all your life? A Yes sir.
Q Where you born over there? A Yes sir.
Q You were born over there then before the war? A Yes sir.
Q Your father didn't live over there at that time did he? A Yes sir, he lived over there.
Q Where did you go during the war? A I never went anywhere.
Q You was hardly old enough to remember the war was you? A I was just a little fellow, I can't recollect it.
Q Where have you lived since you can remember? A That's all the place since I can remember.
Q Did I understand you to say your father didn't live in the Cherokee Nation at all during the war? A No sir.
Q Did your mother live in the Cherokee nation during the war? A No sir.
Q Both of them remained in the Cherokee Nation during the war?

Charles Daniels et al 2

A Yes sir.

Q And have continued to reside there ever since? A Yes sir.

Q And you have resided continuously in the Cherokee Nation ever since you can remember? A Yes sir.

Q Were you married in the Cherokee nation? A Yes sir.

Q You have no children? A No sir.

BY MR. SMITH:

Q Can you remember of your own knowledge and testify from your own recollection as to what took place during the war? A No sir.

Q You are just testifying from your hearsay as to what took place before the war and during the war? A No sir, I couldn't tell you anything about the war.

BY COM'R NEEDLES:

Q Did you draw Strip money? A Yes sir.

Q You know you did? A Yes sir.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified on page 184 #4535 Charles Daniels, Coowescoowee District; Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 111 #2362 Charles Daniels, Cherokee Nation.

Com'r Needles: Charles Daniels applies for the enrollment of himself as a Cherokee Freedman and his wife Susue as a Cherokee Freedman by intermarriage; he avers that he is a child of Ibbie Daniels and Andy Daniels, and his attorney asks that the testimony taken in the matter of the enrollment of said Ibbie Daniels, D card number 859, be made a part of the record in the case at bar, and a copy thereof will be filed herewith. Said Charles Daniels makes satisfactory proof as to his residence; he cannot be found upon the authenticated roll of 1880 or the census roll of 1896; but is identified upon the Kern-Clifton and the Wallace rolls according to page and number of the rolls as indicated in the testimony, and now said Charles Daniels will be listed for enrollment as a Cherokee Freedman on a doubtful card; he presents satisfactory marriage proof to his wife, Susie, in the year 1898, too late, under the laws of the Cherokee Nation for intermarried persons to acquire rights by intermarriage, and consequently, the enrollment of his wife, Susie, will be 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 July 13, 1901.



Commissioner.

File with Chas. Daniels C.F. No. 963.

Department of the Interior
Washington, D. C., October 24, 1901.

SUPPLEMENTAL TESTIMONY in the case of Andrew Daniels, et al., vs. the United States.

W. C. Hastings attorney for the Cherokee Nation.
Belletts & Smith attorneys for the applicants.

JOE B. PARKER, being first duly sworn by Commissioner S. H. Bro. Kirk-
ridge, testified as follows on the part of the Cherokee Nation:

- Q What is your name? A Joe B. Parker.
- Q How old are you? A I don't know exactly, but about 65 or 66.
- Q What is your post office? A Volcano.
(By Hastings)
- Q How far do you live from the town of Dewey? A About 7 miles north.
- Q Do you know a colored man in the vicinity named Andrew Daniels? A Yes sir.
- Q Do you know his wife? A No sir, I don't.
- Q Do you know her name? A No sir, I don't.
- Q Is this man an old life man, or is he a young man? A Old life.
- Q Has he a family? A Yes sir.
- Q Do you know any of the members of his family? A No sir, I don't, I have never been to their house.
- Q How long has he been living out in that vicinity? A Ever since the Delawares came there.
- Q What year did the Delawares come there? A In 1868.
- Q Do you belong to the Delaware tribe? A Yes sir.
- Q Where did you first know Andrew Daniels? A Up here in Kansas where the Delawares had their reservation.
- Q How long did you know him at Kansas? A About a year.
- Q Did you come here with the Delawares? A No sir, I came with a few families who first; the first ones that started they stopped here on Grand River, and I came with them, so stopped with the Delawares first and then came on.
- Q About what time did you leave Kansas? A About through Lawrence Kansas on the first of August.
- Q Prior to that time you had never known Daniels in Kansas about a year? A Yes sir.
- Q Did he come with you to Kansas?
- Q When did you meet him at Kansas? A That was about the first of August.
- Q Where? A In Kansas.
- Q In the Cherokee Nation?
- Q So he was your neighbor in the Cherokee Nation? A Yes sir, he was my neighbor.
- Q How long was he your neighbor? A About a year.
- Q Where? A In the Cherokee Nation.
- Q How long was he your neighbor in the Cherokee Nation? A About a year.
- Q How far was he from you? A About 7 miles north.
- Q How long was he your neighbor in the Cherokee Nation? A About a year.
- Q How far was he from you? A About 7 miles north.
- Q How long was he your neighbor in the Cherokee Nation? A About a year.
- Q How far was he from you? A About 7 miles north.

- Q Where did you come from the the Cherokee Nation? A Kansas.
- Q Near what place in Kansas, now? A We used to live 2 or 3 miles north east of Lawrence.
- Q You didn't come here when the regular band of Delawares come? A No sir we come before and stopped at the Wyandotte reservation and staid all winter.
- Q You stated that you knew Andrew Daniels in Kansas? A Yes sir.
- Q Can you give the year that you knew him in Kansas? A It must have been about '65 we was working in the hay field when I saw him first.
- Q Did you ever see him any more after '65? A Yes sir.
- Q Where? A He was working not far from where I lived, working for old man Sarcxie.
- Q How long after that before you next saw him? A Must have been about a year.
- Q How long had it been since you saw him before you came here? A I don't know exactly.
- Q A year or two? A Yes sir, about a year or such a matter.
- Q You don't know where he was during that time? A No sir.
- Q All you know is that after you got here in the Cherokee Nation you say in '68 this same man? A Yes sir.
- Q Did he have a wife? A I don't know.
- Q If he had you don't know her name? A No sir.
- Q Don't know any of his children? A No sir.
- (By Hastings)
- Q Did you know this man in Kansas? A Yes sir.
- Q Where was he when you left up there about the first of '68? A I can't tell that I don't know where he was then.
- Q Had you seen him there before that? A Yes sir.
- Q Where had you seen him? A He was working for old man Sarcxie.
- Q How long before you left there had you seen him? A I don't remember that.
- Q Have you no knowidgde as to about how long you saw him in Kansas before you left there and come down here? A No sir I don't know.
- Q You have no judgment as to whether it was a short time or a long time? A No sir.
- (By the Commission)
- Q Your first recollection of him in Kansas was in '65? A Yes sir in '65 or '66.
- Q Soon after the close of the war? A Yes sir.
- Q Was he living in your neighborhood at that time? A Yes sir, four miles from where we lived.
- Q Where did he live with reference to your home from that time until the first of January 1868? A I don't know.
- Q You don't know if he continued to live there in that neighborhood or not? A No sir.
- Q Have you any distinct recollection of meeting him from '65 until you left in 1868? A No sir I never paid any attention to the fellow; the way I got acquainted with him was in the hay field in '65 or '6.
- Q Have you any recollection of seeing him from that time until '68? A No sir.
- Q Is he was living in your neighborhood then you dont recollect it? A No sir.

(Continued by stenographer Bruce O. Jones)

Chas. von Weise, being duly sworn, states that as stenographer to 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.

Subscribed and sworn to before me this the 7th of October, 1901.

Chas. von Weise
Chas. von Weise
Commissioner.

- Continued from testimony taken by Chas. von Weise. -

JORN YOUNG, being duly sworn and examined by Commissioner Breckinridge, testified as follows; through Joe B. Parker, interpreter:

- Q Give me your full name please? A John Young.
- Q How old are you? A About 56.
- Q What is your postoffice? A Weldon.
- Q Are you a native of the Cherokee Nation? A Yes, sir.
- Q Are you a Cherokee Indian? A Yes, sir.
- Q What are you, a Delaware? A A Delaware.
- Mr. Hastings: How far do you live from the town of Dewey? A About six miles.
- Q What direction? A A little bit northwest.
- Q Do you know a colored man out in that vicinity by the name of Andrew Daniels? A Yes.
- Q Do you know his wife? A Yes, I have seen his wife.
- Q Do you know her name? A No, I don't know her name.
- Q How long have you known Andrew Daniels? A About a year before I left Kansas.
- Q When did you come from Kansas? A I don't know, it has been about 35 years ago.
- Q Did you come with the Delawares when they came to this country? A Yes.
- Q You don't remember the year that the Delawares came here? A No.
- Q Was it before or after the Delaware Treaty with the Cherokee Nation, the Delaware Agreement? A Yes, after the treaty.
- Q What were you doing up there in Kansas? A I was making some ties there on the railroad.
- Q How far was that from where you lived? A About half a mile from where I lived.
- Q Do you know what time of the year you left up there? A Left there in the spring.
- Q Do you know where Andrew Daniels was when you left, where Andrew was when you started to come down here? A No.
- Q Well, what became of Andy? A Well, when I started I don't know, I don't know where Andrew Daniels was, but after the Delawares came together at the camp, why Andrew was there.
- Q What camp? A A little west of Lawrence.
- Q Kansas? A Yes, sir.
- Q Then what became of Andrew Daniels? A He came down with them.
- Q Came down with the Delawares? A Yes, sir.
- Q Where did he come to? A Here on Caney, Cherokee Nation.
- Q Has Andy lived up there in that vicinity ever since? A He went back to Kansas after they came down here.
- Q That is Andrew Daniels? A Yes.
- Q How long did he stay up there, or stay away? A I don't know how long he was gone, but he went after his family up there in Kansas.
- Q When he came back did he have his family? A Yes, he had his family.
- Q Well, have you known him here then ever since? A Yes.
- Q Well, he has a wife and some children, has he? A Yes.
- Mr. Smith: How old were you when you came down to the Cherokee

Nation with the Delawares? A I don't know my exact age, but I was about 24.

Q Did the Delawares all come at one time, or did they come at different times? A Different times.

Q How many times that you recollect about? A Twice.

Q How many Delawares were in the party you speak of, the party you came with? A I don't know, but I know there was seventy wagons in the outfit.

Q Can't you state what year that was in? A No, I think it was about '37.

Q You don't know anything about the man Andrew Daniels up to about the year before you started to the Cherokee Nation, do you? A No.

Q You said something about his going after his wife, and about his returning; when he returned, how close did he come to you to live?

A Five or six miles.

Q How can't you tell us what his wife's name was? A No.

Q Did you see his wife? A Yes, saw her often in her life time.

Q Well, what was her name? A She is dead now.

Q How long has she been dead? A I don't know, it was several years ago.

Q Has Andrew Daniels a wife at this time? A Yes.

Q What is her name? A I don't know.

Q Don't know her name? A No.

Q Would you know her name if you would hear it? A No, I never did know her name.

Q Do you know anything about the children of Andrew Daniels' present wife? A No.

Q Do you know the names of anyone of these children? A No, but I would know the children if I should see them.

Q Do you know the name of any one of them? A No.

Q Did that woman who is dead, about whom you spoke, have any children at all? A Yes.

Q Do you know the names of any of her children? A No.

Q Do you know anything about the woman who is Andrew Daniels' present wife? A No.

Q Do you know how long she has been the wife of Andrew Daniels, how long they have been living together? A No.

Q Is it a short while or a good many years? A I don't remember how long it has been, how long they have been living together, I don't remember, don't know.

Mr. Hastings: Do you know who Andrew came with in that crowd of Delawares? A Yes, he drove a team down here for a widow woman, her name was Widow Pochareki, that is all I know.

Mr. Smith: Was the wife that you say that Andrew went back to Kansas after the woman that died? A Yes.

Q Do you know of your own knowledge whether Andrew was in the Cherokee Nation after the war closed and before this time that you speak of his coming here with the Delawares, or not? A No, I don't know anything about that.

Commissioner: When did you first know Andrew Daniels? A It was about a year before the Delawares left the reservation up there in Kansas.

Q About a year before the Delawares came down to the Cherokee Nation? A Yes, sir.

Q Was that the first movement of the Delawares or the second time? A The second time.

Q What season of the year was it when you came down with the Delawares? A Sometimes along in June I think.

Q And you knew Andrew about a year before that? A Yes, sir.

Q Did he live near you? A No.

Q Did you see him often? A He worked pretty near all winter

right close to where I lived making ties.

Q That was the winter before you came down to the Cherokee Nation?

A The winter before.

Q The winter before that? A Yes.

A Let's understand that; you came down here along in June?

A Yes, sir.

Q Now was it the winter right before that that Andrew was cutting ties, or the winter still before that? A No, still the winter before.

Q The second winter before you came? A Yes.

Q Well, what did you see of him between the time he was making ties the second winter before you came, and the time he came with you?

A Never saw nothing more of him till I saw him on the road with the Delawares.

Q How did he happen to fall in with you Delawares? A Well I don't know, I just supposed the old Pady Pecharcki hired him to drive a team.

Q He was driving the old woman's team, was he? A Yes, sir.

Q He seemed then to be coming along as a hired man? A Yes, sir.

Q Do you know whether he had ever been down in the Cherokee Nation before that time? A No.

Q Does he live in your neighborhood now? A Yes, right close to Dewey.

Q Has he been living there ever since he went back up to Kansas and got his family? A Yes.

Edmund Duncan Carey, being duly sworn and examined by Commissioner Blackinridge, testified as follows:

Q Give your full name, please? A My full name, Edmund Duncan Carey.

Q How old are you, Mr. Carey? A Going on 70.

Q What is your postoffice? A Grove.

Mr. Hastings: Well now what was your father's name? A Thomas Carey.

Q Where did your father live before the war? A He lived right on the east bank of Grand river at Carey's Ferry, it was known, about half a mile from the ferry.

Q Near where you live now? A Right near where I live now.

Q Was he a Cherokee citizen? A Yes, sir.

Q You are a recognized citizen of the Cherokee Nation by blood?

A Yes, sir.

Q What was your mother's name? A Jane Carey.

Q Was your mother living when the war came up? A No, sir.

Q Was your father? A Yes, sir.

Q Did your father have a colored woman as a slave by the name of Abbie? A Yes, sir.

Q When did you leave home; I mean with reference to the war? A I left in '68, July, sometime in July.

A Joined the army? A Yes, sir.

Q Was your father at home then? A No, he moved across into Missouri just about the time I left.

Q Where was this slave, Abbie? A She was with my father.

Q In Missouri? A Yes, sir.

Q He took her off with him? A Yes, sir.

Q When did you next see your father? A '63, sometime in June.

Q Is your father living or dead at this time? A He is dead.

Q When & how did he die? A Well, I can't tell you just exactly, about 30 years ago, or 35.

Q Directly after the war? A Just after the war two or three years.

Q How often you see your father? I believe you said in June? A Sometime in June.

Q In June of '63, did he have this colored woman, Abbie, with him?

A No, sir.

Q Where did you see your father? A Just with.

- Q Did he have any colored people with him? A No sir.
- Q D'd your father remain there in Fort Smith? A No, he went on back up to Butler Creek in Missouri.
- Q Fort Smith, Arkansas, to Missouri? A Yes, sir.
- Q Did he go as you went along? A Yes, sir.
- Q Along as you went? A Yes, sir.
- Q He didn't have any colored people with him? A None at all.
- Q What had become of this colored woman, Abbie? A Well, he said he sold her in Fort Smith.
- Q When did he tell you that? A Well, when I first met him in Fort Smith.
- Q In June of '63? A Yes, sir.
- Q And you saw her no more? A Never saw her any more, never saw her yet..
- Q You have never seen her since the war? A No; if I have I haven't knowed her.
- Q You don't know by what name she goes now? A Well now, her man was by the name of Daniels.
- Q Well, did you know Daniels first name before the war? A Andy.
- Q To whom did Andy Daniels belong before the war? A He belonged to one of the Daniels, I don't recollect his name now.
- Q Anyway, the man and the woman belonged to different people, didn't they? A Yes, sir.
- Q Your father had no control over Andy? A None at all.
- Q Was there any other Thomas Carey, who lived over there on Grand Giver, before the war? A No, sir.
- Q Mr. Smith: Mr. Carey, how old were you when the war commenced? A I don't know, somewheres about thirty.
- Q Married or single? A Married.
- Q Where were you living? A I was living right on the river bank at the ferry.
- Q How far from your father's? A About half a mile or more.
- Q What date did you leave there, you speak of going away? A I went away in July sometime.
- Q What year? A '62.
- Q Where was your father at the time you left? A Well he went, when I went to the army, went to Missouri.
- Q He go before or after you left? A He went just the same time, we both went across the line at the same time, I went to the army and he went to a place up there.
- Q Did you leave your home place and travel together until you crossed the Missouri line? A Yes, sir.
- Q That was in July, '62, was it? A Yes, sir.
- Q Then where did you separate from your father? A Separated right there in the edge of Missouri, I went in the army and he stayed there.
- Q Then how long from that time was it until you saw your father again? A Well it was along sometime in June, 1863.
- Q About a year? A Pretty near a year, it wasn't quite.
- Q Are you sure it was '63? A Yes, I am pretty sure it was '63.
- Q Are you quite certain about it? A Yes, sir.
- Q You couldn't be mistaken? A No, sir, don't think I could.
- Q Now what was your father doing in Fort Smith? A He moved down there he said.
- Q Had moved to Fort Smith; was he living there? A Well, he moved down there with some of his darkies, and he said he sold them there: I was in the army, I don't know what he was doing, I met him there.
- Q You see any other members of your father's family there? A No, sir.
- Q How long had your father been in Fort Smith at the time you saw him? A He has been there a week or two.
- Q That was June, 1863? A June, 1863, as well as I recollect.
- Q You know whether it was in the summer or not? A Well yes, sir, it was warm weather.

- Q It was in the summer then, was it? A I guess so.
- Q Was it on that trip, or during that time, that your father had sold that woman, as he related it to you? A Yes, sir.
- Q Did he say who he sold her to? A No, sir, I never asked him.
- Q He had sold her then somewhere within a week or two of the time you were talking to him? A Yes, sir.
- Q Did he take her out with him at the time you and he before that left the Nation? A Yes, sir, him and his family went out, his wife and him and his darlings went together, and ma, I went with them.
- Mr. Hastings: Mr. Carey, did you continue to see your father from June of '65, did he join the army or did you stay in the army? A I stayed in the army, and he stayed back there.
- Q Did you see your father? A No, I didn't see him for a year afterwards pretty near, we went out on a scout and he went out to Texas with us.
- Q Did he have any slaves along when he went to Texas? A No, sir.

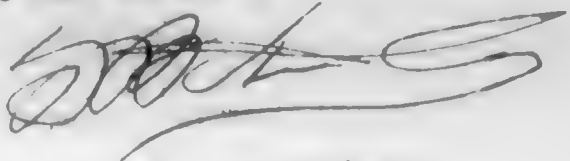
Mr. Hastings: I want to introduce, from the laws of the Cherokee Nation, 1892, the date of the Delaware Agreement, made with the Cherokee Nation, about which date I suppose there is no dispute, which shows on the 8th day of April, 1867. I don't care to put the whole agreement in there, it is not necessary except for the purpose of the date when that agreement was entered into.

Commissioner: This testimony will be filed as supplemental testimony in Cherokee Freedman cases D-859, Andrew Daniels et al; and also in Cherokee Freedman doubtful cases D-912, D-913, D-931, D-962, D-963, and D-971.

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 7th of October, 1901.



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, E. T., May 31, 1902.

In the matter of the application of FERRY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Kelleys & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case D D 498, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Charles Daniels, D 963;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1863, or that he had been a continuous resident of
the Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be
entertained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in
all the cases above named with the exception of those which come
within the provisions of the temporary injunction recently granted
by Judge Hall of the United States Court, of the Northern District,
Indian Territory

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed within thirty days to file any of the proof of any
or all of the record other than the decree already referred to

~~In the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.~~

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Not D. of C. 5

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 1901.
Walter Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

[Signature]

NOTICE!

IN THE MATTER OF the application of Charles Daniels
for enrollment as a Cherokee citizen:

Case No. D 963

To ~~Charles Daniels or Mellette & Smith his Attys.~~

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 Vinita, Indian Territory.

Indian Territory, on Oct. 1st 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 on the respective days above named, 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 SEP 17 1901

L. B. Bell
W. M. Hastings
Attorneys for the Cherokee Nation.

Cher Fr D 964

Cher Fr. 964 D

Supl. C. D. #818. Freedman.

Henry McLean #8964

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedman, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on E. B. Lawson, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tending to disprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1902, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation as to its representative, L. B. Bell.

C. V. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name? A C. V. Rogers.
Q Age? A 63 years old.
Q Place of residence? A Claremore.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q How long have you been such? A All my life, a little over 63 years.
Q Did you go out of the country during the war? A Yes, sir.
Q When did you return? A '68.
Q Where did you come to? A Come to Fort Gibson.
Q And stayed there did you? A Yes, sir.
Q Tell what was your business? A After I come back?
Q Yes? A I followed freighting for something over three years.
Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
Q Were you ever acquainted with a Freedman by the name of Moses Whitfire? A Yes, I know him.
Q Where did he belong before the war? A He belonged in Coaling Springs District.
Q Do you know what particular Whitfire he belonged?
A I don't remember whether he belonged to George Whitfire or Lee Whitfire.
Q If you did see him when did you first see Moses Whitfire after the war, after your return to the Cherokee Nation?
A As well as I can remember it was in February, '68; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 28 wagons and I met them right on this side of the Neosho River; Dick Whitfire, Moses Whitfire and Aaron Whitfire and old Major Wright is all I know in the outfit.
Q Did you have any conversation with them, stop and talk with them?
A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
Q Did you ask them where they was going to? A They said they was moving back.
Q Well this 25 or 30 or 28 wagons was loaded with people?
A Yes, mostly every one had household goods in them.
Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
Q Well now that was where you say it was? A It was right on this side of the Neosho River; between the old Hudson place and Neosho River.
Q How far from the Neosho River? A I set Ross half a mile.

- Q How far S on the north line of the Cherokee Nation?
A I think the river is the line, about half a mile.
Q And how far is that from the Kansas line? A The Neosho is the line, way I understand it.
Q You had reference to where the military road crosses the Neosho river? A Yes, sir.
Q At Jack McLain's ferry? A They called it Hudson ferry at that time.
Q Hudson lived there? A Yes, sir, in about a half mile.
Q And this Moses Whitire you met and talked with is the same one you knew in Going Snake and belonged to the Whitire family there?
A Yes, sir.
Q About how old a man was he when you met him? A He is an older man I think than I am.
Q And you saw other with him you knew? A I think Aaron Whitire and Moses Whitire and old Major Wright is the old ones I knew.
Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
Q Do you know where this man Whitire lives now, Moses Whitire you met?
A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

- Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know thought where he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

---000000000---

I 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.

(Signed) J. O. Roman.

Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 20, 1902.

In the matter of the application of Edward Wright Fort's enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Scoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, takes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS. The Cherokee Nation offers in evidence a decision of the Chathahoo Commission on Citizenship as found on page 55 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Docket of the Chathahoo Commission on Citizenship," as follows:

"No. 95 Edward Wright (Ex. 7th of June.
vs (Answer filed.
Cherokee Nation.

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 80. Major Wright (Ex. June 7th. Statement filed
vs on the 26 of June.
Cherokee Nation. 1st July set, 1st Aug.
set for trial.

Judgment against claimant June 27th, 1879."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitfire on the 26th day of June, 1878, as found on pages 164 and 5 of book B, entitled, "Citizenship record 1874," as follows:

"Before the Commission sitting at Talliquah to try claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitfire

vs
Cherokee Nation

respectfully presents the following statement of his claim according to the requirement of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the latter at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work at his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they would subsist without discomfort and exposure and until a removal of this was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his home in the spring of 1867.

Claimants rights have been called in question by competent authority, and so therefore presents them to the important examination of this Commission as are authorized so to do by law.

This June 26, 1878.

Lewis Whitmire,
By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship.

In case of Moses Whitmire
vs
Cherokee Nation,
claiming Cherokee citizenship.

Claimant claims under the fifth specification of the classes of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,
Moses Whitmire.

June 26, 1878.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Cherokee Nation, Book A," page 239, case No. 60, as follows:

"Case 60.

Moses Whitmire)
vs) Tahlequah,
Cherokee Nation.) July 3, 1878.

Five fields of witness for claimant called and sworn.

I am I think I am about 47 years old. I live in Illinois
High lot, C. N. Am a citizen of the Nation. I have been on the
roll but had my rights proven up before the Supreme Court.

As a citizen under the treaty of 1866. I went north to the state of Kansas in '62. I returned in August - 31st or 28nd, 1866. I left my family in Fort Scott when I came. I came down to get me a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1866. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. When I first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Sanders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Moso, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting houses. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by theerokee Delegation. They were some who come here were authorized by others to loc to claims for them, one was by Hekey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1863. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself what it was the month of Aug. When I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.

his mk.

Aaron Whitmire)
 vs) August 1, 1878.
 Cherokee Nation.) Bluford Alberty, witness for claimant,
 called and sworn.)

I reside in Cooweescoowee District, C. H. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Cooweescoowee District.

on the 2nd of September, 1866. I had occasion some time in the last of Oct., or the first of Nov, or probably it might have been late in the middle of November, to go to the Verdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crouches. I did not go to the camp. They were colored people. I know most of them. Their names were old Sam Webber, Aaron Whitmire, and a younger brother and Lewis Whitmire.

There was another person whom I was told was a Landman. I do not recollect any of the others and can not identify them. The Whitmires were Johnson and George Whitmire, Aaron, Lewis and the other belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had not been here. I told him I had not seen the treaty but had heard rumors about it. He told us they had come to pick themselves horses or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man, but that he had made his son down to work for him and make him a claim. He then asked what chances there was to get provisions over on the river; I told him there was none there, but that there was a lot of condemned flour at Gibson and if they would go there they would get some.

He also represented that they had come down to make claims for others, who had remained in Kansas, to build their homes and so fourth. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I camped out at night. I did not see any of these parties after this time, May, 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this some of them went back to Kansas. At the time I saw them I do not know whether their families were with them. I think I saw Dennis Whitmire with this party, but am not certain of seeing Dennis or Nelson. I know there was four of the Whitmire boys. They were owned in the Nation and resided here up to the breaking out of the war.

A. W. Alberty.

Aaron Whitmire
vs
Cherokee Nation.

I now Melissa Rutliff. She was twelve or thirteen years old at the close of the war.

She was living with me then and still lives in my family. Jack Landman was one of the band above referred to, also Ransom Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at Melans's Ferry in 1866. The chief of the party who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him, but Sam Webber had in my presence.

Cross Examined.

I am a claimant before this court for citizenship. I am half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers. Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the party that came with me to the Nation are as follows: Mike Sanders, Sam Febber, Peter Heigs, Bill Foreman, Tuck Sanders, Ransom Daniels, Sam Febber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any others. Witness was a man of family in 1866 when we came on from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1866 to Kansas after coming to the Nation. Then witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Ransom Daniels, Tuck Sanders, Peter Heigs and the families of those who had families all come as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alce Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Albany as a witness in this case.

Re Direct.

Mariah's family at the close of the war was a separate family. Harry Whitmire, her son, represented his mother on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

Howe Whitmire.
mark.

Case 63.

Aaron Whitmire & family)
vs)
Cherokee Nation.) Claiming citizenship.

Now comes claimant by Atty before the Commission sitting at Tablequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of the grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims conferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Gen. Whitmire a Cherokee citizen at the commencement of the war of the rebellion and ... then lived in ...

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence. While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to repair his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the limits provided for by treaty, in that having no residence to care to as other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully Submitted,
 Aaron Whitwire,
 By Atty Wm. P. Boudinot.

Aaron Whitwire
 vs
 Cherokee Nation.

August 1st, 1878.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Geowossoowos, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military road leading from Fort Scott, Kansas to Fort Gibson, C. N. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I meet him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having meet claimant and Mose, Lewis, Dennis and Nelson, Whitwire, Peter Neigs, Mike Sanders, Sam Webber, and Young Sam, Bill Foreman and others but did not recollect anything about them. They were traveling. They stated they were coming from Fort Scott, Kans, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. Molean gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I meet claimant and the others spoken of it was pretty good weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas as I left them at Christmas or probably a few days before Christmas.

Wm. Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the time.

I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Levin, Nelson and Dennis Whitmire and little Sam Webber and I think they were those who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped the night long enough that were they any woman and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I set them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire)
vs)
Cherokee Nation.)

July 4th 1873.

Wm. McCracken for Claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McCracken.

D. L. Nicholson, Clerk.

Aaron Whitmire
vs
Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 80 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man so they could have their own schools as until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The home of claimant is in the same locality as that at the time mentioned above. In Oct. or Nov. 1866 I gave claimant and other colored men permission to occupy the old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitmire is the name of the other man, I also permitted to go on the old field. The spring of 1867 I saw Aaron and Louis Whitmire at work on the two fields spoken of. This settlement of colored folks has the character of quiet industrious and law abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards in the neighborhood for the purpose as they said at the time of selecting their homes. Several claims was then in sight of witness which the colored party said they had selected and are now the homes of the party above indicated.

Agent Jones was at the time advising said Col party. A Delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to expel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

"Continued on page 223."

Aaron Whitmire et al)
 ve)
 Cherokee Nation.)

July 18" 1878.

John Riley,

sworn as witness for Deft. I live in Coconosqueot Dist. I first moved there in 1858 and have continued to reside there except in time of war. I came back in the month of August 1868 to the Nation. I knew Aaron Whitmire. He returned or came to the Verdigris River to live in the month of March 1867. Also came at the same time Peter Heige, Mike Sanders, Sam Webber, Wiley Foreman, with their families and others whom I don't recollect. Claimant made a crop that spring in 1867 on an old place of Aaron Lundrum. He had settled no other place before that.

Cross Examined.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1866 to locate lands but I know of some who came in Sept. '66 for that purpose. I know where Aaron Whitmire lived at this time. I was near Good's Bluff in Decr. '66. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never knew of Bluford Alberty being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitmire was not along, but Mike Sanders, Sam Webber, Colbert & perhaps Billy Foreman. Moses was not along. Dennis was not along as I know of none. I know Major Wright nor Nelson Whitmire that I know of. If any such party had come down in Decr. 1866 I think certainly I would have known it.

John Riley.

John Riley.

(page 223)

About the middle of May 1867 I first saw this party with their families at their new homes. Claiborn and others of this Colored party told witness that they returned in March 1867 to the Nation.

Re Direct

I learned from John Coker that most of this colored party returned to Kansas after their expulsion and a few remained. I was at General Convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1865. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug. 1866 in my information. It might have been July 19, 1866.

Witness went south during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. F. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitire
vs
Cherokee Nation.

Tablequah May 10, 1878.

This day comes John F. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John F. Lyons,
Atty for C. N."

Arthur G. Croninger, being first 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.

(signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1902.

(SEAL)

(signed) P. G. Reuter.

Notary Public.

I, Arthur A. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, and the same was copied by me.

Arthur A. Evans

Subscribed and sworn to before me this 13th day of Aug. 1902.

Prima C. Jones
Notary Public.

111 with Cherokee freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d 1901.

Number of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman; she being sworn by Commissioner C. R. Daniel, testified as follows:

- Q What is your name? A Elizabeth Meigs.
Q How old are you? A I dont know my age.
Q How long have you lived here? A I was four years old when we came here with the old settlers.
Q What year when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 71 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then. A (No response).
Q Have you a husband? A No sir he is dead.
Q Then you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Meigs? A Ever since I was nothing but a girl.
Q Were you married to a man named Meigs? A Peter Meigs.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Reuben Daniel.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Are any of your family on that roll that you know of? A Yes sir, Alice Sanders is on it, she is a daughter of mine, Alice is.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows:
Page 175, No. 2658, Alice Sanders, Cooweescoowee district.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you draw your Cherokee strip money? A Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 100 No. 2512, Eliza Meigs, Cooweescoowee district.

- Q Did you ever go by the name of Daniel? A Yes sir them was my owners.

Roll of the Cherokee Nation examined and the name of applicant found thereon as follows:
Page 122, No. 40, Elizabeth Daniel.

NOTE: Wife of Peter Meigs.

Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:
Page 131, No. 2748, Elizabeth Meigs, Coovescoowee district.

Q Where were you during the Civil war, did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.

Q When did you come back? A In the winter of '66.

Q What time in the winter? A Well it was in the winter.

Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.

Q When did he bring you down? A In the winter after he went from here on Big Creek.

Q He came ahead of you then? A Yes sir.

Q What time did he leave Kansas? A I cannot tell you when he first came.

Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '66.

Q Did he leave Kansas in the winter? A Yes sir.

Q Was he down here when Christmas came? A Yes sir.

Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.

Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.

Q How long after Christmas before you and he started down here together? A Directly after.

Q He spent Christmas that year in the Cherokee Nation by himself?

Q Yes sir my husband did.

Q What members of your family came down with you and your husband?
A These children.

Q Did you bring your child Alice Sanders with you? A Yes sir.

Q All the children? A Yes sir.

Q Can you explain why you are not on the roll of 1880? A No sir.

Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. W. Hastings, Cherokee representative:

Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.

Q Where were you living in Kansas then? A Fort Scott.

Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all come here.

Q Was it as much as a couple or three weeks? A Yes sir I guess so.

Q And then you started down here? A Yes sir.

Q Was it in the spring of the year when you reached here? A No sir in the winter.

Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there warent no buds nor nothing on the trees, it was winter I tells you.

Q You all came in wagons did you? A Yes sir.

Q Who came with your husband down here when he first came? A Old man Mike Sanders.

Q Who else? A Reuben Sanders.

Q Who else? A Daniel Sanders.

- Q Any one else that you remember? A There was little Sam Webber and old man Sam Webber.
- Q Any other Webber's? A Aaron Webber.
- Q Did any one else come down? A I dont remember any one else now.
- Q Were you there when they started down? A We all come together I am a telling you.
- Q But I mean when your husband come on in advance of you. Who come with him then? Did these parties that you have named come with your husband when he first came down? A Yes sir.
- Q You were at Fort Scott then? A Yes sir.
- Q And they all started together? A Yes sir.
- Q Whose that you have named are all the you can think of at the present time? A Yes sir.
- Q Did they come in wagons or on horse-back that time? A They come in wagons when they first come.
- Q And after Christmas you all came down did you? A Yes sir.
- Q Did you come in wagons then? A Yes sir.
- Q Did you come by a little place called Chetopa? A Yes sir.
- Q Where did you come to in the Cherokee Nation? A I come right where I am living yet when I come to the Cherokee Nation.
- Q And you are living there yet? A Yes sir, that old house was built in '60.
- Q What house? A That one we is living in.
- Q And you are living at the same old place? A Yes sir, in the same old house.
- Q On what creek is that? A Big Creek.
- Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.
- Q You were the advance family or crowd that came to Big Creek were you? A Yes sir, we was the advance guard.
- Q Did you see any one from Chetopa along the road through the Nation to Big Creek when you came there? A No sir.
- Q Did those people who first came down with you husband return with him and then come down again when your family all come after Christmas? A Yes sir.
- Q You all came back together? A Yes sir.
- Q Now Auntie, did any additional people--any other families come down with you? A I dont know who all come down, I am just a telling you what I know.
- Q There was Daniel Sanders, and Reuben Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all came with you? A Yes sir.
- Q Did Aaron Webber come? A Yes sir.
- Q And your family? A Yes sir.
- Q Are there any that I missed? A That is all that I gave you.
- Q Is that all that come? A Aaron Wright come with us.
- Q Who else? A (No response).
- Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.
- Q You come to the place that you are living at now did you? A Yes sir and has lived there ever since.
- Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.
- Q Who? A Junie Riley was there on Verdigris, but not where we was living.
- Q How far from where you settled? A I dont know how far.
- Q Was it as much as 4 or 5 miles? A As much as ten miles if you goes at it right.
- Q Were they the closest residents to you at that time? A Yes sir.
- Q Were there any Delaware Indians there when you come there? A No sir I never saw none.

Q Any Osages? A No, sir, never saw none.
 Q You didn't see any body on Big Creek, neither white or black, except those that come with you? A That is all.
 Q And you have been there ever since? A Yes sir, ever since we moved there.
 Q You say your husband Peter Knice built a house there? A There a log house there, and he bought the house and he moved to it.
 Q Who built the house if you know? A Henry Harold.
 Q Was he a colored man? A Yes sir.
 Q Is he living? A I don't know if he is or not.
 Q Some 3 or 4 years after you came down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship?
 A Yes sir.
 Q They didn't admit him, did they? A I don't know, sir.
 Q You know he was disputed? A I don't know nothing about it, I never paid any attention to any such things as that then.

By the Commission:

Q Were you ever admitted by the Cherokee or Indian States court for Commission? A I don't understand what you say.
 Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir, my son enrolled us before he died.
 Q I mean in Court? A That is what I am talking you.
 Q You know what a court is don't you? A Yes sir.
 Q What court do you know? A James Clifton court.
 Q Any other court that you know of? A I know of the Wallace court.
 A Any other? A No sir.
 Q Did he ever have anything done about his case by the Cherokee Council? A I don't know what was done, my son went there every year or two but I don't know what was done there.
 Q How long did it take you and these people to come from Kansas to the Cherokee Nation? A I don't know how long it took on the road.
 Q Have you any witnesses with you that you want to introduce?
 A Yes sir.

HUBBARD SANDERS, called and sworn by Commissioner C. P. Freckinridge, testified as follows on the part of the applicant.
 (Examined by the Commission).

Q What is your name? A Hubbard Sanders.
 Q How old are you? A I suppose I am about 40.
 Q What is your post office? A Centralia.
 Q How long have you lived in the Cherokee Nation? A All my life.
 Q Were you a slave in the Cherokee Nation when the Civil War broke out? A Yes sir.
 Q Who did you belong to? A James Sanders.
 Q Were you taken to Kansas during the war? A Yes sir.
 Q You have a wife named Alice have you? A Yes sir.
 Q How long have you and she been married? A About 30 years perhaps more.

The 1860 authenticated roll of the Cherokee Nation examined and the name of the applicant's own full name identified therein, is as follows:

Page 173, No. 2657, Hubbard Sanders, Cherokee County District.

Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.
 Q What court? A The Sanders court.
 Q Is that the only one? A Yes sir that is the only one, I was admitted by the Sanders Court.

- Q Where was it sitting? A At Tahlequah.
- Q In what year was that? A I cannot tell what year it was.
- Q Your citizenship had been disputed had it? A Yes sir.
- Q When was your right to citizenship first disputed? A It was during the time that Thompson Oochelita was chief.
- Q Was that before the 1880 roll was made? A Yes sir.
- Q Did the court decide in your favor? A Yes sir.
- Q Was there any dispute made then about your being put on the 1880 roll? A No sir.
- Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A No sir.
- Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
- Q Where did they take your name? A I was in Coopersack Bend, at the time.
- Q Do you know the applicant Elizabeth Meigs? A Yes sir.
- Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

- Q Peter Meigs' citizenship was disputed the same time yours was? A Yes sir.
- Q Did he go before the court at the same time? A No sir, I think not.
- Q His wife's citizenship was also disputed? A I judge so.
- Q Did she go down before that court? A Not to my knowledge.
- Q Did he go down to Tahlequah to the court before that time? A Yes sir I think he went down to the Eob Daniels court, think he went with my father.
- Q Was Eob Daniels Chief Justice of that court? A Yes sir.
- Q Just a few years after the war? A Yes sir.
- Q In '71 wasn't it? A Yes sir.
- Q Was any action taken in that court? A I dont know.
- Q You were not there yourself? A No sir.
- Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I dont exactly know how old I was.
- Q You were not married then? A No sir.
- Q How long long after you got back before you married? A Not very long after I got back.
- Q Did you marry on your way down here? A No sir.
- Q How long had you been here before you married? A I have been married twice.
- Q How long had you been here before you married the first time? A. A Not very long.
- Q As much as a year? A May be so.
- Q Is that your best judgment? A My best judgment is perhaps that it was that long.
- Q When were you married to your present wife? A Upwards of 30 years, or so.
- Q How long did you live with your first wife? A Not very long, she died.
- Q A year? A Perhaps it was, maybe a little longer.
- Q Then you married your present wife? A Yes sir.
- Q When you came to the Cherokee Nation how did you come the first time? A In wagons.
- Q The first time? A Yes sir.
- Q Who came with you? A Several were on horse-back; it is beyond my knowledge how many there were.
- Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the winter.
- Q Did you come in August? A Yes sir.
- Q Who came with you then? A Some of this family, Peter Meigs and got his place the names of these families.

- Q Who else came with you? A My brother Dan and the Whitmires.
Q Which ones? A Several.
Q Which ones? A Mose and Dennis, and the Webbers.
Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I dont know who else, I dont know who all come.
Q Who come when you come in October? A I dont know who all come then, some of that same crowd and some more come in October.
Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
Q What was his first name? A Old man Ceasar Smith.
Q You come in both of the detachments yourself? A No sir.
Q Which one did you come in? A I come in August.
Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
Q On Big Creek? A Yes sir.
Q Where Mrs Meigs lives? A Yes sir.
Q And you returned in October, how long did you stay in October.
Q We all didn't return in October, we didn't all go back, some staid in August, some staid and some came back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.
Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.
Q What time in the winter? A Long in January.
Q You near in '67.
Q No in the winter of '66.
Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of '66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

- Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

- Q When y moved here permanently, tell all that you possible can remember of who came with you in the January or February following?
A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mar, Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
Q I dont mean only of that family, there were other families were there not? A Old man Billie Forman.
Q Who else? A He had several children.
Q The heads of families I mean? A Family Sanders; I dont recollect them all; I dont know as I can call the names of all of them.
Q Were any of the Webbers along? A Yes sir.
Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I has forgotten them I dont think I can remember any of the others.

By the Commission:

- Q Did old man Sam Webber come? A Yes sir.
Q Did his son Sam come? A Yes sir.

- Q Dont you remember any one else? A Rachel Webber.
Q Dont you think of any one else? A No sir.
- Q You know that it was a mooted question before the Kerns Clifton Commission as to who came at this time and as to when you come? A. I havent been interested as to anyone except for myself.
- Q You know that there is a question about who came dont you? A Yes sir I guess I do.
- Q You say you came to Big Creek? A Yes sir.
- Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I dont know that they called it Chetopa then, there was a house or so there.
- Q Did you cross the river there? A What river.
- Q Neosho? A No sir.
- Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.
- Q You came through what is Chetopa and came on west through the prairie? A We may have.
- Q You were in Wagons? A Yes sir.
- Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.
- Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.
- Q Then the houses were not built before you moved there with your families? A Yes sir some were, there there were logs on some up 8 or 10 logs high.
- Q Then there were none really completed until you moved there with your families? A No sir.
- Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.
- Q Do you know Jim Martin? A Yes sir.
- Q How far does he live from you now? A 4, 5 or 6 miles.
- Q Was he living there when you people moved there? A No sir.
- Q He had a brother names William Martin? A Yes sir.
- Q Was he living out there then? A No sir.
- Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.
- Q Was his name Dick Carter? A I think it was.
- Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.
- Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.
- Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

- Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?
A Yes sir.
- Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.
- Q You didn't bring your families with you then? A Only part of them and some things that we had.
- Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on your first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Meigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them come in October.

Q Where was Peter Meigs in October? A He come with us at each trip.

Q Did he go back to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October? A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Meigs had been here? A Yes sir.

Q Where was Peter Meigs in Christmas of '66, do you know? A No sir I don't exactly know where he was in Christmas of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he come back after his family? A The third time he brought his family.

Q You staid here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he come with his family when you made your third or last trip? A Yes sir.

Q Did his family? A Yes sir.

By Com'r Breckinridge,-

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1890 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make ~~further~~ further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

~~#####~~

Chas. von Weise, being 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 29th of May, 1901 at
Chelsea, I. T.

T. B. Needles,

Commissioner.

SUPPLEMENTAL:

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22, 1901.

In the matter of the application of Elizabeth Heigs for enrollment as a Cherokee Freedman;
REUBEN SANDERS, having been before sworn by Commissioner Breckinridge, testified as follows:

- Q Give your name? A Reuben Sanders.
Q How old are you? A I am only about 50 past.
Q You gave testimony just now in the case of Elizabeth Heigs?
A Yes sir.
Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867 when we made the last move, about the first of the month; it was the following August in 1866; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.
Q How do you find out now it was January instead of February?
A It was just after Christmas that we was on the road coming down.
Q How long after Christmas? A Perhaps a week after Christmas; my reason for stating this is this, along Christmas- a few days before Christmas there was a man got killed named Hayford, and there was a gentleman killed him, a colored man killed that man Hayford, a man by the name of Mackey, and we started then right shortly after that killing was, and the parties followed us, thinking he was with us, in our crowd, that was just the following- a few days after Christmas, a week, or after Christmas.

Examined by Cherokee Representative, W. W. Hastings:

- Q How old are you? A Well I just don't know my age exactly, I suppose that I am about 50 years old; something in that line.
Q Where did you say that killing took place? A In Kansas.
Q Fort Scott? A Yes sir.
Q And the man that was accused of the killing was named what? A Named Mackey.
Q You remember his first name? A No.
Q You remember the man who was killed, you get his first name? A No sir I don't not.
Q Did you ever learn afterwards whether or not that man was caught, do you know? A It seems to me like I learned afterwards that the man was caught. No I don't know nothing about that part of it.
Q You know what county Ft. Scott is in? A No sir.
Q Who called your attention to this ~~part~~ error? A I thought so myself; I called my own attention to it; I was studying over it, I did.
Q You know now it was only a few days after Christmas? A Yes sir, a few days after Christmas.

Com'r Breckinridge: This statement will be filed as supplemental in the Elizabeth Heigs case, to be considered in connection with the former statement of the witness, and the other evidence relating to the date in question.

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 23, 1901.

C. R. Breckinridge,
Commissioner.

File with Cherokee Freedman D-391, Elizabeth Meigs,

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

L. T. Brown, agent for the applicant;
J. S. Davenport, of counsel for Cherokee Nation.

L. T. Brown: I would like to have the record show that sometime next week the applicant intends to introduce as witnesses in this case, Aaron Wright, Reuben Sanders, Dan Sanders, and Sam Webber, for the purpose of showing that all the applicants in this case returned to the Cherokee Nation during the time prescribed by the Ninth Article of the Treaty of 1866.

Commissioner Needles: Hasn't that already been shown?

L. T. Brown: And that they have had a continuous residence in this country since that year.

Commissioner: Well, that is all right.

ROBERT MEIGS, being duly sworn by Commissioner Needles, testified as follows.

Mr. Davenport: What is your name? A Robert Meigs.

Q Where do you live? A I live five miles southwest of Tahlequah.

Q What is your postoffice? A Park Hill is my postoffice.

Q How old are you? A I am 56 my next birthday.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life except a little while time of the war, from '64 to '65.

Q Did your people own any slaves before the war? A Yes sir.

Q Do you know whether they owned a woman by the name of Elizabeth? A No sir.

Q Do you know whether or not they owned her mother, or anybody of the family? A Elizabeth, no, sir.

Q Well, did you know Peter Meigs? A Yes sir.

Q Do you know what his wife's name was when the war broke out? A Betsy they called her.

Q Well, was she living, Betsy, at the time the war broke out? A Yes, sir.

Q Well, did you ever know her by any other name than Betsy? A Bettie.

Q Where was Peter Meigs and his family at the breaking out of the war? A Well Peter was with us at home at the breaking out, but he and his wife was up there somewhere near the Dutch Hills on the Arkansas line.

Q Well I wish you would look at that woman there and see if she is the woman you knew as Betsy or Bettie or whatever you knew her by (indicating applicant)? A Yes, I think that is the one, I have never seen her but once.

Q That is since the war? A I just saw her once in my life and that was time of the war, after the war.

Q Did you ever see Peter Meigs and his family after the war? A Yes sir, saw Uncle Peter.

Q What year was that? A Sometime after '71.

Q What were the circumstances as to your seeing him or meeting him? A Well he had to come down to Council to see about fixing up his rights, and he came down to visit my father John, we were right together, and I went up there to see him.

Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing where he and his wife were present in regard to his right or when he returned? A Yes sir.
Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him, and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A Why he said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a home in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '66.

Mr. Davenport: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave but one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, D-396, D-398, D-404, D-402, D-401, D-407, and D-775, and the sub-references.

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 7th of November, 1901.

T. B. Needles,

Commissioner.

File with Cherokee Freedman D-391, Elizabeth Meigs.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. E. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Daniel Sanders.

Q What is your age? A About 59.

Q What is your postoffice address? A Centralia.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A I think it does.

Q You know Elizabeth Meigs and George Meigs? A Yes, sir.

Q What relation is George Meigs to Elizabeth Meigs? A Her son.

Q Did you know Peter Meigs during his life time? A Yes, sir.

Q Do you know whether Peter Meigs, Elizabeth Meigs, and George Meigs were out of the Cherokee Nation during the war? A Yes, sir.

Q When did they return to the Cherokee Nation? A They came in '66.

Q With whom did they return? A They came with me and my father and the Mothers.

Q Have they had a continuous residence in the Cherokee Nation ever since? A Yes, sir.

Mr. Bell: When did you come to the Cherokee Nation yourself after the war? A In '66.

Q What time of the year? A First of December.

Q What was the first time? A Yes, sir.

Q When did you make your second trip? A Along in first part of January.

Q What was January, 1867? A Yes, sir.

Q Now, which one of these trips was it that Peter and his family came with you? A They came both times.

Q Same both times? A Yes, sir, the old man came the first time and then the last time the family came.

Q Peter came with you alone the first time? A Yes, sir.

Q Then the second time he brought his family? A Yes, sir.

Q What did his family consist of? A Mary, George, Alice, Harry, Simon, and Perry.

Q Then was his children? A Them was his children.

Q Well he had his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of the record in the case at bar and part of the record in D-394, D-396, D-398, D-401, D-402, D-404, D-407, D-775.

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 7th of November, 1901.

T. B. Needles,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and the same is a true and complete copy of the original.

Ray Palmer

Subscribed and sworn to before me this the 6th day of August, 1902.

W. R. Ruster
Notary Public.

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
SAMUEL BECK as a Cherokee freedman; introduced on part of the
Cherokee Nation:

Appearances:

L. T. Brown, Vinita, I. T., Agent for Applicant;
J. S. Davenport, Cherokee representative.

L. B. BELL, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A L. B. Bell.
Q Where do you live, Mr. Bell? A Vinita, Indian Territory.
Q How long have you lived in and near Vinita? A Oh, since '67,
including most of '67.
Q Was there any railroad running in or through Vinita when you
first moved into that community? A No, sir.
Q When did the railroad first come through that country, Mr. Bell?
A In 1871.
Q You know this applicant, Sam Beck? A No, I don't know him.
Q Don't know anything about him? A No, sir.
Q Was you living in that country before the railroad started from
Kansas through the Indian Territory; that is, the M. K. & T?
A Well, I will tell you what I know about the railroad; The rail-
road come through the country in 1870, and on the application of
the Cherokee Nation, a complaint to the Secretary of the Interior,
they stopped building and during the session after 1870 of the
National Council of the Cherokee Nation, they passed an Act there,
it is dated the 14th of December, 1870, authorizing the furnishing
of cross-ties to the railroad, and agreeing that the railroad could
go through. The secretary hadn't determined which had the right-of-
way. They had begun it in 1870 and the M. K. & T. got the right-of-
way, and then they authorized the selling of cross-ties, and I went
to Chetopa and made a contract with the Company for cross-ties
enough to build from the Kansas line to Pryor Creek and sublet it.
Mr. Martin was one I sublet to, that was in 1870 that contract
was made, I don't recollect the exact date. Well, just a few days
following that we began getting cross-ties and then worked on down
to the Creek Nation. That was the first railroad built in the
country and the first cross-ties was out on the railroad in this
country.
Q You don't know anything about the wife of Beck or anything about
them? A No, I don't.

C. D. MARKHAM, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A C. D. Markham.
Q Where do you live? A At Tablequash.
Q How long have you lived in the Cherokee Nation?
A I was born and raised here; never was out except during the war.

Q Where did you live before moving to Tullahoma? A Lived on Grand river east of Choteau about ten miles.

Q Do you know Samuel Beck, the applicant in this case, or his family? A No, sir.

Q Where were you living along the latter part of the sixties or early part of the seventies? A On the Grand river.

Q Do you know about the year the M. K. & T. railroad built from Chetopa, Kansas, down through the Territory? A It must have been the latter part of '71 or '2.

Q Had you any connection with it any way that makes you remember it? A Yes, sir, I had a contract on the road, beginning at Bryant's lake, down this way.

Q And that was in what years it built down there? A The ties was put in there in the spring, latter part; it was in the spring of '71.

BY ATTORNEY BROWN:

Q You don't know the applicant, Mr. Markham? A No, sir, I don't.

Q You don't know to whom he belonged before the war or when he returned to the Cherokee Nation? A No, sir.

Commission: This testimony will also be filed in and made a part of the record in Cherokee freedman case No. D.391.

---ooo000ooo---

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 February 27, 1902.

(signed) T. B. Needles,
Commissioner.

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I correctly copied the original of this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

[Signature]
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29, 1901.

In the matter of the application of Columbus McHair for the enrollment of his wife, CHANEY, as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Columbus McHair.
Q What is your age? A 51 years.
Q What is your post-office address? A Vinita.
Q What district do you live in? A Delaware.
Q For what do you apply for enrollment? A Just my wife now.
Q What is your wife's name? A Chaney McHair.
Q How old is she? A She is about 42 years old.
Q What was her father's name? A Her name was Chaney Ratcliff; that was her maiden name.
Q What was her mother's name? A I don't know, I have got a witness to prove that.
Q Do they know your wife? A Yes sir.
Q Was she ever married before she is married you? A No sir.
Q Were you ever married before you is married her? A Yes sir.
Q Was your first wife living when you is married Chaney? A No sir, she was dead.
Q You were a widower? A Yes sir.
Q Chaney is your second wife? A Yes sir.

DAN SANDERS, being sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Dan Sanders.
Q What is your age? A 53 past.
Q Are you a recognized Freedman citizen of the Cherokee Nation? A Yes sir.
Q What is your post-office? A Centralia.
Q You know Columbus McHair? A Yes sir.
Q You know his wife, Chaney? A Yes sir.
Q How long have you known Chaney McHair? A Ever since she was a little girl.
Q What was her father named? A Bob Drew.
Q What was her mother's name? A Viney Ratcliff.
Q Was Bob Drew a slave? A Yes sir.
Q Was Viney Ratcliff a slave? A Yes sir.
Q Did they both belong to the same people? A Yes sir, Bob Drew used to belong to Dick Ratcliff before he died.
Q And who did Viney belong to? A Dick Ratcliff.
Q When were they married, do you know? A Don't know.
Q Did Dick Ratcliff a Cherokee citizen? A Yes sir.
Q Did they go out of the Cherokee Nation during the war? A No, old man Ratcliff was dead.
Q I mean did Bob Drew and Viney? A I don't know, about Bob belonged to John Drew; I don't know where he did go; I think he was dead.
Q Do you know anything about Viney? A Yes sir, she is dead.
Q Was she taken out of the Cherokee Nation during the war? A No sir.
Q Viney was Chaney's mother? A Yes sir.
Q Did they both live in the Cherokee Nation during the war? A No sir, before the war.
Q Were they taken out of during the war? A Chaney was.
Q Where to? A I saw her at Ft. Scott.
Q When did you see her at Ft. Scott? A Along in '65.
Q Was she there in 1866? A Yes sir.
Q How long after that did you know her? A She started with me when we come down here, her and her sister.
Q Where was her mother? A Dead.

Columbus Mc Air for wife Chaney 2

Q Dies in Kansas I suppose? A No sir, she died in the Cherokee Nation.

Q Who took Chaney out? A I don't know.

Q Did she come back with you? A Yes sir, and with her sister.

Q She resided at Mt. Gibson? A No went to fourteen mile creek, in there close to Tahlequah, with her brother-in-law and sister.

Q You know when she married Columbus Mc Air? A No I don't.

Q When did you lose sight of her after that time? A Well it had been a good while since I saw Chaney.

I saw her I think once or twice before she was married, jxxx I don't know just what year.

BY MR. DAVENPORT, Cherokee Rep's:

Q You don't know when Chaney got back to the Cherokee Nation do you? A Yes sir.

Q You said a while ago she started with you people, did she come with you? A Yes sir, we left her right in there at Chatopa, and they went on down the military road toward Mt. Gibson.

Q You don't know where they went? A I understood that's where they went.

Q But you don't know of your own knowledge? A Andy Sanders went with them, I guess that's where they went.

Q When did you next see them after you left them on that road? A I don't know exactly how long the year I saw her, it was sometime after her brother was killed down here.

Q Well about how many years? A I don't know, it was several years.

Q What time of the year '66 did you start back to the Cherokee Nation? A I * Along in January.

Q That was in January, '66? A '67.

Q That's the time that Chaney started with you, January or February, '67? Are you positive that it was January '67 you started back? A I think it was.

Q What time was it you went there in Kansas near Chatopa? A It was shortly after that.

Q You had travelled from Ft. Scott down, and the trip that far? A Yes sir.

Q It was winter time? A In the winter.

Q You don't know how long that was coming from Ft. Scott there? A We was only three days.

Q Now about how long after Christmas was it when you started? A It was quite a little while after Christmas.

Q And you never ~~last~~ saw her after you left her there at Chatopa for several years? A Several years.

BY C. W. NEEDLES:

Q You left her at Chatopa? A This side of Chatopa.

Q Did you leave her at Chatopa or in the Cherokee Nation? A In the Cherokee Nation, going south.

BY MR. DAVENPORT:

Q What sized town was Chatopa then? A One house.

REUBEN SANDERS, being sworn and examined by Counselor Needles, testified as follows:

Q What is your name? A Reuben Sanders.

Q You know Columbus Mc Air? A Yes sir.

Q What is your age? A I am nearly 50.

Q Are you a recognized Freedman citizen of the Cherokee Nation?

A Yes sir.

Q You know Columbus' wife Chaney? A Yes sir.

Q How long did you know her? A I know her before the war.

Q Was she a slave? A Yes sir.

Q How did she belong to? A Ratahiff, as much as I know about it.

Columbus McNair for wife Chaney 3

- Q You know whether Chaney was taken out of the Cherokee nation during the war? A Yes sir, she went out.
- Q Where to? A Ft. Scott.
- Q You see her in Ft. Scott? A Yes sir.
- Q You know when she returned to the Cherokee nation? A Yes sir, she came with us when we was moving.
- Q What year? A In January.
- Q What year? A '67.
- Q Did you come into the Cherokee nation in January '67? A When I was moving.
- Q Is any did you move into the Cherokee nation? A We didn't move here in, but she came in Fanny Sanders' wagon.
- Q You were moving yourself? A Yes sir.
- Q You moved in in January, '67? A Yes sir.
- Q And Chaney came along with you? A With Fanny Sanders, yes sir.
- Q Where did you leave Chaney? A She left us.
- Q Where? A Some where down here in the Cherokee nation.
- Q In the Nation was it? A Yes sir.
- Q You know anything about her since that time? A Yes sir, I have seen her since that time.
- Q Where did you see her? A I saw her in Cherokee, in Vinita, and saw her out here on the Creek.
- Q How old was she when she came down with you? A She must have been 16 or 17 years old, no I don't know her age at all, but I would just judge that.
- Q You know where she has lived in the Cherokee nation continuously since that time? A No sir, I don't know.

BY MR. DAVENPORT:

- Q What date's you remember it was January, '67? A We came in January '67.
- Q How old was you then? A I don't know exactly my age, I was old enough to know Chaney.
- Q You was old enough to know what year it was? A Well I aint forget that year.
- Q How old are you now? A I couldn't forget that year when we come so near starving to death.
- Q How old are you now? A I should think I am near about 50.
- Q That would make you about 13 years old then? A Well of course I am just judging at my age, because I had no record of it.
- Q You had stayed up there until after Christmas at Ft. Scott? A Yes we come in January.
- Q You remember distinctly it was in January; you moved down once before? A Yes sir, several times.
- Q You don't know which one of the trips it was she come do you? A She come with us when we come in January, yes sir, I know that.
- Q You know what year the Wallace roll was made? A I don't know as I know particular.
- Q You know what year the Horn-Clifton roll was made? A No, I aint made no particular count of the Horn-Clifton roll.

BY CON'R NEEDLES:

- Q You don't know what year Columbus discovered America, do you?
A Yes sir, I think I do, I think I know that too, all right.
Q Where was it? A '76.

ANDERSON LYNCH, being sworn and examined by Con'f Needles, testified as follows:

- Q What is your name? A Anderson Lynch.
How old are you? A 64.
Q What is your post-office address? A Vinita.
Q You know Columbus McNair? A Yes sir.
Q You know his wife, Chaney? A I don't know her kinfolks, I just got acquainted with her.

Columbus McNair for wife Chaney 4

- Q When? A Just in time of the war, little before the war.
Q Where? A At Ben Adams.
Q Where did you see her after that? A I saw her up in Kansas at Ft. Scott.
Q During the war? A Yes sir.
Q You know when she returned? A No sir.
Q What was the first time you saw her after the war? A In Vinita.
Q When was that? A About 10 or 12 years ago.
Q You saw her up in Kansas but you don't know when she got back?
A No sir, I don't know when she got back.

Applicant, COLUMBUS McNAIR, re-called and further examined

BY COM'R NEEDLES:

- Q Columbus, when were you married? A In '89.
Q To Chaney? A Yes sir.
Q Have you lived with her continuously since that time? A Yes sir.
Q She has lived in the Cherokee nation since '89? A Yes sir, lived right there at Vinita.
Q Is she on any rolls of the Cherokee nation? A On the Wallace roll and the Kern-Clifton.

Kern-Clifton pay roll of citizens of the Cherokee nation examined and applicant identified on page 116 #2892 Chaney McNair, Delaware District; Wallace roll of citizens of the Cherokee nation examined and applicant identified on page 134 #3380 Chaney McNair, No district given.

Applicant, Columbus McNair; Her sister is on the 1880 roll.

- Q What is her sister's name? A Patsy Sanders.
Q Did her sister come at the same time she did? A Yes sir, they all come together.

REUBEN SANDERS, re-called and further examined;

BY COM'R NEEDLES:

- Q What is your name? A Reuben Sanders.
Q When Chaney Ratcliff came back with you in January '67, did she have any brothers or sisters? A She had a brother by the name of, I don't know just recollect his name.
Q Older than her? A Yes sir.
Q Did he come back with his sister, Chaney? A Yes sir.
Q Were there any other of the family besides this boy and Chaney?
A I don't recollect.
Q But her brother come back with you in January '67 at the same time Chaney did, is that so? A Yes sir, he is the one that got killed as near as I can recollect.

Applicant, COLUMBUS McNAIR, re-called and further examined;

BY COM'R NEEDLES:

- Q What is her brother's name? A Bob.
Witness, REUBEN SANDERS, re-called and further examined;

BY MR. DAVENPORT:

- Q Did I ask you awhile ago how old Chaney was when she came to Oklahoma?
A I think you did.
Q About how old was she? A I don't know her age I told you, I give my best judgment, she was about 15 or 16 years old, I don't know her age, neither do mine.

TUCK SANDERS, re-called and further examined;

Columbus McHair for wife Chaney 5

BY COM'R NEEDLES:

- Q Mr. Sanders, did Chaney Ratcliff have any brothers or sisters?
- Had Patsy and Bob.
- Q Sister Patsy and brother Bob? A Yes sir.
- Q Were they with Chaney when she came from Kansas down? A Yes sir.
- Q They were all three together then? A Yes sir, and Harry Soles.
- Q You know whether they are living or not? A No sir.
- Q You don't know? A They are not living, the Creek killed Bob.
- Q What became of Patsy? A She is dead.
- Q Was Patsy older than Chaney? A Yes sir.
- Q Patsy wasn't married at that time? A Yes sir, she was Andy Sanders' wife.
- Q At that time? A Yes sir.
- Q Was Andy along? A Yes sir.
- Q You left her or she left you at the same place Chaney did? A Yes sir, I left them on the military road this side of Cretopa.

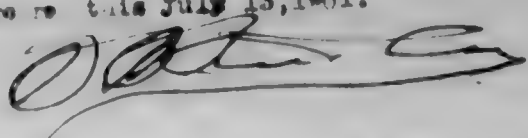
1880 authenticated roll of citizens of the Cherokee nation examined and applicants sister identified on page 806 #2099 Patsy Sanders, Tahlequah District, adopted col.

Com'r Needles: Columbus McHair applies for the enrollment of his wife, Chaney; she cannot be identified upon the authenticated roll of 1880 or the census roll of 1896; but is fully identified upon the Kern-Clifton and the Wallace rolls; he avers that her maiden name was Chaney Ratcliff; he married her about the year 1869 and has lived with her continuously ever since from that time until this; the testimony shows that Chaney Ratcliff was a slave, belonging to the Ratcliff family, Dick Ratcliff; and that she was taken to the State of Kansas during the Civil War; the testimony produced is conclusive of the fact that she returned to the Cherokee Nation in January 1867, and that she has resided in the Cherokee nation from that time until this. The Commission is of the opinion, from the testimony adduced, that Chaney McHair is entitled to be listed for enrollment as a Cherokee freedman. Comes the Cherokee nation, and protests against her enrollment, averring that they can rebut the testimony offered, consequently Chaney McHair will be listed for enrollment as a Cherokee Freedman on a doubtful card. Patsy Sanders, sister of Chaney McHair, name is found upon the authenticated roll of 1880; the testimony adduced shows that they married in the Cherokee Nation at the same time.

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 July 13, 1901.



Commissioner

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 15, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of DANIEL THOMPSON et al., C. P. R. #300.

Appearances:

James S. Davenport, for the Cherokee Nation
Kellelte & Smith for the above applicant.

T. F. Thompson, being first duly sworn by Court F. B. Needles, testified as follows on the part of the Cherokee Nation—
(By Davenport)

- Q What is your name? A T. F. Thompson.
Q Where do you live? A 3 miles south of Vinita.
Q What is your age? A 54.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant in this case, Daniel Thompson? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Do you know where he went during the war? A I think he went north to Kansas.
Q Where did your family go during the war? A To Red River.
Q Choctaw Nation? A Chickasaw Nation.
Q When did you return to this country? A In the fall of '66, in October.
Q Did this applicant go with your family? A He never was with us during the war.
Q When your family returned to the Cherokee Nation where did they locate? A On Grand river, 12 or 13 miles east of here.
Q How far from where they had originally lived? A Same place.
Q Was the applicant there when you returned? A No sir.
Q When did you first see the applicant after the war? A Here in Vinita, I can't tell exactly the time.
Q With reference to the time the railroad was here when was it? A The city was here I think.
Q About what year was it? A As well as I remember it was in '71 or '72.
Q Had the applicant prior to that time ever lived on your place on Grand river? A No sir.
Q Had you any conversation with him in regard to where he lived or when he came back? A No sir.
Q Where was he living at that time? A On Big Creek, he told me.
Q Did he say that that he had been living on Grand river at the old place? A No sir.
Q You had always lived on the old place since your return? A Yes sir.
Q Same place you lived on prior to the breaking out of the war? A Yes sir.
Q Had the applicant been there after the war—to your house? A Not that I know of.
Q You saw him here in Vinita for the first time after the war? A Yes sir.
Q Did he come to your home at that time? A He came to my father's home and staid a day or two with my father.
(By Smith)
Q What was your father's name? A Daniel Thompson.
Q Is he a Cherokee? A Yes sir.
Q By blood? A Yes sir.
Q A civilized citizen of the Cherokee Nation? A Yes sir.
Q Did he see Daniel Thompson before the war? A Yes sir.
Q Was Daniel Thompson with your father when the war commenced? A Yes sir.
Q What time did you get back here after the war? A October, '66.
Q You came to what place? A Our old place.
Q How far from where Vinita is now? A 12 or 13 miles.
Q How old were you then? A 15 years old.

- Q Just a boy? A Yes sir.
- Q From the time that you came back to your old place, for the following two years, where were you? A I was there—I went to school one or two sessions at Pea Ridge, Arkansas.
- Q Then you don't know if this applicant was there during that time or not, while you were away at school? A Not while I was away.
- Q All you know is that the first time you saw him was in '71? A Yes sir.
- Q You don't know how long he had then been in the Cherokee Nation? A No sir.
- Q You don't know where he was during the war? A No sir.
- (By Davenport)
- Q When were you at school? A In '67, in the fall.
- Q You were at home then from '66 to the fall of '67? A Yes sir.
- Q You never saw the applicant there then? A No sir.
- Q Never heard of him being there did you?
- (By Mr. Smith: I object to him stating what he might have heard.)
- (By both of witness)
- Q All you know is that you never saw this applicant until in '71 or '23? A Yes sir.
- Q Before that time you don't know where he was? A No sir.

DAVID STINGER, being first duly sworn by Comr. T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

- Q What is your name? A David Stinger.
- Q Where do you live? A On Big Creek, Cherokee Nation.
- Q How old are you? A 60.
- Q How long have you lived in the neighborhood of Big creek in the Cherokee Nation? A About 26 years.
- Q Do you know the applicant here, Daniel Thorpeon? A Yes sir.
- Q How long have you known him? A Since '72.
- Q Where did you first see him? A I saw him in the Territory on the east prong of Big Creek.
- Q What was he doing when you saw him? A Just commenced making a farm there.
- Q Did you have a conversation with him then? A Yes sir.
- Q What was that conversation? A He told me that he used to live here and was owned here, and that he went to Kansas, and thought he would come back, because he was owned here—thought he would come back home as he called it.
- Q Did he have a family with him then? A Yes sir.
- Q What year was that? A I think in '72.
- Q What improvements had he made then? A Nothing, he was just in a wagon there.
- Q Did he say when he had gone to Kansas? A No, I don't know anything about that.
- Q Was anything else said about his having been in the Cherokee Nation before that? A I don't think there was.
- Q How many children did he have there? A Two.
- Q What were their names? A Sandy and Mandy.
- Q Were they both with him? A Yes sir.
- Q Did he afterwards make a place there? A Yes sir.
- Q Where has he been living since? A Right there all the time.
- Q What year was this you say he came there? A '72.
- (By Mr. Smith)
- Q You know that he has been living there continuously ever since '72 in the Cherokee Nation? A Yes sir.
- Q How long had you been there in '72? A I came there in '71.
- Q Where from? A Peoria, Illinois.
- Q Had you ever been in the Cherokee Nation prior to '71? A No sir.

- Q You don't know where this man Daniel Thompson was in 1870? A No I don't know that.
- Q You don't know where he was in '69? A No sir.
- Q Or in '68? A No sir.
- Q Or in '67? A No sir.
- Q Or in '66? A No sir.
- Q Or in '65? A No sir.
- Q You don't know when he first returned to the Cherokee Nation after the war? A He told me then that he had returned then from Kansas.
- Q You don't know whether he had been here before that or not? No sir he said he was owned here before the war.
- Q You don't know when he first came here after the war? A No sir, only that time.
- Q He might have been here before that and you not know it? A I wasn't here before the time I state and can't tell nothing about except when I was here.

(By Davenport)

- Q Was he living there when you came there in '71? A No sir.
- Q He said he came from Kansas when you saw him there? A Yes sir, and that he had educated his children in Kansas and was moving back home.

WILLIAM NOBLE, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

- Q What is your name? A William Noble.
- Q Where do you live? A On Big creek, Indian Territory.
- Q Cherokee Nation? A Yes sir.
- Q How long have you lived in the Cherokee Nation, Mr. Noble? A I think I came to the Cherokee Nation in the summer of '64.
- Q How long have you lived on Big Creek? A Ever since the fall of '64 I think I went there then or in the spring of '65.
- Q Do you know the applicant here, Daniel Thompson? A Yes sir.
- Q How long have you known him? A Good many years, I can't say exactly how long, I think he moved in there on Big creek right close to me, I think he came from Kansas there in the fall of '72, and he has lived there ever since.
- Q Did he settle a place there when he came down? A Yes sir.
- Q How far from you? A Two and a half miles.
- Q Do you remember seeing him when he came down there? A He was building when I first saw him, he had moved in there and commenced putting up a house.
- Q Did he have his family with him? A Yes sir.
- Q Children? A Wife and three children.
- Q Did you have any conversation with him? A Yes sir, he told me he just moved in from Kansas.
- Q Did he tell you that he was a slave here before the war? A Yes sir, not right then but after that he told me that he had been a slave of Johnson Thompson and that he was going to see him.

(By Smith)

- Q When did you first come to the Cherokee Nation after the war? A In '64.
- Q Were you in the army? A Yes sir.
- Q When were you discharged from the army? A I was discharged, I think it was in '62.
- Q In what? A '62.
- Q Were you discharged before the war closed? A No sir.
- Q But you think it was in '62 that you were discharged? A I believe it was.
- Q In '61 maybe? A Somewhere along there.
- Q Somewhere in '61 or '6? A Yes sir.
- Q You testified Saturday last in the John Vann case didn't you? A Yes sir.
- Q Didn't you say then that you were discharged in the year '66 from


This testimony will be filed with the original application of Daniel Thompson, Cherokee Freedman, D-806, and also in C. F. D. cases D-623 and D-693 and their subreferences.

=====

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 17th of October, 1901 .



Commissioner.

R. -435.
O.F.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 3, 1908.

Supplemental testimony of behalf of Cherokee Nation, in the matter of the application of Becky Webber for the enrollment of herself as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for the applicant;
W. W. Hastings, of attorneys for the Cherokee Nation.

Sallie Lovings, being first duly sworn and being examined testified as follows:

- Q What is your name? A Sallie Lovings.
Q What is your postoffice? A Fort Scott, Kansas.
Q What is your age? A Born in '61, in March.
Q Born in March, '61, where were you born, Fort Scott? A Nevada, Missouri.
Q When did you come to Fort Scott, Kansas? A '63.
Q You were two years old? A Yes sir.
Q Did you ever know a colored woman up there named Becky Webber?
A Yes sir.
Q Did she have any children, the Becky Webber you knew? A Yes sir.
Q Give some of their names? A Well there's one, boy named Fobby.
Q You know whether that was a nick name? A Yes sir, that was a nick name.
Q What was his correct name? A Why I have forgotten now, Lewis.
Q Did she have another one? A She had two girls.
Q What were their names? A One of them was named Lydia and the other one was, the, oh I can't, aint that funny, I can't remember their names, Lydia and I can't think of the other one.
Q You think of any other boys name besides Lewis? A Their names are on the end of my tongue, but I can't call it, it has been so long since I saw them; one of them's name was Lydia.
Q Now think about the boys' names? A Lewis, called him Fobby, nick name.
Q Any other boy you think of now? A No, if she had another one I don't remember it now.
Q You remember a boy named Ellis, you remember? A I have heard the name.
Q Do you remember him? A No sir.
Q How long did you live in Fort Scott continuously? A From '63 until '69.
Q Do you know where Becky Webber was when you left there in '69?
A I think she was over across Mill Creek, lived near the magazine.
Q How far was that from Fort Scott? A About a mile or such a matter I don't think it was any further.
Q Did you afterwards come back to Fort Scott? A Come back in '72, yes sir.
Q Was Rebecca Webber there then? A Yes sir.
Q Well about when did she leave there? A Well she didn't leave there a great while ago, might have been in '80, '70 or '80 or '90 I think in there somewhere, to the best of my knowledge.
Q Well did you live there after you came back in '72, continuously?
A Yes sir.
Q Where did they live in '72 when you came back over there, near the magazine, or had they moved? A No I don't know where they lived.
Q You know whether any of these children attended school or not?
A Yes sir.
Q Did you go to school there too? A Yes sir.

- Q Go to school together? A Yes sir.
- Q That was after you got large enough to go to school? A Yes sir, went to school with them two or three years.
- Q You were born in March, 1861? A Yes sir.
- By Mr. Mellette:
- Q Are you a married woman? A Yes sir.
- Q How long have you been married? A Since 1877.
- Q How old were you when you were married? A I was 12 years old.
- Q 12 years old when you first married; you were married in '77, you are certain about that now, are you? A Yes sir.
- Q You say from '61 to '77 is 12 years do you? A Well that is when I was married.
- Q You remember when you were first married? A Yes, I do.
- Q When were you first married? A 5th day of September, '77.
- Q How old were you when you were first married? A I was 12 years old.
- Q That is all the knowledge you have of it is it? A Well that was the date that my mother's young master gave me, of course I was born in slavery; I was born in '61.
- Q Where were you born? A Nevada, Missouri; there is no colored people hardly ever asked in the early days about birth.
- Q Were you ever in jail? A Many a time, for fighting about my husband.
- Q How many times were you in jail? A I don't know; any time any woman got after him I whipped her; anybody will tell you that.
- Q Give us an idea of how many times you have been in? A I don't know; I never kept count; I was in jail nearly the whole four or five or six years while I lived with him.
- Q Have you ever been in jail since then? A No sir, only on false pretense, when he tried to get me to live with him and I beat him and I have got a witness for it; that is the only man I ever married.
- Q Have you any children? A Yes sir.
- Q How old are they? A My daughter is 27 years old.
- Q 27 years old? A Yes, she is 27 years old.
- Q She was born before you married then? A Yes.
- Q How long before you married your husband? A Well, she was, I have got 2 children.
- Q You were married in '77? A I have got 2 children, both of my children were born before I was 17 and before I was married.
- Q You have been married then about, your daughter was born about how long, about two years before you were married, that right? A Yes sir.
- Q Then you wasn't but ten years old at the time your daughter was born, according to your testimony; you say you were married when you were 12? A Yes, I was.
- Q You stick to that do you? A Yes, as near as I was told.
- Q You came to Fort Scott in '63? A Yes sir.
- Q You were 2 years old at that time? A Yes sir.
- Q You remember the event well do you, when you came to Fort Scott? A Yes, I remember a little about it.
- Q You remember a little about when you were 2 years old? A Yes sir.
- Q You remember seeing Becky Webber as soon as you got there? A No, all I remember the government soldiers bringing them in there by the hundreds; she was with the rest of them.
- Q You lived there and left there in '69? A Yes, and stayed until '73.
- Q You were eight years old then when you left there? A In the neighborhood of that.
- Q You had seen Becky Webber frequently before you left there, and you remember her now? A Distinctly; I remember her distinctly, and all the rest of them.
- Q Ever seen her since then? A Yes, I have.
- Q Where was she in '66? A She was in Fort Scott.
- Q You remember that do you? A I am pretty certain she was.
- Q Do you remember she was in Fort Scott in '66? A If she come with the rest she was there, and she certainly come with the rest.
- Q Do you remember her being in Fort Scott in '66? A Yes sir.
- Q You swear she was there? A Of course I do.
- Q You were five years old at that time? A Yes sir.

Q And you saw her? A Yes sir, if I could remember her at two years I could remember her at five.

Q Do you remember it at two? A Yes, I do; and there's lots of people in this house knows I do.

Q How old a woman was Becky Webber in '88? A Well from the first time I saw her I judge her to be about 40 or 50 years old. She was an old woman then.

Q You left Fort Scott in '69 and came back in '72? A Yes sir.

Q Becky Webber was living in Fort Scott all the time you were there? A Yes sir.

Q You remember that distinctly? A Yes sir.

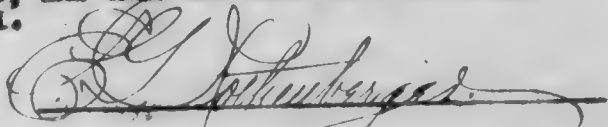
Q When were you first asked about this? A Last fall I think it was.

Q Last fall was the first time you had your attention called to this matter? A Yes sir.

Q You remember it then forty years back, seeing Becky Webber in Fort Scott, when you were five years old? A Yes, sir, I remember it.

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.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the above copy of the testimony of Sallie Lovings taken from the case of Becky Webber, filed in D-438, and that the same is a true and complete copy of the original.



Subscribed and sworn to before me this 14th day of April, 1908.



Notary Public.

"R"

C. F. D-964.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., March 3, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION in the
matter of the application of CHANEY McNAIR, for enrollment as a
Cherokee Freedman.

Appearances:

Lewis T. Brown, agent for the applicant;
W.W.Hastings, of attorneys for the Cherokee Nation.

SALLIE LOVINGS, being first duly sworn and being examined
testified as follows:

BY MR. HASTINGS:

- Q What is your name A Sallie Lovings.
Q What is your age? A Born in 61, in March.
Q Your post-office? A Fort Scott, Kansas.
Q Did you know a colored woman there named Chaney Ratliff? A Yes sir
Q When did you learn to know her? A In the '60s.
Q How long did you continue to reside there before you moved away,
and where? A Why from '63 until '69, I went away, I come therein
'63 and lived there and left in '69.
Q When did you return? A '72.
Q How long did you know Chaney Ratliff there after the war? A Why
she never left there until about 10 or 12 years ago; she was
there wne n I come back from in '72 she was at Fort Scott.
Q Was she there when you left in '69? A Yes sir, I think she was
working there for a man named Hawley, when I come back; he is
dead now.
Q You left her there when you went away in '69 and when you came
back in '72 she was still there? A Yes sir.
Q Did you know any of her folks? A Chaney Ratliff, I don't know
as I did.
Q You didn't know her mother? A No sir.
Q Did you know whether she was married up there or not? A No sir
she was not married up there; she married in the Territory some-
where down here.
Q You don't know what her husband's name is? A No sir, I never heard
Q You haven't seen her recently? A No sir, not since she left there
the last time.

BY MR. BROWN:

- Q How old were you when you first became acquainted with Chaney?
A Ever since I could remember, I suppose she come in there in '64
or '5, with the rest of the negroes from the territory.
Q Please answer my question, about how old were you when you first
became acquainted with her? A Well I think up entirely to there,
in '64, I am pretty certain she was there in '64.
Q How old were you then? A Well I was a child about four years old.
Q You can remember ever since you were four years old? A Yes.
Q You don't know whether the Chaney you are talking about is the
Chaney that has applied here or not? A That is supposed to be, I
haven't seen her.
Q You will swear that it is? A How could I swear that it is with-
out I have seen her; I heard that she is here and claiming she was
here in '66.
Q Who told you that? A Well aint she?

BY COMMISSIONER: Answer the question.

A I don't know who told me, but I suppose that she is; like all the
rest of them.

- Q What makes you suppose she is here? A I heard she was here.
Q Who told you? A I don't know who told me; several has told me;
I have heard often and on that she was here.
Q Name one? A Aunt Tildy Hawkins she saw her when she was down
here and stopped at her house.

- Q Aunt Tildy aint here? A No, she is at home.
- Q What was her father's name? A I don't know.
- Q What was her mother's name? A I don't know. She worked around first one place and another, and lived for a short time with Mrs. Califax; the soldiers tore her house down there.
- Q For whom was she working when you first made her acquaintance? A I don't know, but when I came back from Humboldt she was at work for Mr. Hawley, right close to my house.
- Q You have already said you got acquainted with her in '66, who was she working for then? A I don't know, I think she was living down in the bottom near Liz Califax. And the soldiers tore their house down there.
- Q You don't know her mother's name? A No, I didn't know any of her people.
- Q All you know is someone ~~was~~ was there named Chaney? And you think this is the one? A Yes, that is what Aunt Tilly and all of them say; come down here and claimed a right.
- Q You say she didn't leave there until 12 years ago? A To my knowledge she left there in '70 or right early in the latter part of '80.
- Q About 10 or 12 years ago? A Yes sir.
- Q You wont swear positive that the Chaney you are talking about is the one thathas applied here for citizenship? A Yes sir, I suppose so, they are after me about this woman.
- Q I want to know is that the same Chaney that has applied here to be enrolled? A Yes sir.
- Q How do you know that? A Because I think it is, appears so to be.
- Q I asked you do you know it? A I am pretty certain it is.
- Q How do you know it? A I am just certain it is.
- Q You didn't know her father or mother? A I don't know that she ever had any father or mother there.
- Q How old was she when you first became acquainted with her, in '64? A She was a grown up woman.
- Q Have you seen or heard read a copy of the testimony in this case? A No sir.
- Q Has anybody told you what she testified to in this case? A No sir.
- Q Has anybody told you she claimed to have come back here in the fall of '66? A No sir, they say she is here trying to get her rights, the darkies up here and at home; they write up there asking questions about first one person and then another, where I went I heard it.
- Q Where was the Chaney that you are speaking about from '69 until '72? A I don't know where she was; I was not there.
- Q Where was she when you were five years old? A She was in Fort Scott.
- Q You are positive of that are you? A Why she certainly was.
- Q You remember everybody that you met when you were five years old? A Might near it.
- Q Do you remember everybody? A Might near it. Because the first negroes that come in there come in from the Territory, and when I left there there was no negroes from any other part of the country but negroes from the Territory; there wasn't a negro from Texas in there.
- Q Do you know Dan Sanders? A No.
- Q Did you know Reuben Sanders? A No.
- Q Did you know a man they called Tuck Sanders? A No, It seems I have heard of his name, but I don't know.
- Q Was such a man living in Fort Scott? A I don't know, might have been; seems I have heard that name, I don't know that he was.
- Q If Dan Sanders and Reuben Sanders and Anderson Lynch all testified that the Chaney McHair that we are talking about came to this country in the fall of '66, are you prepared to state that that

isn't so? A Course I am.

Q You are the same lady that testified in Becky Webber case are you not? A Yes sir.

RICHARD DRAKE, being first duly sworn, and being examined testified as follows:

BY MR. HASTINGS:

Q What is your name? A Richard Drake.

Q What is your age? A About 50.

Q What is your post-office? A Fort Scott.

Q How long has that been your post-office? A Ever since 1870.

Q Where had you lived before that? A Fort Gibson.

Q Did you go from Fort Gibson to Fort Scott? A Yes sir.

Q Mr. Drake, did you ever know a colored woman up there named Chaney ~~McLair~~ Ratliff? A Yes I have saw her there.

Q Do you know with whom she lived? A No I don't know as I could say as to that.

Q You know how long she lived there after you went up there? A I don't think I could state definite time; somewhere in the neighborhood of 8 or 10 years.

Q You didn't know her mother? A No.

Q You knew her after you went there in '70 about 8 or 10 years? A Yes sir.

Q You know what became of her? A No, I don't positively, I don't know what became of her.

Q You know whether she came to the Territory or not? A -
BY BROWN: Objected to for the reason that witness has already stated he don't know.

Q I say did you know whether she came to the Territory or not?

A That wazy understanding, she came here.

Q You don't know personally? A ~~Yes~~No sir.

BY BROWN:

Q You say that was your understanding? A Yes sir.

Q Where did you get your information? A She left Fort Scott.

Q Who told you she came to the Territory? A Well I think I got it by people talking on the streets as near as I could recollect, be anything else that would occur you know, and would be talked of.

Q You remember that all these years? A No I don't know as I remember it all these years or not, but that is as well as I could recollect.

Q Is the Chaney you are talking about the same Chaney that applied here for citizenship? A In my judgment it is.

Q What makes you say that? A I didn't know of any other.

Q You don't know all the Chaney's do you? A I don't think they all pertain to this case.

Q Answer my question please?

BY COMMISSION: Answer the question if you can.

A No I don't know them all.

Q How do you know the Chaney you are talking about is the Chaney that has applied here for citizenship? A I got it from rumors like I get anything else.

Q When did you get the rumors, since or before you came here?

A I think I got it since I come here.

Q Have you seen ~~her~~ or heard read a copy of the testimony in this case? A No sir.

Q You haven't been even informed as to when this person claims to have come to the Cherokee Nation have you? A I don't remember, now, it seems to me I have.

Q When was you informed? A I don't know whether I got the information to-day or sometime ago.

Q Your memory isn't clear on that? A No not exact.

Q You can remember then things that occurred 30 years ago but you can't remember things that occurs two hours ago, is that it? A

That would depend on the circumstances.

Q Well now what circumstances fixes the time in your mind when the Chaney you are speaking of left Fort Scott? A Well I most generally

saw her pretty near every day or two on all seasons.

Q What circumstances fixed her leaving that town in your mind?

A Well the locality in which she resided she had left there.

Q What circumstance fixes her leaving upon your mind? A I didn't see her any more.

Q You fix that upon your mind how? A Because I didn't see her.

Q That is all the best answer you can give is it? A Aint that correct?

Q State what kind, what circumstances fixes the leaving Fort Scott of Chaney you are speaking about upon your mind? A Well I think that at one time she were living with a man named Mose Vann.

Q That is the Chaney you are speaking of? A Yes sir.

Q Is that the only reason you can give why you remember it, that because once in her life she lived with a man named Mose Vann? A Well then she worked around for a couple of men that kept a saloon there.

Q Is that how you remember it? A Yes sir, that is two reasons.

Q How long did she live with Mose Vann? A I don't know, it might have been a year or two, and might have been longer.

Q Which was it? A I don't know.

Q What is your best judgment? A I have not got any idea of it.

Q What is your best judgment? A It might have been two years and might have been three.

Q Two or three years in your best judgment? A Yes sir.

Q How long did she work for the saloon men? A She was working for him after I went there in '70.

Q How long did she work for him after '70? A '70 or '5.

Q That is six years accounted for now, what about the other four years? A These men broke up in business there.

Q That is how you remembered it because these men broke up in business? A Yes sir.

Q You don't know whether the Chaney you are speaking of was prior to '70 do you? A No sir.

Q Mr. Drake, you were down here one day last month a witness in some of these cases were you not? A I think the record shows that.

Q You knew as much about the Chaney you speak of as you know now?

A Oh my attention never had been called to it to refresh my memory.

Q You have taken quite an active interest in testifying and securing testimony in these cases have you not? A No sir.

Q Isn't it a fact? A No sir.

Q That you have ~~not~~ been instrumental in sending witnesses to this country from Fort Scott to testify against these people?

A No sir.

Q Haven't you so stated? A No sir.

Q Do you know Anthony Hawkins? A Yes sir.

Q You know Henry Hall? A Yes sir.

Q You know Joe Curry? A Yes sir.

Q You know his son-in-law, Mr. Brooken? A Yes sir.

Q Didn't you tell them you had been employed to get testimony against these people? A No sir.

Q You swear you didn't? A No sir.

BY MR. HASTINGS:

Q Did you know this woman's mother? A No sir.

BY MR. BROWN:

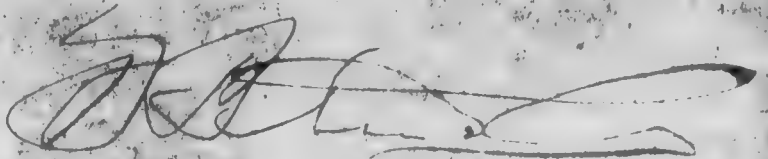
Q You didn't know her father either did you? A No sir.

BY BROWN: I want a copy of the testimony of Sallie Loving taken in the matter of the application of Becky Webber, D438, and part of the record in this case, for the purpose of contradicting that witness and of showing her true character.

M. E. 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. E. Green

Subscribed and sworn to before me this March 4, 1902.



Commissioner.

To be filed with F. D. 984.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May, 13, 1902.

In the matter of the application of Elizabeth Meigs for the enrollment of herself as a Cherokee Freedman.

Cherokee Nation appears by F. W. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows:

- MR. HASTINGS: What is your name? A Mrs. Lydia Barton.
Q What is your postoffice? A Fort Scott, Kansas.
Q Do you hold any official position at the present time? A Yes, sir.
Q What is it? A County Clerk.
Q Of the county in which Fort Scott is located? A Yes, sir.
Q Have you an official paper? A Yes, sir.
Q What is it? A Our official paper at the present time is the Republican, but that changes you know from time to time.
Q Do you know what your official paper was in December, 1866, and up to and including March of 1867? A Yes, sir.
Q What was it? A The Fort Scott Monitor.
Q Are you required to keep files of this paper in your office? A Yes, sir.
Q Have you a file of the official paper including December, 23, 1866 up to and including March of 1867? A Yes, sir. (Here presents files.)
MR. HASTINGS: The Cherokee Nation offers in evidence the account found in the Fort Scott Monitor of date Wednesday, December, 26, 1866, found on the second column of the editorial page, headed "Another Murder."
MR. BROWN: Comes now the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.
COMMISSION: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder."
Shooting of D. Hayford.

Testimony given before the coroner.

On Saturday night, the 23rd. inst., after dark, Mr. Iyer Hayford, of this city was found murdered. A colored man, named Eli Mackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford, has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Bigler Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these.

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Being missed almost immediately, and learning that Mackey had taken it, and was then on his way home with it, (Mackey resides near Fort Scott mills,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mills, where Mr. Hayford was found on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

Suspicion was at once directed to Mackey and he was arrested. As the news spread through the city, the excitement and the indignation was great, and many threats of lynching Mackey were made; but wise and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Maygrave was called on to hold a coroner's inquest. A jury was empanelled, consisting of Messrs. C. F. Burke, Joseph Ray, Frank Clough, Porter Williams, Jos. Warden, and P. L. Phillips. The body of Mr. Hayford having removed to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Drs. J. S. Redfield and B. F. Herler made a post-mortem examination, and testified that they found four pistol or gun-shot wounds on the body and face of Dyer Hayford, then lying dead before them. One shot entered the region of the stomach which cuts out over the liver, in the side of the back. This wound bears evidence that the pistol was held close to the body when discharged. Two other wounds found on the body were about two inches above the left nipple and about an inch and a half apart - one ball passing through, coming out below the left shoulder, the other ranging downward, and was found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chin, not fracturing the bone, and lodged in the right shoulder, (evidently fired, we think, after he was on the ground.) The surgeons testified that any of the three wounds found on his body would have been mortal.

Alonso Cullin, (colored) sworn - Was at Hayford's Saturday evening, just after six o'clock, came on horseback, left my horse at the door, went in and found Hayford alone and coming toward the door; Eli Mackey, colored, was standing on the walk when I went into Hayford's; a sack of flour was standing on the box at the door when I went in; Hayford came out and the flour was gone; he asked me if there was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides and was blowing right smart; I inquired if he had seen a steer with a rope on his neck; he said no; I rode back toward Hayford's and told him Mackey had the flour and where it was; Hayford said he would go and get the flour, and asked me for my pony; he got on and rode down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot, before I heard the firing. When I saw Mackey at Hayford's he had on a soldier's coat; it was off when I found him with the flour. Didn't notice that at any time whether Mackey had any arms or weapons with him; saw him again after he was arrested, a short time after Hayford was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked who had seen him with the flour; he was then told he had shot Hayford, and he said he had nothing to shoot with. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayford started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayford was shot, is about one hundred yards. I heard three shots distinctly.

Harry Lender, (colored) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not, he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek; looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

T. G. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed; a man came to my house and inquired for me; I heard him and knew by his voice that it was Mr. Hayford; have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots. From the sound thought they were about 150 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Lacey, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Alonso Cullin told me he saw Mackey on the road towards home, and that Mackey heard me call, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's frock coat; he had a revolver on him then; it was a big navy revolver. When I saw him after he was arrested, I think he had on a different coat.

Daniel O'Neil, sworn - Saturday night I was at Kinoy's and heard a shot fired, and soon after heard a man halloo; run out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Westly Biokey and myself ran down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the sound I know it was a pistol that was fired. - Came to town to find Mr. Jones, Deputy Marshal.

The coroner's jury returned to the justice their inquisition, stating that Dyer Hayford came to his death by gun-shot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Vargrave, and will no doubt be committed for trial at the next April term of the district court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having assassinated two men in the Nation, before he came to Fort Scott,

-4-

and he was once before arrested here, for shooting at a man; but before his trial came off the prosecuting witness left for home unknown, and Mackey was discharged without trial. Let him be tried for the offence with which he now stands charged, and if guilty he should expiate his crime on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February, 27, 1867, as follows:

"Eli Mackey, colored, accused of the murder of Dyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, has not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers in evidence the following from the Fort Scott Monitor of Wednesday, March 27, 1867:

"A Chapter of Horrors.

Murderer of Hayford Captured and Hung.

Tragic events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Dyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 23rd inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started, in company with his son, Charles T. Wheaton, Edward Coe - who were on police duty in this city - and Benj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Coe and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Coe, being nearest, received the first shots that were fired. He stepped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charley Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon became empty. Finally, when nearly dead from the wounds he received from his pursuers, he signified his readiness to surrender; but even after they approached him his bloodthirsty spirit was not satisfied, and he fired the two remaining shots in his revolver at the crowd. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer was secured he was taken back to the house from which he had fled and hung by the neck until he was dead. Before his death he tried to implicate an innocent negro in the murder of Mr. Hayford, but having been caught in the falsehood, he confessed to having committed the deed himself. He also confessed to having killed five other men, and also to having shot at Major Hafford last winter. - All reports indicate that he has always been a character with scarcely a parallel in the annals of history for desperation

and bloodthirstiness. - We are informed that at one time, in the Cherokee Nation, 25 men attempted to arrest him but failed on account of his desperation. The colored people, who knew him, were terrible afraid of him. History has seldom presented a character so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of life except by due process of law, as dangerous to the peace and quiet of the community and to the best interests of society. We have always found that nothing but the most extreme necessity would justify it, but we believe in this instance that necessity existed; for every moment this desperado was allowed to live, endangered the lives of good citizens. We learn that the house he occupied was since burned to the ground. The sufferers from their attempt to arrest him, were among the best of our young men. As members of the police force of this city they have performed their duties faithfully. Generous and brave to a fault, the death of one and the danger to the other creates a spirit of sadness that cannot soon be eradicated.

The body of Mr. Coe was brought into the city, and on Friday after a funeral sermon by Mr. Irwin was escorted by a large procession, headed by the members of the Grand Army of the Republic to the cemetery where it was interred.

Sequel.

On Thursday night a crowd of about fifty men, still laboring under the excitement growing out of the tragedy of Wednesday, entered the jail and having possessed themselves of the keys took Jackson Mackey and Harry Vann - on the brother who harbored the murderer and the other charged with furnishing provisions and aiding in his concealment, to the ravine near the poorhouse and hung them to a tree where their lifeless bodies were found next morning. So quietly was this done that few in the city except those who participated knew of it until the next morning."

Benjamin Files, being first duly sworn, testified as follows:

Q. MR. HASTINGS: What's your name? A Benjamin Files.

Q What is your postoffice? A Fort Scott.

Q Kansas? A Kansas, yes, sir.

Q Were you living there at the close of the war? A Yes, sir.

Q Were you living there in '66, December? A I have lived there ever since '60.

Q Did you know Eyer Hayford? A Yes, sir.

Q Had you known him before December '60. A Yes sir, I had known him in the neighborhood of two years before that and knew him up until that time.

Q Was he killed? A He was killed at Fort Scott.

Q Was he killed in the town? A He was killed just at the brink of the hill along in the mouth; yes, sir he was killed in the city just about the brink of the hill.

Q About what time of the day was he killed? A He was killed just after dark, just dark.

Q Do you know who killed him, who was said to have killed him, who was accused of killing him? A Yes, sir.

Q What? A Eli Mackey.

Q Was he a colored man? A Yes sir, he was.

Q Had you assist in his arrest? Yes, sir.

Q Who arrested him? Myself and a man we called Deacon Jones.

Q That this other man here with you? A Yes, sir.

Q About how long after this reported killing? A I heard the shots fired, then run down there and ran over him; I lit a match and this man drew his breath twice. From the time the shots were fired I wouldn't it was more than twenty minutes.

Q Twenty minutes? A Yes, sir.

Q Had it become generally known at the time of the arrest? A No, sir.

Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.

Q And a few people knew that the killing had taken place before he was arrested? A Yes, sir.

Q And the excitement then was that after that a few days they didn't have time to know it.

Q Was he put in jail? A Yes, sir.

Q You remember how long he remained in jail? A Well about the twentieth, sometime in February, 20th I think it was.

Q Of February following, of 1877? A Yes, sir.

Q Well did he make his escape? A He got away.

Q He got away? A Yes, sir, he got past the turnkey Ed Coe.

Q Ed Coe was the turnkey was he? A Yes, sir.

Q I will ask you then if there was any searching parties out for this man? Yes, sir.

Q For how long? I think he was killed on the 26th of March.

Q From then about the 28th of February until the 26th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.

Q Well were there quite a number of people out searching for him? A Yes, sir.

Q Considerable excitement at that time? A Yes, sir.

Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched hands, they looked around for him, but failed to find him.

Q Up until that time? Yes, sir.

Q You say that was for about three weeks? A Yes, sir, something over three weeks.

Q From the 28th of February up until about the 26th of March? A Yes, sir.

Q Do you know whether this Eli Mackey was reputed to be a Cherokee darkey or not? A Yes, sir, he was.

Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.

Q What I want to get particularly from you was whether there was any search made for him at the time he was killed or whether search was made for him after his escape, after the 26th of February? A There was no search made for Mackey until he broke jail.

Q No houses searched, nor no wagons, nor no nothing when he was first captured? A He was in jail. I don't think it was much over a half an hour, I don't think it was any; he was in jail in not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.

Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a candle and he was too far gone to speak.

Q You had known Hayford prior to that time? A Yes, sir, his name me was friends.

Q You was a friend of his? A Yes, sir.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced in the case of Aaron Webber, D-216, with reference to the return of the Webber detachment, be introduced and made a part of the record in this case.

MR. BROWN: Comes now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, and immaterial and not the best evidence, it being purely hearsay.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-394, D-396, D-398, D-401, D-402, D-404, D-407, D-775, and in D-391, the same being the case at bar.

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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 14th day of May, 1902.

(Seal)

(Signed) Philip G. Ruster,
Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and perfect copy of the original now on file with the Commission as the same was made by me.

Arthur G. Evans

Subscribed and sworn to before me this 23rd day of July, 1902.

Philip G. Ruster
Notary Public.

F. D-664.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 24, 1908.

In the matter of the application of Ghancy Mollair for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL TO D-664.

APPEARANCES:

Lewis F. Brown for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that a copy of the testimony of Reuben Sanders, together with that introduced by the Cherokee Nation in Freedman D-581, also that in the case of Freedman Doubtful 818, be filed with and made a part of the record in this case.

COMMISSION: The request of the Nation will be complied with and the testimony filed.

Arthur G. Croninger, being first 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 7th day of July, 1908.

Seal

J. H. Lester
Notary Public.

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

In the matter of the application for the enrollment of Chaney McHair
Cherokee Freedman F D 954.

Comes now the applicant, Chaney McHair, and moves that her case be returned and that she be granted a rehearing in order that she be permitted to introduce the testimony of Robert Sanders, Lewis Sanders, John Sanders and others who were in the crowd and who came to the Cherokee Nation at the same time that she did and also to show that said parties were enrolled upon the authenticated roll of 1880 and are now enrolled upon the regular roll and have received their allotments of land in the Cherokee Nation, Indian Territory.

In support of this Motion there is attached ^{two} affidavits of parties who were in the crowd when Chaney McHair came to the Cherokee Nation and came to said Nation with her.

Respectfully,

Starr & Patten

ATTORNEYS FOR APPLICANTS.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY) SS.
WESTERN DISTRICT

J. C. STARR, of lawful age, being first duly sworn, on his oath, deposes and says that he is one of the Attorneys for the applicant in the above entitled case and that the Motion is made in good faith, not for the purposes of delay but in order that justice may be done.

J. C. Starr
Subscribed and sworn to before me this 10th day of June, 1904.

My commission expires December 16, 1904.

Jesse Patten
DEPUTY COMMISSIONER.

AFFIDAVIT

UNITED STATES OF AMERICA,
INDIAN TERRITORY
NORTHERN DISTRICT

ss.

ROBERT SANDERS, of lawful age, being first duly sworn, on his oath deposes and says:-

"My name is ROBERT SANDERS.

My age is 48 years.

My Post Office is Verdigris, Indian Territory.

I am acquainted with Chaney McHair, the wife of Columbus McHair. I was in the crowd with her when she returned from Ft. Scott, Kansas to the Cherokee Nation in the year of 1868. She came to the Cherokee Nation, Indian Territory and established her residence therein prior to February 11, 1867 and has lived in the Cherokee Nation continuously since that time."

His
ROBERT SANDERS.
MARK

Witness to mark:

ALLEN SANDERS

STEPHEN MCKINNON

Subscribed and sworn to before me this 4th day of June, A. D., 1906.

W. J. DEDSON.

NOTARY PUBLIC.

(SEAL)

My commission expires January 11, 1907.

A F F I D A V I T.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY) SS.
WESTERN DISTRICT)

LEWIS SANDERS, of lawful age, being first duly sworn, on his oath deposes and says:-

"My name is LEWIS SANDERS.

My age is 46 years.

My Post Office address is Melvin, Indian Territory.

I am acquainted with Chaney McNair, the wife of Columbus McNair. I was in the crowd with her when she returned from Ft. Scott, Kansas to the Cherokee Nation in the year of 1866. She came to the Cherokee Nation, Indian Territory and established her residence therein prior to February 11, 1867 and has lived in the Cherokee Nation continuously since that time."

WITNESSES(WILLIAM ARNOLD.
 { D. M. BUTLER.

HIS
LEWIS x SANDERS
MARK

Subscribed and sworn to before me this 11 day of June, A. D., 1906.

O. D. PETERS
NOTARY PUBLIC.

My commission expires Dec.-7-1908

(SEAL)

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

In the matter of the motion for a rehearing of the application for the enrollment of Chaney McNair, F. D. 964.

Reply of the Cherokee Nation.

The record in this case shows that application was made for the enrollment of Chaney McNair by her husband, Columbus McNair, at Nowata, Indian Territory, on June 29, 1901, and that other witnesses were introduced from time to time in said case, including Reuben Sanders, Dan Sanders, and Anderson Lynch, whereas the Cherokee Nation introduced the testimony of Sallie Lovings and Richard Drake and also the testimony introduced in the case of Edward Wright, F. D. 818, which shows the date of the return of the Webbers and the Whitmires. Upon this testimony the Commission to the Five Civilized Tribes on March 16, 1905, rejected the applicant, using the following language:

"The evidence herein shows that the applicant Chaney McNair was the slave of a Cherokee citizen at the commencement of the Rebellion; that she was taken from the Cherokee Nation during said Rebellion, and returned thereto in the winter of 1866-67 with a colony of Cherokee freedmen composed of the Webbers, Meigs, Sanders and their families. The Commission has heretofore found in the case of Elizabeth Meigs, et al., Cherokee freedmen D 391, George Meigs, Cherokee freedmen D 394, John Meigs, Cherokee freedmen D 396, and Flemmings Meigs, Cherokee freedmen D 398, all of whom were members of the above mentioned colony, and returned to the Cherokee Nation on the trip above indicated, that they did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, et al., versus the Cherokee Nation for the return of Cherokee freedmen to the Cherokee Nation. The applicant Chaney McNair cannot be identified on the 1860 authenticated tribal roll of the Cherokee Nation."

For this reason the decision was adverse to and rejected the applicant. On June 25, 1906, this decision was affirmed by the Secretary of the Interior.

Attorneys for applicant now ask that the case be reopened in order that they might introduce the testimony of Robert and Lewis Sanders both of whom sign by ex mark; one of them lives at Verdigris, Indian Territory, and the other at Melvin, and I wish the department would compare these two affidavits. Now, the postoffice address of these two witnesses indicate that they live some 50 or 60 miles apart. Different Notaries

take the acknowledgements but the affidavits, after giving the name, age and postoffice address, are identical in language, which shows conclusively that they were prepared in the office of the attorneys for the applicant and sent to these ex parte witnesses to be acknowledged. We believe that this practice ought to be condemned and will be condemned. It will be noted that the affidavits state nothing but the effect of their testimony. The affidavits do not state to what point in the Cherokee Nation they returned and gives no details whatever of their testimony. The age of Lewis Sanders is now 46 and he was born therefore in 1860, and the other was born in 1858, and were therefore six and eight years of age, respectively, in 1866. These ignorant colored witnesses could add nothing to the testimony heretofore introduced in the case because Dan Sanders was 58 years of age in 1901, and was therefore born in 1842, and Reuben Sanders was 50 years old and was therefore born in 1851 and Anderson Lynch was 54 and was therefore born in 1847. These witnesses could not add anything whatever to the testimony heretofore introduced.

In addition to the commission finding in the above cases when these colonies of negroes returned to the Cherokee Nation we desire to also cite the case of Daniel Whitmore, N. O. 434, wherein the Commission found the same thing, which was approved by the Department, and in the judgment in this case the commission went on to recite the fact when it had found that the Sanders and Webbers returned to the Cherokee Nation. It is true Dan and Reuben Sanders are enrolled upon the 1860 roll, but it was because they claimed that they, with their father, had returned to the Cherokee Nation in the fall of 1866 and made claims. But they did not move their families until the last of February or the first of March, 1867, and in order to show this the testimony introduced before the Chambers Court in 1878 and 1879 was introduced and made a part of the record in this case. There is another peculiar circumstance in this case and that is that Chaney McNair herself was never placed upon the stand, although an opportunity was given for five years to do so. Neither does she make an affidavit now to attach to this motion to reopen.

But lets examine the testimony introduced on behalf of the Cherokee Nation. Sallie Lovings knew her in port Scott, Kansas, from immediately after the war until a few years ago, some ten or twelve. Richard Drake went to port Scott, Kansas, about the year 1870 and found her there then and he remained for 10 or 12 years thereafter, and he submit that originally for the sake of argument she came down with the Sanders the last of February or the first of March, 1867, she did not establish a permanent residence in the Cherokee Nation as required by Section Three of the recent act of congress approved April 25, 1906 (Public 199), which requires that applicants to be enrolled as freedmen citizens of the Cherokee Nation must establish actual person bona fide residence in the Cherokee Nation on or before August 11, 1868, or return and establish such residence on or before February 11, 1867.

Under the decision of the Department in the Catherine Mix case on May 21, 1906 (I.T.O. 9855-1906), wherein it was held that even if Catherine Mix did come to the Cherokee Nation and thereafter return to the State of Kansas, she had not citizenship. Even if for the sake of argument it were admitted that she never left her home in the Cherokee Nation, if she returned to port Scott and lived there continuously as was testified to by both Sallie Lovings and Richard Drake, she would have abjured her citizenship in the Cherokee Nation and could not therefore be enrolled upon that ground to be enrolled.

We submit that the motion for a rehearing should be denied:

First, because no diligence whatever has been shown, nor is there any showing of diligence in the motion why the other witnesses whose affidavits are attached could not have been called before the Commission to the Five Civilized Tribes years ago.

Second, the affidavits show that they are in the identical language and therefore prepared by one person and are not therefore trustworthy.

Third, the testimony if introduced would be cumulative to the former evidence.

Fourth, the testimony if introduced will not be liable to change the result of the decision of the Commissioner to the Five Civilized Tribes.

In support of this we desire to cite the decision of the Commissioner

to the five Civilized Tribes in Cherokee Allotment Contest No. 712, where-
in it was held:

"The rule is general that a new trial or rehearing will not be granted on a mere showing that new evidence has been discovered. Newly discovered evidence in order to be sufficient must possess the following requisites:

(a) It must be such as will probably change the result if a new trial is granted.

(b) It must be discovered since the trial.

(c) It must be such as could not have been discovered before the trial by the exercise of due diligence.

(d) It must be material to the issues.

(e) It must not be merely cumulative to the former evidence.

(f) It must not be merely impeaching or contradicting the former evidence."

In the case of Moore versus Larney, Creek No. 49, it was held:

"In motions for rehearing resting on newly discovered evidence it should be shown that said evidence could not be discovered by due diligence, and the facts showing such diligence should appear."

These facts should, any diligence has been shown in this case or alleged to have been shown. In the case of Moore versus Larney there is cited the following: 5 D. O. 9; 7 L. O. 136; 10 L. O. 493; 15 L. O. 51; 19 L. O. 544. These decisions are upheld by the decisions of the Supreme Court of Arkansas, the leading case being that of Harris versus Rice, 2 Ark. 15, wherein the Court went into the question of the requisites of a motion for a new trial in detail, and the foot notes to this decision show all of the collected decisions of the Supreme Court of the State of Arkansas up until a very recent date and abundantly sustain our contention as hereinabove set forth, and the decisions in the case of Cherokee Allotment Contest No. 712 and Moore versus Larney, Creek No. 49. In addition we desire to cite the following decisions of the Supreme Court of Arkansas which strengthen and strongly uphold all of these ~~existing~~ contentions:

2 Ark. 45; 3 Ark. 346, and this is an exceptionally strong decision;

3 Ark. 100, wherein it was held:

"The newly discovered evidence being shown to be cumulative does not authorize a new trial."

So all the authorities laid down the doctrine and the point has been repeatedly so adjudged by this Court in a number of cases. What would the testimony of these two boys, six and eight years of age, respectively, in 1886 add to that already heretofore introduced, and especially in view of the fact that it is shown that they both sign the affidavits attached

to the motion for rehearing by ~~ex~~ mark. We also cite 5 Ark. 405; 10 Ark. 858; 11 Ark. 671; 13 Ark. 360; 17 Ark. 403; 25 Ark. 89; 25 Ark. 334; 25 Ark. 380; 28 Ark. 121; 30 Ark. 724; 32 Ark. 514; 52 Ark. 120; 55 Ark. 212; 60 Ark. 481; 84 Southwestern 728.

We submit that the Department should not permit the reopening of every freedmen citizenship case upon the mere assertion that some additional witnesses can be found, because it is a well known fact that affidavits could be gotten in every single freedmen citizenship case in the Cherokee Nation whether they returned 10 days ago or in 1866 to the effect that the applicants returned in 1866 and it will readily be seen that if this is permitted without any show of diligence, without any show of any special reasons why the testimony could not have been previously obtained, then there would be no end to these motions and in the event that any of these motions should be allowed the case sent back and retried and denied again these several applicants could come in then with additional motions, with additional affidavits and there would never be any end to citizenship work in the Cherokee Nation. These people have had an opportunity for five years to introduce testimony. The Commission to the Five Civilized Tribes visited various points throughout the Cherokee Nation convenient to these people so that they could introduce their testimony and they did and they introduced all they desired, and these cases were closed by the consent of both parties and as has been held in a number of decisions and in those hereinabove cited the decisions heretofore rendered should not be interfered with except upon very best of reasons shown and none whatever have been shown in this case. We respectfully submit that the motion should be denied.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

7-26-06.

APM
862

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

In the matter of the application for the enrollment of
Chaney McNair as a Cherokee Freedman.

--1--

D E C I S I O N.

The record herein shows that on June 29, 1901, Columbus McNair appeared before the Commission at Nowata, Indian Territory, and made application for the enrollment of his wife, Chaney McNair, as a Cherokee Freedman. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 3, 1902. A copy of the testimony of Sallie Lovings taken in re application of Backy Webber, Cherokee Freedmen D 458, of Reuben Sanders and others, taken in the case of Elizabeth Meigs, Cherokee Freedmen D 391, and of the witnesses on behalf of the Cherokee Nation in the case of Edward Derrick, Cherokee Freedmen D 618, is filed herewith and made a part of the record in this case.

The evidence herein shows that the applicant, Chaney McNair, was the slave of a Cherokee citizen at the commencement of the Rebellion; that she was taken from the Cherokee Nation during said Rebellion, and returned thereto in the winter of 1866-67, with a colony of Cherokee Freedmen composed of the Webber, Meigs, Sanders, and other families. The Commission has heretofore found, in the cases of Elizabeth Meigs, et al., Cherokee Freedmen D 391, George Meigs, Cherokee Freedmen D 304, John Meigs, Cherokee Freedmen D 396 and Flemings Meigs, Cherokee Freedmen D 398, all of whom were members of the above mentioned colony, and returned to the Cherokee Nation on the trip above indicated, that they did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitnair, trustee, et al., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation. The applicant, Chaney McNair, cannot be identified on the 1890 authenticated tribal roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the application for the enrollment of Chaney McHair as a Cherokee Freedman, should be denied, under the provision of section twenty-one of the Act of Congress approved June 23, 1898 (30 Stat., 490), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

James Birby.

(SIGNED)

Chairman

T. B. Needles.

(SIGNED)

Commissioner

C. R. Breckinridge.

(SIGNED)

Commissioner

Muskogee, Indian Territory,

MAR 16 1905

this _____

Copy

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Chaney McHair
as a Cherokee Freedmen.

United States of America,
Indian Territory,
Northern District SS

Be It Remembered that on this 15th day of October 1906 personally appeared before me the undersigned Notary Public within and for the Northern District of the Indian Territory, Chaney McHair of Lawful age who being by me duly sworn on her oath deposes and says:

"My name is Chaney McHair, my age is fifty three years and my post office is Vinita Indian Territory. At the commencement of the civil war I was the slave of William Penn Adair, a citizen of the Cherokee Nation and after the war commenced I went to Kansas with the Soldiers. I think it was along in July 1862 that I went to Kansas. I stopped at Fort Scott, Kansas and remained there until the war closed and after the war closed I remained at Fort Scott about one year and left there in the fall of 1866 and came to the Cherokee Nation. When I left Fort Scott Kansas to come to the Cherokee Nation I came along in the company with Patsy Sanders, who was my sister; Fanny Sanders, who was a sister-in-law to my sister Patsy Sanders; Fanny had two children with her at the time named Rachel Sanders and John Sanders. It is my understanding that John Sanders was enrolled on the 1880 roll in Tahlequah district and is not the same John Sanders of Vinita who has been trying as I am told, to claim that 1880 enrollment for his own. There was also in that crowd Robert Sanders, Lewis Sanders who are enrolled upon the 1880 roll. I located at Fort Gibson Indian Territory, in the fall of 1866 and stayed in the town for awhile and then went out to Fourteen Mile Creek and spent the winter out there with my sister Patsy Sanders and in the summer of

1867 I commenced to work and hired out to work cooking wherever I could find work until I married my husband Columbus McNair in 1889

The Cherokee Nation has been my home and place of residence since I returned to it in the fall of 1866. I am now living in Vinita I T where I have been living since about the year of 1884.

It is my understanding that Fanny Sanders, Patsy Sanders, John Sanders, Rachel Sanders, Robert Sanders and Lewis Sanders, the people with whom I returned to the Cherokee nation are all duly identified upon the 1880 roll, with the exception perhaps of Rachel Sanders who went away with the Tenth Cavalary before 1880 and never did return and we have never heard of her since.

*Witness my
O. A. Smith,
William C. Woodall,*

Chancy ^{has} *W. C. Woodall*

mark

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

O. A. Smith

Notary Public.
Commission expires
Dec 4 1909.

AFFIDAVIT OF PRINCIPAL APPLICANT IN SUPPORT OF MOTION FOR REHEARING.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. SS.

BE IT REMEMBERED, That on this day personally appeared before me the undersigned Notary Public within and for the Northern District of the Indian Territory, duly commissioned and acting as such, Chaney Mc. Nair, of lawful age, who being duly sworn, on her oath deposes and says:

"My name is Chaney Mc. Nair, my age is 47 years, and my post office is Vinita, Indian Territory. I am the principal applicant in this case and I make this motion in good faith, not for the purposes of delay, but in order that justice may be done me. At the former trial of this case I procured all the testimony that I was able to procure after expending much time in search for the same. I made inquiry of the people whom I believed would know about the facts and circumstances connected with my case, and after such inquiry and diligent search and after visiting a great many people I was unable to find any more testimony than that procured at the former trial. After my case was tried I continued my efforts and have, since the decision in said case, discovered the testimony of the persons whose affidavits I have filed in support of my motion for a rehearing. This testimony is newly discovered and could not have been produced by due diligence at the former trial because I was diligent and made diligent search and diligent inquiry of my neighbors and people I thought ought to know about my case and was unable to procure the testimony, but after continued search and continued inquiry I have been able, since the trial of this case, to discover this testimony, and now ask that I be granted a rehearing in this case that I may introduce at the rehearing, this newly discovered testimony."

Witness to mark

Her
Chaney X McNair
MARK

F. M. Briscoe
Subscribed and sworn to before me this 13th day of September, 1906.

F. M. Briscoe
Notary Public.

My Comm. Ex.
June 24, 1906.

(Copy)

COMMISSIONERS:

TAMM HUNT,
THOMAS B. HERRICK,
C. B. WICKIENBACH

WM. O. BEALL,
Secretary

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

NOTE IN REPLY TO THE FOLLOWING:
Cherokee Freedman
D-964.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 16, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 16, 1906, rejecting the application for the enrollment of Chaney McNair as a Cherokee freedman.

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,

Incl. 8-135.

Chairman.

(COPY)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND:
21231-1905

June 21, 1905.

The Honorable,

The secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated March 16, 1905, transmitting the record of the application for enrollment as a Cherokee Freedman by Chaney McNair.

March 16, 1905, the Commission decided adversely to the applicant.

The record shows that Chaney McNair was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during the war and did not return thereto on or before February 11, 1867. The applicant is identified on the Kern-Clifton and Wallace rolls but not on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicant is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.M.M.
V.

(COPY)

DEPARTMENT OF THE INTERIOR, LLB J.F.Jr.
WASHINGTON.

D.C. 26611
I.T.D. 7672-1905.

June 23, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

March 16, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of Chaney McNair as a Cherokee freedman.

Reporting June 21, 1905, the Indian Office recommended that the decision of the Commission, adverse to the applicant, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and the Commission's decision dated March 16, 1905, is hereby affirmed.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

COPIES IN REPLY TO THE FOLLOWING:

Cherokee Freedman
D 964

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.



Muskogee, Indian Territory, July 2, 1906

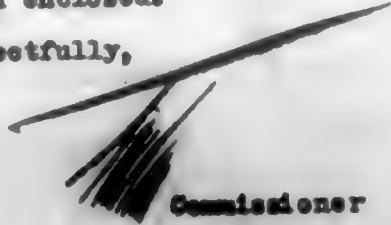
Bell, Hastings & Davenport,
Attorneys for Cherokee Nation.
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated March 16, 1905, rejecting the application of Chaney McHair for enrollment as a Cherokee Freedman, was affirmed by the Secretary of the Interior on June 25, 1906.

For your information a copy of Departmental decision referred to is herewith enclosed.

Respectfully,



Commissioner

L M B

Encl. B 95

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Land.
18745-1906.
15611-1907.

WASHINGTON.

February 26, 1907.

(COPY)

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 23, 1906, (I.T.D. 7672-1906), transmitting the decision of the Commission to the Five Civilized Tribes, dated March 13, 1905, rejecting the application for the enrollment of Chaney McWair as a Cherokee freedman, I have the honor to transmit herewith communication from the Commissioner to the Five Civilized Tribes, dated February 11, 1907, enclosing a motion filed June 25, 1906, by Starr & Patten, Vinita, I. T., for a re-hearing; also reply of the attorney for the Cherokee Nation, filed July 22, 1906.

There was received in the Office of the Commissioner on October 17, 1906, an affidavit by Chaney McWair, the applicant, with the request that it be filed in support of the motion. The motion is supported by the affidavit of Robert and Lewis Sanders, who were aged eight and six years respectively in 1866.

The record in the case contradicts the affidavit in that it shows that Chaney McWair returned to the Cherokee Nation at the time of the Webber-Sanders-Whitmore Colony of Cherokee freedmen, who brought their families from the State of Kansas to

the Cherokee Nation after the war of the Rebellion.

The Commission to the Five Civilized Tribes in various cases has found that no families or children returned to the Cherokee Nation with that Colony until after February 11, 1867.

The Office concurs in the recommendation of the Commissioner that the motion be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE--SD.

DEPARTMENT OF THE INTERIOR, LIS.

J.F Jr.

D.C.12316-1907.
I.T.D. 5568-1907.
LRS.

WASHINGTON.

March 1, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The motion for rehearing of the Cherokee freedman case of Chaney McNair, received with your letter of February 12, 1907, and Indian Office letter of February 26, 1907 (Land 15811), copy inclosed, is hereby denied, in accordance with your recommendation and that of the Indian Office, and in view of the limited time allowed by section 2 of the act of April 26, 1906 (34 Stat., 137), for completing the citizenship rolls of the Five Civilized Tribes.

The papers in the matter and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

JESSE E. WILSON,

Assistant Secretary.

1 inc. and 7 to Ind. Of.

A. F. Ho.

3-1-07.

273

REFER IN REPLY TO THE FOLLOWING:

Cherokee freed
man D 964

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

Muskogee, Indian Territory, April 2, 1907.

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

Dear Sir:

You are hereby advised that the motion filed for a rehearing in the Cherokee freedman enrollment case of Chaney McHair, was denied by the Secretary of the Interior March 1, 1907.

For your information there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. H. Rogers
Acting Commissioner.

Incl. P-4-13
MMP

15

REGISTER
BY
POST OFFICE
RECEIVED

*Rec'd
June 25/06 -*

VINITA, INDIANA
JUN 25
933AM
1906



REGISTERED
JUN 24 1906
VINITA, INDIANA



Wm. McGraw

Cher. Fr. D. 965

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C., June 29, 1901.

In the matter of the application of John H. Brown for the enrollment of himself as a Cherokee Indian; being sworn and examined by the said Commission, he testified as follows:

Appearances:

W. Smith, of Deloitte & Smith, for the applicant;
H. Bennett, for the Commission.

Q What is your name? A John H. Brown.

Q How old are you? A 36.

Q What is your present office address? A Alwaco.

Q What is your former residence? A Geowascoochoo.

Q You are not enrolled as a Cherokee Indian? A Yes, sir.

Q Would you want to enroll besides yourself? A 2 children.

Q Who are they? A It is found that this applicant's wife enrolled
by the Commission of 1892, and enrolled these 2
children.

Q How many children? A No, sir, she had them at first and
she had not at the present time care of them as sick as she thought
and she had at that time, and I have had them ever since.

Q Where were they?

Q Who is your mother? A Charles Brown.

Q Is he the one Charles Brown who applied for this morning
for enrollment? A Yes, sir.

Q How many brothers? A No, sir, Charles, Samuel, Washington
and Joseph and Moses, the oldest one.

Q Are any of the brothers who applied for enrollment?
A Yes, sir.

Q Where do you live? A On Panther Creek.

Q How long have you lived in the place? A I have lived
in my own place since 1892, and since 1892.

Q How old are you? A I am 36.

Q How long have you lived in all your life? A Yes, sir.

W. H. DAVENPORT;

Q How long have you lived in all your life? A Yes, sir.

Q How long have you lived in all your life? A No, sir.

Q Where did you live before you were living when you
first enrolled? A I was born at Spawneck Bend I think.

Q How long were you living in Kansas? A I won't
say how long, but I was there in the year '95.

Q How long have you lived? A In '95.

Q How long have you lived in your place? A Yes, sir.

W. H. DAVENPORT;

Q How long have you lived in your place? A I used to live in
Sevia.

Q How long have you lived in your place? A I don't get any more now.

W. H. DAVENPORT;

Q Are you on the roll of citizens of the Cherokee Nation?
and I suppose I am on the roll of the Nation.

Wallace roll of citizens of the Cherokee Nation examined and

applicant not found.

1892 roll of citizens of the Cherokee Nation examined and

applicant not found;

1890 roll of citizens of the Cherokee Nation
examined and applicant not found.

Chief Clerk: John H. Brown applies for the en-
rollment of himself; he cannot be identified upon the
rolls of the Cherokee Nation in the possession of the commis-
sion, except the Wallace roll; he makes satisfactory proof as

John H. Brown

to read does, also his citizenship reference is made to the testimony taken in the application of his father, Charles Brown, listed for enrollment on D card 982, the testimony taken in the matter of the application of said Charles Brown will be made a part of the record in the case at bar, and a copy of the record filed herewith; and said John H. Brown will now be listed for enrollment as a Cherokee Freedman, on a doubtful card; he will be notified by the commission at his post-office address of their decision in the premises.

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 July 13, 1904.



Commissioner

To be filed in case of John H. Brown, CFD-965.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29th, 1901.

In the matter of the application of Charles Brown for the enrollment of himself and two children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T.B. Needles, testified as follows:

Appearances:

Messrs. Mellette & Smith, for applicants.
Messrs. Hastings and Davenport, for Cherokee Nation.

- Q What is your name? A Charles Brown.
Q How old are you? A 71.
Q What is your post-office? A Ruby.
Q What district do you live in? A Coovescoo ee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Couple of children.
Q What are their names? A Louvina.
Q How old is she? A 20.
Q The name of the next child? A Joseph.
Q How old is Joseph? A 18.
Q Are you married? A No, sir, my wife is dead.
Q What is your wife's name? A Sarah Jane.
Q She is the mother of these children? A Yes, sir.
Q Have you the custody of these children now? A Yes, sir.
Q Living with you? A Yes sir.
BY MR. SMITH:
Q Mr. Brown, what did you say your wife's name was? A Sarah Jane.
Q When'd you marry her? A Oh, away before the war.
Q Where were you living at the time you married your wife?
A I was hired out, down to Van Buren.
Q Who hired you out? A Old Judge Brown my old owner, his right name is Jim Brown.
Q Well, were you a slave ~~xxx~~ were you? A Yes, sir.
Q Was Jim Brown an Indian, a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee nation? A Yes, sir.
Q Where was he living at the time the war commenced? A Living on Lees Creek.
Q Is that in the Cherokee nation or not? A Yes, sir, in the Cherokee Nation.
Q How far is that from Van Buren? A About 16 miles.
Q Well, these children for whom you apply who is the mother of these children? A Shaws state raised woman she was
Q The mother of these children? A Yes, sir.
Q When did you marry her? A She is the one I married.
Q I didn't ask you what she was, I asked you who was the mother of Louvina and Joseph? A Sarah Jane.
Q Did you have children older than Louvina and Joseph? A Yes, sir, there were six more older.
Q Do they intend to apply before the Commission for enrollment?
A Yes, sir.
Q Well, you can give their names, if any of them are married give their full names as they now appear? A The oldest one is named Moss Brown.
Q The next one? A Abbie Worley now, she is married.
Q The next one? A John Brown.
Q Well? A Next one is Charley.
Q Well, and Sam and Wash, that is all of them.
Q Where does Charley live? A He lives up on Big Creek here.
Q Is the Cherokee Nation? A Yes, sir.
Q Married or single? A He is married.
Q Where does Wash live? A Wash is living right over the river

Charles Brown et al 2.

about three or four miles.

Q Three or four miles from Nowata? A Yes, sir.

Q Married or single? A He is married.

Q Where does John live? A John lives on Panther Creek.

Q In the Cherokee Nation? A Yes, sir.

Q Married or single? A Well, that was his woman that made application.

Q Separated from his wife? A Yes, sir.

Q Well, where does Abbie live? A She is in Viola.

Q Married or single? A She is married.

Q What is her husband's name? A Worley.

Q What is his first name? A I think his name is Charley Worley.

Q Well, now, the other two I haven't asked you about, where do they live? A Sam is out in Oklahoma.

Q How long has he been out there? A He has been out there five or six months.

Q Where did he live before he went there? A He lived here.

Q Well, the other one? A They is the two, Louvina and Joe.

Q You have told where all of the m live except Louvina and Joe?

A I told you where they live.

Q Have you give the names and residence of all of your children except Louvina and Joe? A Well, I have give them too, ain't I just told him where they live.

Q Well, have you give the names of all an where they live outside of them? A Yes, sir.

Q Where is Louvina living? A Living with her brother Charley.

Q Where does Joe live? A He is living with Joe Riley's son, Will Riley.

Q Which is the oldest one of these children? A Moses.

Q How old is he? A He is about 41 or 2 years old.

Q Give me the names of those who were born before the war?

A Moses an Abbie was born before the war.

Q Where were the others born? A John was born during the war and the other was born since.

Q Well, you say you and your wife were married 40 years ago?

A Yes, over 40.

Q You lived together after the war? A Yes, sir.

Q Where did you and your wife live? A We lived in the Nation.

Q Where did she die? A She died down here on Panther Creek.

Q In the Cherokee Nation? A Yes, sir.

Q Were you living together when each of these children you have named, when they were born? A Yes, sir, lived together until she died.

Q Well you say you were a slave of Jim Brown? A Yes, sir.

Q Were you taken out of the Nation or did you go out of the Nation while the war was going on? A Yes, sir, I went up to Fort Scott.

Q What time did you come back to the Cherokee Nation after the war? A I come back in time of the war; I was working for the Government down here to Gibson all during the war.

Q Well, how long did you stay at Fort Scott? A I stayed there until the war ceased; I didn't stay there I stayed down here in the nation, an' I went back after my family after the war ceased.

Q Well, what time did you bring your family after the war ceased?

A I come the year or two before I brought my family.

Q When did you bring your family? A I think it was in '70 I brought them down.

Q Where did you live yourself during the war? A I was in Fort Gibson.

Q Where were you in '66? A I was here in the Territory.

Q At what place? A I was down to Gibson.

Q Were you there all the year or part of the year? A No, I was just there a little while; I had a brother down there and I

Charles Brown et al 3

went down there to see him.

Q Well, what time in the year was that? A '66.

Q What time of the year? A Along in the fall.

Q How long did you stay about Fort Gibson that time? A I didn't stay but a short time.

Q Where did you go then? A I come on back up in the country.

Q Whereabouts? A I come on Big creek.

Q In the Cherokee Nation? A Yes, sir.

Q How long did you stay up on Big Creek? A I stayed there a little while, didn't stay very long.

Q Then where did you go? A I went on back after my family.

Q Well, when did you come back with your family? A I went back that winter.

Q When was that? A Winter of '66 ('66)

Q How long did you stay when you went after your family?

A I stayed until the next spring, '70, along there in '67.

Q Well, when you said you brought your family here in '70 a while ago, is that correct? A No, sir, I brought her along in '67.

Q Did you know what time of the year it was you brought your family? A It was along in the summer.

Q What did your family consist of at that time, of yourself and children had been born? A Had three.

Q Where were the rest of them born? A They was born in the Nation.

Q What nation? A Cherokee Nation.

Q How old was the oldest one of these three children you brought back at the time you speak of? A They must have been.

Q The oldest one? A The oldest one must have been five or six years old.

Q Where have you been living ever since that time? A I have been right here in the Territory ever since.

Q Are you on any of the rolls? A I am on one, Walker roll.

The 1890 authenticated roll, the 1896 census roll and the Kern-Clifton pay roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon. The Wallace roll of Freedmen of the Cherokee Nation examined and named of applicants found thereon, as follows:
Page 103, #2204, Charles Brown, Cooweescoowee District.
Page 103, #2208, Lavina Brown, Cooweescoowee District.
Page 103, #2209, Joseph Brown, Cooweescoowee District.

BY MR. DAVENPORT:

Q You belonged you say to Judge Jim Brown when the war broke out?

A I was living right ~~thax~~ ~~one~~.

Q At home? A Yes, sir.

Q Did you know a man by the name of Jim Scott who lived in Arkansas before the war broke out? A Yes, sir.

Q I will ask you if you were not working for him and and was owned by him at the time the war broke out? A No, sir.

Q What children did Jim Brown have? A He never had any children in his life.

Q What ste children did he have? A Had one.

Q What was her name? A Her name was Nancy.

Q Had Jim Brown a wife? A Yes, sir, Jim Brown had a wife.

Q Where was she living at the time the war broke out?

A Living in Lees Creek.

Q Where was Nancy living? A She was living about two or three miles from her mother's.

Q She is now Mrs. Nancy Seabolt? A I think so.

Q Have you seen her since the war? A No, I heard she was dead.

Q You have never went back to the old place after the war?

A No, sir.

Q How far did Jim Scott live from the Cherokee line? A He lived right on the line.

Charles Brown et al 4

Q He lived on the Arkansas side? A Yes, sir.

Q Now, you went to Fort Scott in what year? A I went to Fort Scott in 1861.

Q You were married at that time? A Yes, sir.

Q Did you have any children at the time you went to Fort Scott? A Woman had two.

Q Were they your children? A Yes, sir.

Q You went then to Fort Scott about what year? A I went up there in '61 after the war broke out.

Q How long had you been married before the war broke out? A Four or five years, two or three years.

Q Well, now, when you came back from Fort Scott to what point did you come? A After I went up in '61?

Q Yes. A I came down to Gibson I come to Gibson driving a Government team.

Q You testified before the Kern-Clifton Commission? A Yes, sir.

Q Did you testify before that Commission anything about being in the Government service? A I think I did.

Q When was it you went to Snow Creek if at all? A I have been up to Snow Creek lots of times.

Q Well, then, immediately after the war did you come to Snow Creek then? A I come through there.

Q Did you stop with anybody? A I come on down to Big Creek and stopped with Morse Smith.

Q When did you go to Pryors Creek, on Pryor Creek, I didn't mean the Pryor Creek town? A I went down there some eight or ten years after I came back.

Q That is when you went down there where the Rileys and McNairs were living? A Yes, sir.

Q That was eight or ten years after you came back? A Yes, sir.

Q When was it you stayed all night with Dave French in this country? A That was when I went up to Fort Scott, away along in '70.

Q That was when you brought your family down? A No, I had my family there.

Q Where was your family living when you stayed all night with Dave French? A My family was living down on Pryors Creek.

Q Where was your family living when you went down to the Rileys and McNair on Pryor Creek? A The first time I went down there that was after I had been here I was living up at Gooseneck when I went down there.

Q Where was Dave French living when you stayed with him? A Up where he is.

Q That was about '75? A Yes, sir, some where along in there.

Q You had been back about five or six years when you stayed all night with Dave French? A Yes, sir.

Q All of your children were born in the Cherokee Nation? A I didn't say that.

Q Which of them were born out? A One of them was born in Kansas.

Q Now, which is it? A One.

Q Which one was that that was born in Kansas? A John, John was born in '65, 12th of February, '65.

Q You were then living in Kansas? A Yes, sir.

Q Who lived near Jim Brown ever there when you were living with him? A My God I could not tell you.

Q Do you remember any of their names? A There was full blood Indians, there was a number of Indians lived around there.

Q Do you remember any of their names? A Beniscep, Young Paw and Jim Brown was living with his uncle.

Q You had never gone down there to see your young Master or your old Mistress to testify for you? A No, sir, I wouldn't give anything for an Indian to testify for me.

Q You would not let one testify for you? A No, sir, and as I was acquainted with him.

Q You were well acquainted with Henry Seibel? A Yes, sir, and was

Charles Brown et al 5

children together.

Q You would not let her testify? A No, sir, I would be afraid you would be going around and talking to her.

Q How long did you go by the name of Will Thomas? A I never did go by the name of Will Thomas.

Q Did you ever go by the name of Bill Thomas? A No, sir.

Q Did you ever go by any other name other than Charley Brown?

A Yes, sir.

Q What name did you go by? A Bill Thompson.

Q Where were you living when you went by the name of Bill Thompson? A I was living up there.

Q What country? A Fort Scott.

Q How long did you go by the name of Bill Thompson at Fort Scott, Kansas? A I went by the name, that and I go by the name of it yet, lots of them calls me Will Thompson.

Q How long did you go up there by the name of Bill Thompson?

A As long as I stayed there.

Q How long did you stay there? A Until I come back.

Q How long was it until you come back? A Along in the fall of '61.

Q When did you go there? A In '61.

Q And come back in '61? A Yes, sir.

Q He did it happen that you went by the name of Bill Thompson?

A They give me the nickname.

Q Who nicknamed you? A I don't know who it was, but I was down here to Gibson and they give me another name down there.

Q Did you have the name of Bill Thompson when you were working for Bill Scott in Arkansas? A No, sir.

Q What name did you go by there? A Charley Brown.

Q What name did they give you at Fort Gibson? A Charley Brown.

Q That wasn't a nickname? A Charley Brown is my right name.

Q You have just gone by the two names? A Yes, sir, and sometimes they call me Brock.

Q How did they happen to call you Brock? A They just got to devilling me.

Q How long did you stay about Gibson? A I ~~was there until '65~~ I stayed there until '65.

Q Near whom were you living? A I was in the Government service, scouting.

Q How long were you a scout for the Government? A About four months.

Q Who lived at Fort Gibson at that time? A Everybody of the soldiers.

Q What were you doing there? A I was going around with the soldiers, driving a government train, I drove three years and six months and I quit that and went with Pole Childers in the scouting gang.

Q Was Comong Vann living there at that time? A I don't think he was.

Q Was Jim Vann living there then? A I don't know.

Q Was F.H. Nach? A Yes, Nach was there I recollect him.

Q Was Aunt Ann Brown living there then? A Yes, sir.

Q What part of town did she live? A I think she lived back of Perdel's store.

Q What time did Jim Scott come there? A He never did come there; Jim Scott was dead then.

Q Where did he die? A He died before the war they said; said he died in '59.

L.D. Daniels, being sworn by Commissioner T.B. Needles, test filed as follows; BY MR. SMITH:

Q State your name? A L.D. Daniels.

Q Where do you live? A Claremore.

Q How long have you lived in the Claremore patient? A All my life.

Q How old are you? A 36.

Charles Brown et al 6

Q ~~Do you know this applicant, Charles Brown, here?~~ Do you know this applicant, Charles Brown, here? A Yes, sir.

Q How long have you known him? A I have known him I got acquainted with him at Fort Scott in '63.

Q You didn't know him before the war? A No, sir.

Q Do you know where he was in 1866? A Yes, sir, I do.

Q Where? A I believe it was in December or just after Christmas I met him and his Uncle in Fort Gibson.

Q Just after Christmas? A Yes, sir, in '66.

Q How long after Christmas? A It wasn't long, three or four days or so, a matter.

Q Was that or was it now the first time you had seen him at Fort Scott in '63? A Yes, sir, about the first time I seen him after that I seen him about once before that, I seen him in '63 in Fort Scott and I seen him in Christmas '64 and the third time was in Fort Gibson.

Q Well was the third time you are speaking of now? A Yes, sir.

Q How many times did you see him there? A Two or three times with Steve, I will call his name; I think he was his uncle; I said some relations, I don't know whether it was his uncle, brother or who it was.

Q How long did you stay at Fort Gibson after Christmas, '66? A I stayed there all the time until '75, until the 5th day of July, '67.

Q Do you know where Charles Brown lives now? A Yes, sir, he has been living close to Chelsea before that he lived up there in five miles of it.

Q How long since he left the place five miles from you? A Five or six years.

Q Well, about when was it you saw him next after you saw him down there at Fort Gibson? A It was up to, I met him up here at Goose-neck.

Q When? A I am just thinking how long it has been, I don't know when just exactly, it has been 12 or 13 years, may be a little longer or not so long.

Q You don't know who he belonged to? A No, sir, I don't of my own knowledge.

BY MR. DAVENPORT:

Q You think it was sometime after Christmas and it was in '66?

A I know it.

Q Well, you lived there from '65 up until about '70?

A I lived there until the 5th of July.

BY COM'R NEEDLES:

Q Of what year? A '67.

BY MR. DAVENPORT:

Q It was some time after Christmas from the time you went there until you left? A Yes, sir.

Q You don't know how long he stayed there? A No, sir.

Q Don't know where he went after you left there? A No, sir.

Q And don't know to whom he belonged before the war? A No, sir, only what I heard.

MOSE WARDRICK, being duly sworn by Commissioner T.B. Needles, testified as follows: BY MR. SMITH:

Q State your name? A Mose Wardrick.

Q How old are you, Mr. Wardrick? A 71.

Q How long have you lived in the Cherokee nation? A Pretty nigh all my life.

Q Do you know this man, Charles Brown? A Yes, sir.

Q How long have you known him? A Well, I knowed him pretty nigh all through slavery.

Q Do you know who he belonged to? A Yes, sir; Jim Brown.

Q Was Jim Brown an Indian, Cherokee Indian? A Yes, sir.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q How far did you live from his owner, Jim Brown, during the war?

A I spent it was about between forty and fifty miles.

Charles Brown et al 7

Q Where did you get acquainted with this man? A Down on Lees Creek, here in the Cherokee Nation.

Q Was that where his owner lived? A Yes, sir.

Q Where do you live? A I lived at Park Hill and I had to go there in the fall to get stone coal.

Q Did you go out of the nation during the war yourself? A Yes sir.

Q When did you get back? A I got back in the spring of '66.

Q When did you see Brown first in the Cherokee nation after the war, this applicant? A I guess it must have been about '67 I first seen him, it was in cold weather.

Q You got back in the spring of '66, where were you in the time of Christmas after you spring you got back? A On the place I made there.

Q Do you know how long it was after Christmas you saw this man?

A I don't know.

Q What time did you think it was in '67 when you saw him?

A I think it was as well as I can recollect about December.

Q Of '67? A Yes, sir.

Q Where was he when you saw him? A He was over on Grand River.

Q You don't know how long he had been back in the Cherokee Nation at that time? A No, sir.

Q What was he doing over on Grand River? A He was fixing to go to a dance.

Q After that did you see him any more? A Yes, sir.

Q When did you next see him after that? A I guess it must have been a year or two years if my mind serves me right.

Q Then where did you see him? A Seen him on Panther Creek.

Q In the Cherokee nation? A Yes, sir.

Q Do you know where he is living now? A He is living with his son Charley.

Q In what part of of the neighborhood or what part of the country?

A On Big Creek.

Q Do you know how long he has been living there? A No, sir, but he has been living with Charley pretty nigh ever since his wife died.

Q Do you know his wife? A Yes, sir.

Q Where did you know his wife? A I got acquainted with her down here on Panther Creek awhile before she died.

Q You didn't know her before the war? A No, sir.

Q Was this man Charles Brown and she living together at that time? A Yes, sir.

Q Have any children? A Yes, sir.

Q Do you know what their names were? A I know pretty nigh all them.

Q What are their names? A Sam, Wash, Charley, Joe Louvina.

Q Were they keeping house there? A Yes, sir, they was up there with him at that time.

Q With him and his wife? A Yes, sir.

Q Did they keep house? A Yes, sir, kept house and had a farm there.

Q Had a farm? A Yes, sir, on Panther Creek.

Q Well, do you know how long his wife has been dead? A No, I dont.

Q Been dead a good while or short while? A Been dead a good while

Q Several years? A Yes, sir.

Q You can't say how many? A No, sir, I would not like to say.

BY MR. DAVENPORT:

Q Now, whose what family did he have the first time you saw him after the war? A T is family I am talking about now.

Q Now, how many children you say were born at the time you saw him when he was fixing to go tins dance? A I didn't say any of them was then born.

Q Did he have a family at that time? A I seen him I said.

Q Do you know whether he had a family? at that time or not? A Yes sir.

Q Of what did his family consist? A I dont know.

Charles Brown et al 8

Q Where was his family? A I don't know where they was at that time.

Q At whose house was the dance going to be given? A Over at Lynch's house.

Q Where? A Simon Lynch.

Q That was in the fall of '67? A Yes, sir.

Q You don't know where he had been prior to that time? A No, sir.

Q You lived near Park Hill before the war? A Yes, sir.

Q And he lived on the Arkansas line where Lees Creek runs into the Arkansas? A He lived above that.

Q He lived at the Jim Scott Mills in Arkansas when the war broke out? A I don't know about that.

Q Well, how long before the war was it since you saw this applicant?

Q Then you don't know where he was working before the war? A With Jim Brown.

Q How do you know? A Well when we came down here before the war he was plowing below there.

Q Didn't you answer me awhile ago that it was several years before the war? A This was in slavery times.

Q Well, now how many years before the war was it you had seen this applicant? A It had been several years.

Q So you don't know where he was living or to whom he belonged when the war broke out? A No, sir.

CHARLES BROWN, the Applicant, recalled:

BY COM'R NEEDLES:

Q Where was these children living now, Louvina and Joseph?

A Louvina is here, Joseph is on Panther Creek.

Q Are they both living with you? A Yes, sir.

Q Both born and raised in the Cherokee nation? A Yes, sir.

COM'R NEEDLES: Charles Brown applies for the enrollment of himself and his two children, Louvina, 20 years of age, and Joseph, 18. He cannot be identified upon any of the rolls of the Cherokee nation, the Wallace roll, and he and his children are identified upon the Wallace roll, according to page and number of the rolls as indicated in the testimony. He avers that he was the sale of Jim Brown and makes satisfactory proof as to his residence consequently Charles Brown and his two children, Louvina and Joseph, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. He will be notified at his post-office address of the decision of the Commission.

---ooo000ooo---
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 16th day of July, 1901.

(signed) T.B. Needles,
Commissioner.

M.D. GREEN, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript.

Subscribed and sworn to before me this August 20th, 1901.

1002349

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 18, 1902.

In the matter of the application of Charles Brown, for the enrollment of himself and children as Cherokee Freedmen:

Appearances:

Mellette & Smith, Vinita, I. T., for the applicants;
H. W. Hastings, and
James S. Davenport, for the Cherokee Nation.

JAMES A. SCOTT, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

- Q What is your name? A James A. Scott.
- Q Where do you live? A I live here at Muskogee.
- Q What is your age? A 54 years.
- Q Where were you living when the war broke out?
- A Elk Hill, Nevada County, Missouri.
- Q Living with your parents at that time? A Yes sir with my mother.
- Q Do you know a colored man who goes by the name of Charles Brown?
- A Yes sir.
- Q How long have you known him? A Mr. Davenport I can't recall when my father first bought him; just the year; but my father bought him as a slave. It was sometime in '27 or '36.
- Q Do you know from whom your father got him?
- A Except from the family talk. I do not know of my own knowledge. I know that either Lewis or Jim Hilderbrand brought him there.
- Q Was your father a citizen of the Cherokee Nation? A No sir.
- Q Your father, as I understand you, then, bought Charles sometime in the fifties? A Yes sir.
- Q About how long did he keep him? A I don't know--
- He was with us, he must have been with us some four or five years.
- Q What became of him? If your father made any disposition of him to whom did he dispose of him? A My father sold him to my uncle Charles D. Scott, of Van Buren, Arkansas.
- Q He was taken away from your father's home? A Yes sir.
- Q To Van Buren, Arkansas? A Yes sir.
- Q Was your uncle a citizen of the Cherokee Nation? A No sir.
- Q Where was he when the war broke out? A I can't swear that.
- Q Do you know whether or not he was still the property of your uncle at that time? A Not of my personal knowledge sir.
- Q Do you know whether or not after the fifties up to the time he disposed of him Charles had ever been the slave of Judge Jim Brown?
- A No sir.
- Q Do you know Judge Brown? A No sir. I don't think my father bought him from Judge Brown. I think he got him from the Hilderbrands. I know they brought him there.
- Q Your uncle to whom he was disposed of by your father lived in Arkansas? A Yes sir, at Van Buren.
- Q Up to the breaking out of the war where did you say Charles was?
- A I don't know certainly, for I never saw him after my father sold him until I saw him at the establishment of the court here several years ago.
- Q The establishment of which court do you mean Mr. Scott?
- A I never saw him until he came here at, I believe, the first term of this court in April, 1869, the court here at Muskogee.
- Q You speak of the United States court? A Yes sir.
- Q You knew him then as the party that had been with your father?
- A Oh yes, he came over to the store to see me, and stayed at my house while he was here.

Q. You didn't know where he had been living during the war and after the war? A. Not of my own knowledge.

Q. Your father bought him sometime in the fifties? A. Yes sir,

Q. And kept him; about how long before the war did he sell him?

A. I think he must have sold him in 1858 or 1860. He lived with him after he married this woman Sarah. She was the property of my father, and this boy Moses was born to them there on that place.

Q. The first child by Sarah, he was born there on your father's place?

A. Yes sir.

Q. His name was what? A. Moses.

Q. When your father sold Charles to your uncle did he sell all of them? Did they all go? A. No, they stayed until 1862 when they were taken off by Phillips or Ritchie's men. Moses wasn't taken, but his wife was.

At the time the Federals made the raid through there, they were living, Sarah Jane and this child, on the north of the river, and on the Sunday morning the raid was made she was at my mother's house. She left there with the soldiers and left this child Moses over on the north side of the river.

Q. At the breaking out of the civil war to whom did Sarah Jane and this child Moses belong? A. To my mother; my father was dead.

Q. Your father was not a citizen of the Cherokee Nation?

A. No sir.

Q. Had no claims to citizenship in the Cherokee Nation?

A. No sir.

Q. You were living on the home place in Missouri at the time?

A. Yes sir.

Q. Sarah Jane was taken away during the war when these commands came through there? A. Yes sir.

Q. When did Moses leave? A. While I believe this is all so, this is not of my own personal knowledge. Sometime in that summer.

Mr. Smith: Now don't tell it. A. I was in the country there and very close to them, but I wasn't at home at the time.

Examined by Mr. Smith:

Q. Mr. Scott, what you really know is that your father owned a man by the name of Charley Brown before the war? A. Yes sir.

Q. You don't know of your own personal knowledge that that same man is the applicant in this case? A. Yes sir I do.

Q. How do you know it? A. I knew Charley Brown that was brought there, and I knew him when he was here. Besides, he told me of his application for citizenship.

Q. But this application was made on the 29th day of June, 1901 at Nowata; were you there? A. No sir. Well, I still stick to it that I do know it. I can't get away from that belief.

Q. Now you don't know it do you? A. Mr. Smith, I do know it from the fact that from what took place between us, and from what took place up there; and I heard of it.

Q. You can't testify to hear-say. A. To come right down to it I am satisfied that this is the same man.

Q. What you mean is facts. You can't swear positively that he is the same Charley Brown that you are talking about can you?

A. Right straight up and down, no.

Q. You don't think it was about 1850 when your father sold the man you were talking to here to your father's brother at Van Buren, Arkansas?

A. I think it was in there somewhere. I ain't going to be positive.

Q. Well, it is all supposed to be my brother's? A. Yes sir. I

know that. Now if you want to go on, I can go on to the

time he came there, the fact that Mose, when he left there, must have been about three or four years old.

Q It must have been somewhere in the fifties that your father parted with the man you talked to ? A Yes sir.

Q How far did your father's brother live from where you lived ? A About one hundred miles.

Q Between the time your uncle bought this man and the beginning of the civil war did you see this man Charley Brown ? A No sir.

Q You don't know then, of your own personal knowledge where this man Charley Brown was at the time the civil war commenced ?

A No sir.

Q You don't know of your own personal knowledge whether he was sold again after he was sold to your uncle or not ? A I do not.

Examined by Mr. Davenport:

Q You do know that the Charley Brown that belonged to your father had a boy named Mose ? A Yes sir.

Q And that Mose was the property of your mother after the breaking out of the war ? A Yes sir.

Q Do you know whether Charley ever rejoined his wife after the war ? A Not of my personal knowledge.

MRS. AITIA H. DODSON, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q Where do you live Mrs. Dodson ? A I live here in Muskogee.

Q How old are you ? A Fifty eight years old.

Q Where were you living when the civil war broke out ?

A At Elk Hill, Missouri.

Q You are the sister of Mr. Jim Scott ? A Yes sir I am.

Q Do you know a colored man by the name of Charley that at one time belonged to your father ? A Yes sir.

Q Do you know about when your father bought him ?

A I wouldn't be positive, but I think in 1853.

Q Is there any circumstance that makes you think he was bought at a certain date ? A We bought him before I went away to school.

Q Did Charley have a wife ? A Yessir

Q What was her name ? A Sarah Jane.

Q Did your father sell him before the breaking out of the war ?

A Yes sir.

Q About when was he sold as near as you can remember ?

A In February, 1858.

Q Do you know whether or not Charley and his wife had any children

A Yes sir, two.

Q Do you remember their names ? A Moses and Abbie.

Q Were they sold at the same time Charley was sold ? A No sir.

Q Where were they when the war broke out ? A Livin on my father's farm.

Q Do you know to whom Charley was sold ?

A To my uncle Charles Scott.

Q Where was he living ? A At Van Buren, Arkansas.

Q After your father sold Charley before the breaking out of the war, did you ever see Charley afterwards ? A Yes sir.

Q Where ? A At Van Buren, at my uncle's.

Q Had you visited there ? A I was living there.
Q Do you know whether or not your uncle owned Charley at the breaking out of the war ? A No sir he did not. He sold him.
Q In what section of the country did he sell him ?
A He sold him to a Louisiana planter.
Q Do you remember his name ? A No sir.
Q Do you know whether or not he had been taken away from your uncle's home when the war broke out ? A Yes sir he had.
Q Have you seen Charley since the war ? A Yes sir.
Q Do you know whether he has ever married ?
A He said he had a family.

Mr. Smith: I object to what he said.

Examined by Mr. Smith:

Q Van Buren, Arkansas, is just across the river from the Cherokee Nation is it not Mrs. Dodson ? A I don't know. I know Van Buren is close to the line, but I don't know how far.
Q You don't know what became of Charley after your uncle sold him? You don't know what became of him finally ?
A He ran away from my uncle once, and he got him back, and when he sold him to this Louisiana planter he ran off again and came up into this country, and was around my father's house. I didn't see him, but they saw him and told me he was there.

The Commission: This testimony will be filed with the following doubtful Cherokee Freedman cases : D 952; D 954 and D 965.

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 the same as appears from my stenographic notes thereof.

E. C. Bagwell

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



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1903.

In the matter of the application of HENRY ATWOOD for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmore, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 400, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

John H. Brown, D 965;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decrees of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decrees already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitnair, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit.

Willis Starr, D 965;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

McGOWAN & SERVEN,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

John Henry Brown.

965

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1898.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

F 905
No. D

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 SE, 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

NOTICE!

IN THE MATTER OF the application of John H. Brown
for enrollment as a Cherokee citizen:

Case No. D. 965

To John H. Brown or Mellette A. Smith his Attys.

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 Fort Gibson, I. T. Indian Territory, on Sept. 26th 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 on the respective days above named, 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 26th

L. B. Bell
M. W. Hastings
Attorneys for the Cherokee Nation.

Cher. Fr. D. 966

Cher. Fr. D. 966

Supl. C. D. #818. Freedmen.

John Thurston 70966.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedman, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on H. B. LARSEN, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tending to disapprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1903, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation represented by its representative, L. B. Bell,

G. V. Rogers, being duly sworn, testified as follows on behalf of the Cherokee Nation.

MR. BELL:

- Q Tell me your name? A G. V. Rogers.
Q Age? A 33 years old.
Q Place of residence? A Claremore.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q How long have you been such? A All my life, a little over 65 years.
Q Did you go out of the country during the war? A Yes, sir.
Q When did you return? A '86.
Q Where did you come to? A Come to Fort Gibson.
Q And stayed there did you? A Yes, sir.
Q Well what was your business? A After I come back?
Q Yes? A I followed freighting for something over three years.
Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
Q Were you ever acquainted with a Freedman by the name of Moses Whitire? A Yes, I know him.
Q Where did he belong before the war? A He belonged in Coing's District.
Q Do you know what particular Whitire he belonged?
A I don't remember whether he belonged to George Whitire or Lee Whitire.
Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
A As well as I can remember it was in February, '88; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 28 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I know in the outfit.
Q Did you have any conversation with them, stop and talk with them?
A Yes, sir, and Col. Bill Ross passed while I was talking to them going to East Scott.
Q Did you ask them where they was going to? A They said they was moving back.
Q Well this 25 or 30 or 40 wagons was loaded with people?
A Yes, mostly every one had household goods in them.
Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
Q Well now that was; where you say it was? A It was right on this side of the Neosho River; between the old Hudson place and Neosho River.
Q How far from the Neosho River? A I would have had a mile.

- Q How far is on the north line of the Cherokee Nation?
A I think the river is the line, about half a mile.
Q And how far is that from the Kansas line? A The Neosho is the line, way I understand it.
Q You had reference to where the military road crosses the Neosho river? A Yes, sir.
Q At Jack Molain's ferry? A They called it Hudson ferry at that time.
Q Hudson lived there? A Yes, sir, in about a half mile.
Q And this Moses Whitire you met and talked with is the same one you knew in Going Snake and belonged to the Whitire family there?
A Yes, sir.
Q About how old a man was he when you met him? A He is an older man I think than I am.
Q And you saw other with him you knew? A I think Aaron Whitire and Moses Whitire and old Major Wright is the old ones I knew.
Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
Q Do you know where this man Whitire lives now, Moses Whitire you met?
A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

- Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know where he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

---00000000---

I 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.

(Signed) J. O. Rossion.

Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, T. T., May 30, 1902.

In the matter of the application of Edward Wright for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Scoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 30th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Chabbers Commission on Citizenship as found on page 57 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Docket of the Chabbers com'n on Citizenship," as follows

"No. 25 Edward Wright
vs
Cherokee Nation. (Ex. 7th of June.
(Answer filed.)

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 29. Major Wright
vs
Cherokee Nation. (Ex. June 7th. Statement filed
on the 26 of June.
1st July set, 1st Aug.
set for trial.

Judgment against claimant June 27th, 1879."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 26th day of June, 1878, as found on pages 164 and 5 of book B, entitled, "Citizenship record 1874," as follows:

"Before the Commission sitting at Talliquah to review claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmire

vs

Cherokee Nation

respectfully presents the following statement of his claim according to the requirements of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they would subsist without discomfort and exposure and until a removal of them was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his home in the spring of 1867.

Claimants rights have been called in question by competent authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.

This June 26, 1870.

Lewis Whitmire,
By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship.

In case of Moses Whitmire
vs
Cherokee Nation,

claiming Cherokee citizenship.

Claimant claims under the fifth specification of the clauses of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,
Moses Whitmire.

June 26, 1870.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Chambers Court, Book A," page 239, case No. 60, as follows:

"page 60.

Aaron Whitmire)
vs) Tahlequah,
Cherokee Nation.) July 3, 1870.

Miko Field is a witness for claimant called and sworn.
I am I think I am about 47 years old. I live in Illinois District, C. T. As a citizen of the Nation. I have been on the doubtful roll but had my rights proven up before the Supreme Court.

Am a citizen under the treaty of 1868. I went north to the state of Kansas in '62. I returned in August - 21st or 22nd, 1868. I left my family in Fort Scott when I came. I came down to get me a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1868. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. When I first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Sanders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Hose, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting houses. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by the Cherokee Delegation. They were some who come here were authorized by others to locate claims for them, one was by Mekey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1863. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself that it was the month of Aug. when I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.
his mk.

Aaron Whitmire)
vs) August 1, 1878.
Cherokee Nation.) Bluford Alberty, witness for claimant,
called and sworn.)

I reside in Cooweescoowee District, C. H. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Cooweescoowee District.

on the 3rd of September, 1866. I had occasion some time in the last of Oct., or the first of Nov, or probably it might have been as late as the middle of November, to go to the Virgins. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crookers. I did not go to the camp. They were colored people. I knew most of them. The men were old Sam Webber, Aaron Whitire, and a younger brother and Lewis Whitire.

There was another person whom I was told was a Landrum. I do not recollect any of the others and can not identify them. The Whitires were Johnson and George Whitire, Aaron, Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves horses or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man, but that he had sent his son down to work for him and take him a claim. He then asked what chances there was to get provisions over on the river; I told him there was none there, but that there was a lot of condemned flour at Gibson and if they would go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build them homes and so fourth. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I came out at night. Did not see any of these parties after this i. e. May, 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this some of them went back to Kansas. At the time I saw them I do not know whether their families were with them. I think I saw Dennis Whitire with this party, but am not certain of seeing Dennis or Nelson. I know there was four of the Whitire boys. They were owned in the Nation and resided here up to the breaking out of the war.

B. W. Alberty.

Aaron Whitire

vs

Cherokee Nation.

I know Melissa Nettiff. She was twelve or thirteen years old at the close of the war.

She was living with her ten and still lives in my family. Jack Landrum was one of the band above referred to, also Ranson Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at McLane's Ferry in 1866. The chief ferryman who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him, but Sam Webber had in my presence.

Cross Examined.

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers. Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the party that came with me to the Nation are as follows: Mike Sanders, Sam Webber, Peter Neigs, Will Foreman, Tuck Sanders, Ransom Daniels, Sam Webber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any others. Witness was a man of family in 1866 when we came on from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, the Sanders were Nelson's family and back at Fort Scott. We went back in January 1866 to Kansas after coming to the Nation. When we returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Ransom Daniels, Tuck Sanders, Peter Neigs and the families of those who had families all came as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alec Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Albarty as a witness in this case.

He direct.

Mariah's family at the close of the war was a separate family. Harry Whitmire, her son, represented his mother on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

his
Dose Whitmire.
Mark.

Case 63.

Aaron Whitmire & family)
vs)
Cherokee Nation.) claiming citizenship.

Now comes claimant by Atty before the Commission sitting at Tahlequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Geo. Whitmire a Cherokee citizen at the commencement of the war of the rebellion and was then living in this

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence. While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to omit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the time provided for by treaty, in that having no residence to come to as other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully submitted,

Aaron Whitmire,

By Atty Wm. P. Foudinot.

Aaron Whitmire
vs
Cherokee Nation.

August 1st, 1878.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Cooweescoowas, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military road leading from Fort Scott, Kansas to Fort Gibson, C. T. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I met him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having met claimant and Mose, Lewis, Dennis and Nelson, Whitmire, Peter Raigs, Mike Sanders, Sam Webber, and Young Sam, Bill Foreran and others but do not recollect anything about them. They were traveling. They stated they were coming from Fort Scott, Kans, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. Nelson gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I met claimant and the others spoken of it was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas as I left them at Christmas or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who stayed before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the time.

I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Lewis, Nelson and Dennis Whitmire and little Sam Webber and I think they were those who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one man with the party, I think his name was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped there long enough that were they any women and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I set them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire
Vs
Cherokee Nation.

July 4th 1873.

Wm. McCracken for Claimant.

- Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McCracken.

D. L. Nicholson, Clerk.

Aaron Whitmire
Vs
Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools so until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The home of claimant is in the same locality as that at the time mentioned above. In Oct. or Nov. 1866 I gave claimant and other colored men permission to occupy two old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitire is the name of the other man. I also permitted to go on the old field. The Spring of 1867 I saw Aaron and Louis Whitire at work on the two fields spoken of. This settlement of colored folks has the character of quiet industrious and law abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1868 saw this colored party who settled on Big Creek afterwards in the neighborhood for the purpose as they said at the time of selecting their homes. Several claims was then in sight of witness which the colored party said they had selected and are now the homes of the party above indicated.

Agent Jones was at the time advising said Col party. A Delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of those who wished to expel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

"Continued on page 303."

Aaron Whitire et al) July 15th 1878.

Cherokee Nation.)

John Riley,

sworn as witness for Aet. I live in Coconawoc Dist. I first moved there in 1868 and have continued to reside there except in time of war. I came back in the month of August 1869 to the Nation. I knew Aaron Whitire. He returned or came to the Virginia River to live in the month of March 1867. Also came of the same time Pat & Helge, Mike Sanders, Sam Nobber, Billy Foreman, with their families and others whom I don't recollect. Claimant made a crop that spring in 1867 on an old place of Aaron Landrum. He had settled no other place before that.

Cross Examined.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1866 to locate homes but I know of some who come in Decr. 1867 for that purpose. I know Aaron Whitire lived at that time. I was near Deady's Bluff in Decr. '66. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never knew of Blinford Alberty being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitire was not along but Mike Sanders, Sam Nobber, Calbert & perhaps Billy Foreman. Moses was not along. Deady was not along as I know of no person nor Major Foreman nor Nelson Whitire that I knew of. If my party had come down in Decr. 1866 I think certainly I would have known it.

Joseph Riley.

Randolph Riley.

(Page 303)

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this Colored Party told witness that they returned in March 1867 to the Nation.
Re Direct

I learned from John Coker that most of this colored party returned to Kansas after their families and a few remained. I was at General convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 8th of Aug. 1866 in my information. It might have been July 10, 1866.

Witness went south during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. F. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitire)
vs)
Cherokee Nation.)

Tahlequah May 10, 1878.

This day comes John P. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John P. Lyons,
Atty for C. N."

Arthur G. Croninger, being first 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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1868.

(SEAL)

(Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Subscribed and sworn to before me this 15th day of Aug., 1868.

Arthur G. Evans
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29, 1901.

In the matter of the application of Rhoda Thornton for the enrollment of herself as a Cherokee Freedman, being sworn and examined by Commissioner Needles, she testified as follows:

Appearances:

Mr. Smith, of Hellette & Smith, for the applicant;
Mr. Davenport, for the Cherokee Nation.

- Q What is your name? A Rhoda Thornton.
Q How old are you? A About 66.
Q What is your post-office address? A Chelsea, I. T.
Q You live in Coowascoochee District? A Yes sir.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Myself and 2 daughters and my son.
Q Are your daughters of age? A Yes sir.
Q Your son of age? A Yes sir.
Q They must appear for themselves; you just apply then for the enrollment of yourself? A Yes sir.
BY MR. SMITH:
Q Where do you live? A I live about, I guess it is about 18 miles east of here, in Coowascoochee District, on the head of Pryor's Creek.
Q How long have you lived where you live now? A I have lived between seven and eight years there.
Q You may give the names of your grown children? A Mary Ellen is the oldest.
Q What is her name now? A Mrs. Miller, Mrs. E. J. Miller.
Q How old is she? A She is about 42 I guess.
Q Is she married? A She has been married; she is a widow.
Q Has she any children? A No sir.
Q Where does she live? A She lives with her sister.
Q Where? A It is about two miles, she is staying on her sister's farm.
Q Where does her sister live? A She lives on her farm.
Q Where is her farm? A About two miles from me, about 27 miles or 28 miles from here I guess.
Q How far from Nowata? A I guess it must be between 18 and 19 miles from here I guess.
Q In the Cherokee Nation? A Yes sir.
Q How do you give the names of your next one? A Charlotte, Mrs. R. D. Henry.
Q She is married to a man named R. D. Henry? A Yes sir.
Q Where does she live? A She lives on her farm.
Q At the place you just spoke of? A Yes sir, her and her sister lives together.
Q Have you any children? A One boy.
Q What is his name? A Freddie Thornton.
Q How old is he? A About 31 or 2 now.
Q Were you a slave before the war? A Yes sir.
Q To whom did you belong? A Dr. John Thornton.
Q Was he a Cherokee Indian? A Yes sir.
Q Was he a citizen of the Cherokee Nation? A Yes sir.
Q Where was he living when the war commenced? A In Goingsnole District, on Barron Fork.
Q Where were you living at that time? A I was living with him.
Q Were you taken out of the Nation during the war? A Oh no sir, I wasn't taken out, yes I was out a little while right time the soldiers and all was there.
Q What children did you have at the time the war commenced? A I had Mary Ellen and Charlotte and a little boy that died named Lewis.

Rhoda Thornton 2

he died; I was the mother of three children time of the war.

Q Where were the children whose names you have mentioned born, outside of Mary Ellen and Charlotte? A Freddie was born in Kansas just a little after the war.

Q When did you come back to the State of Missouri? A After

Q Yes, after the war, or after you went out with the soldiers?

A When I went out with the soldiers.

Q That's what I said. I went up to Camp Hill, and I cooked there a while for Major Willett.

Q That is Camp Hill, Arkansas? A Yes sir.

Q That during the war? A Yes sir, just after the Prairie Grove Battle.

Q What I want to know is when you came back to the State of Missouri after you went out of the Nation during the war and went to Camp Hill and those places you have mentioned? A I went right from Camp Hill on down by Ray's Mill, and went down in a Government wagon, after cooking for Major Willett; I cooked for him about six weeks on Camp Hill and I cooked for him about two weeks at Ray's Mill, then I went in the Government wagons on to St. Gibson.

Q You know what time you went down to St. Gibson? A Yes sir, the wagons went down before the close of the war.

Q It was during the war then? A Yes sir, right during the war I came back.

Q How long did you stay at St. Gibson after you got there? A I stayed there at St. Gibson off and on I guess for three or four years.

Q Where were you when peace was declared? A I was in St. Gibson, sir.

Q How long did you remain in St. Gibson after the war closed? A I must have remained there after the war closed for a year or so, there in St. Gibson and about St. Gibson, because I cooked for Colonel Phillips there.

Q Then when did you go? A I came up on Big Creek.

Q Was that in the Cherokee Nation? A Yes sir.

Q How long did you live on Big Creek? A I stayed there on Big Creek quite awhile.

Q You stayed about how long? A I couldn't tell you just how long, but I must have stayed there off and on for four or five years I guess, off and on.

Q I don't want to know anything about how long you stayed off and on, but when you went to Big Creek after you left St. Gibson how long did you stay at Big Creek? A I stayed at one place there at Nathan Tynor's there I guess a year or more, but I am at one place but I made that my stopping place pretty much.

Q Where were you during the next year of 1866? A I was in St. Gibson.

Q I believe you left St. Gibson you said. A When I came to uncle Nathan Tynor's, when I came from St. Gibson I came to uncle Nathan Tynor's.

Q Then where did you go? A I went to aunt Sakey Hayes, I was a widow and had to do the best I could, and had my children.

Q How many children did you have then? A Two children.

Q Where were your other children born? A In Going-snow District, right at my master's before the war.

Q How is that? A They was born at old Dr. Thornton's in Going-snow District.

Q I say where were your young ones born? A I didn't have but one younger one, he was born in Kansas.

Q When was he born? A He was born way last of '67 I think, I don't remember exactly.

Q Which one is that? A That's Freddie, my boy.

Q Was he born in Kansas? A Not

Rhoda Thornton 3

Q In 187 too? A I was there for a short while ~~when~~ while my child was born, I was at my mother's.

Q Was your mother in Thomas at that time? A She was in Thomas, as Mr.

Q Well, then since that time after you left Nathan Tynor, - did you say Rowen Tynor? A Nathan Tynor we called him, he goes by Nathan Duffin now.

Q Did you live with Nathan Tynor where did you go? A I lived with him until I married my first and when I married a farm I lived on that.

Q How far from a farm of your own now? A Yes sir.

Q Where is that? A About 6 or 7 miles north of Chelton.

Q How long have you had it? A I guess about between 6 and 7 years.

Q How far from the Arkansas line did you live at the time the war came on? A It must have been about two miles and a half or three miles; you mean when I lived where my father was? A Yes.

Q Yes sir? How far was that from Dutch Mills? A I guess two or three miles.

Q Did you live west of Dutch Mills? A I don't tell you.

Q Was it north or south or east, or do you know? A I do not.

Q What was your trading point? A Yes sir.

Q Do you know the direction you went to town? A I know the direction they went to town, but I don't know.

Q What direction did they go? A I just know the road that went over the hill.

Q How old are you now? A I am about 66.

Q How many children did you have when the war came up? A Yes sir, I was the mother of three children.

Q Were they all born on that place? A Yes sir.

Q What was Dr. Thornton's wife named? A Frankie.

Q Did they have any children? A Yes sir.

Q What were their names? A They had three, Miss Martha, John and Walter.

Q At what time you left home? A Yes sir.

Q How long did you live with him? A He bought me when I was about 15 years old.

Q You lived with him and was freed under Mr. M.? A Yes sir, I was the best slave that lived in the place, and couldn't have left ~~there~~ him then but I was took away.

Q What kind of a house did Dr. Thornton live in? A I don't know wide house, and porch between it you know.

Q Would the log house? A No I think it was a frame, it was called inside; I am not sure whether it was log outside or not.

Q Did you get water out of a well or a spring? A Spring.

Q What direction from your place was Barron Fork? A I don't know.

Q You don't know whether you were living north or south of Barron Fork? A No sir, I do not, but he had a saw mill down on Barron Fork.

Q About what age was Mr. Thornton when the war came up? A He was quite an old man, he was quite gray; he used to be clerk of the court.

Q What were some of the neighbors there? A Mr. Wofford and Cornelius Wright.

Q Did you know Jack Alberty before the war? A Yes sir, he was ~~took~~ my master's brother, you know there are so many Jack's, but we had a brother Jack, you ought to make some distinction between the Jacks, you know.

Q He was a grown man at that time? A He was quite a tall man, he wasn't so old, dark eyes and hair, hair about the color of yours.

Q How far did he live from Mrs. Thornton's at that time? A He must have lived as near as I can guess about 7 or 8 miles.

Q You saw him frequently? A Yes sir, he was there on the place often.

Q You stayed there until the war come up and then you went out to Cane Hill? A Yes sir, I stayed until the war come up, and we was all to come there, Major Willett sent some scouts down there and took me and I cooked for him.

Q Where did you live at pt. Gibson? A I lived in a little shanty.

Q Who did you live with? A Irvin and Gilbert Vann boarded with me, and I washed for the soldiers, and I cooked for Col. Phillips quite awhile.

Q Where did you go from there? A When I left there I don't- I went to Nathan Tynor's on Big Creek.

Q Did you have a husband at that time? A No sir.

Q Did you ever marry the father of Fred? A No sir.

Q You never married him? A We just lived together.

Q Did you lived with the father of Fred as your husband? A Yes sir.

Q What was his name? A I never did tell his name.

Q But you ~~never~~ lived with him as your husband? A Yes sir.

Q How long did you live with him as your husband? A No?

Q Yes? A I ~~never~~ lived with him I guess until he died.

Q Well about how many years? A Well about 6 or 7 years.

Q Keep house together? A No?

Q Yes? A No sir.

Q You never kept house with him? A No sir, I worked for him and that was all; the truth is the truth.

Q You say Fred was born in Kansas? A Yes sir, because I went up to my mother's.

Q You lived with Fred's father up there in Kansas? A No sir.

Q Where did you live with him at? A What did you say?

Q Where did you live with his father at? A In the Cherokee Nation.

Q On Big Creek? A No sir, down about pt. Gibson.

Q You went up to uncle Nathan Duffin's from pt. Gibson? A Yes sir.

Q What time in the year was that? A I don't know just what time of the year, it must have been along; it was kind of cold weather.

Q What year was it? A I don't know sir exactly what year it was,

but when I left pt. Gibson it must have been along up in '67 or '68

when I left pt. Gibson you know, because I stayed around pt. Gibson

I cooked there for Col. Phillips quite awhile and that was along

you know in '65.

Q Have you got a very distinct idea about dates? A No sir, I

haven't.

Q Your memory is faulty about dates? A Yes sir, and names I can't

remember hardly at all these late days; ~~xxx xxx~~ I am telling you the

truth gentlemen as near as I can tell it to you.

Q What was your mother's name? A Darcus Downing.

Q Did she live over there with your master before the war? A No

sir.

Q Where did she live? A In Mound City, Kansas; she never come to

the Nation at all; the only way I belong to the Nation I was sold

to the Nation.

Q Who sold you to Dr. Thornton? A Old Dr. Richard Williams.

Q You went to your mother's and there Fred was born? A Yes sir,

in Linn County, Kansas, because I ~~was~~ was a widow and had to go up

there.

Q How long before Fred was born that you went up there? A I don't

know, it was over a month.

Q About how old is Freddie now? A Freddie is about 32 I guess,

31 or 2, I really don't know their age exactly.

Q What were the members of uncle Nathan Duffin or Tynor's family

when you first went up there? A One George Duffin, they go by the

name of Duffin now, and Josh was the one.

Q What was his wife's name at that time? A I think Fanny; they

belonged to the same man I did.

Q Did you know Lucie Wright, or Whitwire, before the war? A Yes sir,

Rhoda Thornton 5

I knew him well.

Q Did you know Rufus Miller before the war? A Yes sir, because my master was their family doctor. They lived in about two miles

Q ~~They~~ ~~about~~ of our house.

Q You brought Freddie back down here when he was a baby? A Yes sir, he was quite small.

Q What place did you go to then? A Uncle Nathan Tynor; we call him Tynor, but he changed his name; go now by Duffin.

Q How long did you live there right then when you first came back there? A Please your Honor, Mr. Hastings, I can't tell exactly.

Q Well, your best judgment? A I must have stayed there 6 or 8 months before I went to work.

Q Then where did you go to work? A I went up there to Coffeyville and worked a little while, and not Coffeyville, ~~about~~ I will tell you the place in a minute, - Ft. Scott.

Q Did you have your children with you? A No.

Q Yes? A I took my two girls to my mother's and then I went to Ft. Scott.

Q And your mother lived at Mound City, Kansas? A Yes sir, she ~~is~~ lived and died there; her and my father both.

Q Have you ever been married since? A No sir, I have never been married since the war.

Q After you worked at Ft. Scott Kansas where did you go? A No.

Q Yes? A I came back to the Nation.

Q At what place? A To Aunt Sukey Hayes.

Q On Big Creek? A Yes sir.

Q How long did you stay there? A I stayed at aunt Sukey's I guess, but I don't know, I guess I don't know just how long.

Q Well, your best judgment? A Well I must have stayed there as much as a month or two; I would stay first at one of them

places and another, and when I could get work to do I would do it.

Q Worked in Kansas? A Yes, and around, I got washing to do there and so on.

Q Nothing but colored people to work for there? A No sir, but when I could work for a little piece of me at I did.

Q When did you ever keep house in the Cherokee Nation? A I have been running a farm for I don't know how long in the Nation.

Q ~~How~~ ~~long~~ how long? A I stayed on the farm down on Big Creek four or five years.

Q Was that four or five years ago? A Which?

Q When you commenced living on the farm, about how many years ago when you commenced keeping house and living on a farm? A Well let me think Mr. Hastings, I suppose this is Mr. Hastings?

Q Yes, that's who it is? A I rented the Johnson farm, and I think I lived there four years.

Q How long since you commenced keeping house for yourself?

A I stayed on the Andy Johnson farm for about I guess about three or four years, you know, and I kept house there.

Q When did you commence doing that, how many years ago was it when you commenced doing that? A I see what you are trying to get out, and that's what I am trying to tell you, yes; how many years

Q ~~How~~ ~~many~~ ~~years~~ ago has that been? A

Q Yes? A I was there on that farm quite awhile before the Wallace roll, and I made a kind of farm of my own.

Q Wallace roll was made in 1879, how long before that did you commence keeping house? A I must have been there two or three years before the Wallace roll.

Q Up to '86 or '7 you had it kept house in the Cherokee Nation?

A Not to say particular, you know, because I was, I ~~about~~ ~~about~~ a widow woman and I had to work to get money enough to make a farm and save all my, - and I had to take care of my children.

Q When did you come back from Denver, Colorado? A When I went to

Denver I didn't stay there very long.

Q You haven't told that before? A Well you didn't ask me.

Q I am trying to get that from you now? You did go to Denver, Colorado? A Yes sir, I went to Denver, Colorado.

Q How long and tell us all about it, what you know of your whereabouts, that's what we are trying to get at? A If I was to undertake to tell you of my whereabouts I couldn't tell you, when I went out there I went to cook for some people.

Q When did you go? A I don't know exactly what year it was.

Q About how long after the war? A Well it was quite awhile, Freddie was plenty big for me to leave him and I went out there and cooked out there, and stayed out there about 6 or 8 months and cooked.

Q You didn't take your family? A No sir.

Q None of your family taken with you? A No sir.

Q Where was Freddie in the meantime? A He was with his sisters, his sisters stayed mostly with their father's, down here on Big Creek.

Q You know Albert Morris? A Yes sir, I know Mr. Morris, at least I wouldn't know Mr. Morris if I was to see him now on the road.

Q You know William Noble? A Yes sir.

Q Did you ever keep house near them? A I think it was about a mile from Mr. Morris and three or four from Mr. Noble's, that's what they call it, but I never was in Mr. Noble's yard or Mr. Morris' Yard, because I would keep house and my daughters went out and worked on the farm.

Q When did you commence keeping house on the farm? A I can't tell you exactly.

RUFUS MILLER, being sworn by Gen'l Needles, testified as follows:

BY MR. SMITH:

Q What is your name? A Rufus Miller.

Q How old are you, Mr. Miller? A I am somewhere betwix 53 and 5 I expect, I don't know my age just exactly what I am.

Q Where do you live? A I live at Contralia.

Q How long have you lived in the Cherokee nation? A All my life.

Q Are you a Cherokee Indian? A Yes sir.

Q Do you know this applicant, Rhoda Thornton? A Yes sir.

Q How long have you known her? A I have known her ever since I was a child.

Q You know where she belonged to? A Yes sir.

Q Who? A Dr. Thornton.

Q Was he a Cherokee Indian? A Yes sir.

Q Citizen of the Cherokee nation? A Yes sir.

Q Where did he live before the war? A He lived about three miles west of a little town they called Dutch Town, over next to Evansville.

Q You know where Rhoda Thornton was at the time the war commenced? A Yes sir.

Q Where? A At Dr. Thornton's.

Q Did she have any children at that time? A Yes sir, she had two.

Q You know what their names was? A Believe one was named Mary Ellen and I believe the other one was named Lottie or something.

Q Where were you during the war? A I went south.

Q What time did you get back? A I got back Christmas, Eve, '65.

Q Do you know when Rhoda Thornton first went to the Cherokee nation after the war? A She wasn't out of here at all the close of the war, she went out after the war.

Q Where was she when the war closed? A At Ft. Gibson.

Q Where was she in the year '66? A She was at Ft. Gibson.

Rhoda Thornton ?

- Q You know where she lives now? A No I don't know where she lives now; I did not know where she lives, she throwed me off of her place here a little bit ago; lived down here on Pryor's Creek.
- Q Near what town? A Chelsea.
- Q Well since you know her in '66 at Ft. Gibson have you seen her often? A No sir, I aint seen her often; she left there some time in '66 about in the fall, and I don't know where she went; I never saw her then until about 6 or 8 years ago.
- Q Where did you see her then about 6 or 8 years ago? A Down here to Pryor's Creek.
- Q Near what place? A Near Chelsea there, where she is living now, first time I saw her down here at Hayden and the next time I saw her at the other place.
- Q How long have you lived in the neighborhood where you live now? A I have lived there about 6 years I reckon.
- Q How long after '66 did you live down in that part of the Cherokee Nation? A I left Ft. Gibson about '74.
- Q Where did you go to? A I went to Blint district.
- Q Near what place? A Near Evansville.
- Q When did you get up in this part of the country? A I came up here in '81.
- Q What place did you come then? A Come to Vinita.
- Q And then some years before that you saw this woman over about Chelsea? A No, when I went from Vinita I went to Grand river, and lived 17 years, and came to this place and the first time I saw Rhoda was that Lightning Creek payment, and the next place I saw her at here.
- Q When you were living on Grand river how far were you from Chelsea? A 25 or 30 miles, maybe 35 miles, I don't know just how far it is.
- Q When she was back here in Ft. Gibson in '66 you know where her children was that you have mentioned? A She had them with her I guess, I wasn't down at the house, she said she had them with her.
- BY MR. HASTINGS:
- Q How far did you live from her before the war? A About a mile and three quarters.
- Q What direction from Thornton? A South.
- Q How old were you when the war came up? A I was 11 or 12 years old.
- Q How old was her oldest child? A Her oldest child was up somewhere about that high, (indicating).
- Q Three or four years old? A Yes sir, maybe a little older.
- Q How old was the next one? A Next one was tolerable well.
- Q Did she only have the two? A Just had the two.
- Q She had no husband there? A No sir, her husband went off in the war.
- Q What was his name? A Mike Whitmore.
- Q You was in Ft. Gibson and saw her down there? A Yes sir.
- Q What was she doing? A When I first saw her she was cooking for Col. Phillips.
- Q You haven't seen her since that time until the Lightning Creek Payment? A Not since the latter part of '66, until the Lightning Creek Payment. A No sir.
- Q Were you ever tried in the courts for anything? A Oh yes.
- Q What for? A They tried me for larceny.
- Q Were you convicted? A Yes sir.

JUSTER FORMAN, being sworn by Con'r Needles, testified as follows:

BY MR. SMITH:

- Q What is your name? A Juster Foreman.

Rhoda Thornton 8

- Q How old are you? A About 50 or 60, I don't know which.
- Q Do you know this applicant, Rhoda Thornton? A Yes sir.
- Q How long have you known her? A I got acquainted with her during the war.
- Q Where? A I got acquainted with her first place I saw her at Cane Hill.
- Q Where did you next see her ~~next~~ after that? A In Ft. Gibson.
- Q When you saw her at Cane Hill was that before the war or during the war or after the war? A During the war.
- Q When you saw her next after seeing her at Cane Hill was at Ft. Gibson? A Yes sir, at Ft. Gibson.
- Q When you next saw her at Ft. Gibson was that during the war or after the war was over? A Well when I saw her first she come down from Cane Hill to Ft. Gibson.
- Q When was that now? A That was in during the war.
- Q How long did she stay about Ft. Gibson? A She stayed there to my best judgment until about '67, to my best knowledge.
- Q Where was she during the year '66? A She was there.
- Q Where? A Ft. Gibson.
- Q In the Cherokee nation? A Yes sir.
- Q Did you know her before the war? A No sir.
- Q When she came there before the war was over at the time you speak about did she have any children? A Yes sir, she had a couple of little girls.
- Q When did you next see her after ~~next~~ she left Ft. Gibson at that time? A I didn't see her any more until I come up here in Vinita.
- Q Until you left Ft. Gibson? A Yes sir, until I come up here in Vinita, I lost her again.
- Q Where did you see her then? A In Vinita.
- Q When? A I don't know exactly how long that's been, about 10 years ago or 12, 10 years ago I guess.
- Q Did you live at Ft. Gibson until that time? A No sir, I lived there until about '75, and went into Canadian District.
- Q You say you left Ft. Gibson in '75? A Yes sir, as near as I can remember.
- Q And went to live in what part of the nation? A In Canadian District.
- Q Then how long ago was it you lived in this section of the country? A I ~~was~~ lived up there about 15 years.
- Q About how long ago was it before you got up in this part of the country? A I disremember, about 15 years I reckon, as near as I can think of it.
- Q When she left Ft. Gibson do you know where she went to? A No sir.
- BY MR. HASTINGS:
- Q Who did she live with at Ft. Gibson? A She hired out, working out.
- Q How many children did she have when ~~she~~ you saw her there after the war? A She had the same two children I found her with, she had two children all along that I know of.
- Q About how old was the oldest child when you first saw her? A I don't know, I couldn't tell you.
- Q As near as 15 years of age? A No, I don't think she was that old; good sized little girls. (indicating.)
- Q Your best judgment as to the age of the oldest one? A I could not tell you.
- Q Your best judgment as to the age of the next one? A I couldn't tell you as to that; there was two little girls, one a little bigger than the other one.
- Q You can't tell anything about the age of either? A No sir, I couldn't tell anything about the age of the person, I was about 20 years old and I wasn't no more than about that high I reckon. (indicating.)

Rhoda Thornton 9

Q How old were they when you saw them at Ft. Gibson, were they grown at that time? A No, just small girls, come down from Cane Hill, and stayed there until about '67; she worked in the garrison there for those officers.

Q Where did she go from there? A I don't know; I don't know when she went away.

Q You keep up pretty well with these colored people? A Not much; I always make it a rule to attend to my business.

Q You never met this woman until about 10 years ago, in Vinita?

A I didn't see her no more after Gibson until I met her in Vinita.

Q Was she keeping house in Ft. Gibson? A I don't know; she worked out for some major up there, worked up in the garrison most of the time.

Q What was she doing in Vinita? When you saw her there? A Nothing particular, no more than I met her there.

Q She wasn't living there? A Not as I know of.

Q You don't know where she has lived in the meantime? A No sir.

Q Don't know whether she has been in Kansas or Colorado or where?

A No sir, I don't know anything about where she has been.

LEWIS WHITMIRE, being sworn by Com'r Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Lewis Whitmire.

Q Do you know this applicant, Rhoda Thornton? A Yes sir.

Q How long have you lived in the Cherokee nation? A Well I have lived in here all my life.

Q Are you a citizen of the Cherokee nation? A Yes sir.

Q Are you on the 1890 roll? A Yes sir.

Q How long have you known this applicant? A Yes sir.

Q How long have you known him? A Ever since he was young folks.

Q Did you know her before the war? A Yes sir.

Q Was she a slave? A Yes sir.

Q Who did she belong to? A Dr. John Thornton.

Q Was he an Indian? A Yes sir.

Q Cherokee Indian? A Yes sir.

Q Where was he living when the war commenced? A In Going snake.

Q How far was that from where you lived? A About 5 miles.

Q You know whether Rhoda had any children or not when the war commenced? A Yes she, she had two.

Q What were they, boys or girls? A Girls.

Q Where was Rhoda when the war commenced? A She was at home, when the war commenced.

Q Do you know what became of Rhoda Thornton during the war? A Yes sir, she went to Ft. Gibson after she left home where she lived.

Q When did you first see her after the war closed? A Why I saw her in Ft. Gibson in the summer of '66, last trip I made from Ft. Scott driving a Government team; that is the last place I saw her that was just before the war closed.

Q In the summer of '66? A Yes sir.

Q Where did you next see her after that? A Next place I saw her was up here on Big Creek.

Q When did you see her up on Big Creek? A It was along in the winter of '67, I don't know exactly what time, but it was either January or she was along in there, it was cold weather. Or '67? A Yes sir.

Q How long did she stay up there on Big Creek? A I don't know exactly, quite while I suppose; I was traveling around among them, there come in while, I didn't live there.

Q When did you next see her after that? A Every once in a while up until now I see her every once in a while all along every month or two; she was a widow woman and working about, and I didn't see her no more. I don't know where she is now.

time, but I have known her ever since that time, around about in the Nation, working about.

Q You know where she lives now? A Yes sir.

Q You know how long she has lived there? A I don't remember exactly how long she has been living where she lives now, but it has been three or four years, I guess.

Q You know where she was living before she went to live at the place she now lives? A No sir, I don't.

BY R. HASTINGS:

Q What was Dr. Thornton's wife's name? A Frankie/Alberty, whose name was married to her.

Q She a sister of Jack Alberty's? A Yes sir.

Q How far did Jack Alberty live from there at that time? A About seven miles, I think it was.

Q Did she have any more brothers over there, Mrs. Thornton?

A Yes sir, had Noel and Jess.

Q I would like to ask you if Thornton had any other slaves? A Yes sir, he had several other slaves, several others, I couldn't tell their names unless I studied awhile.

Q You don't know the names of them? A I know there's another one, he was born a slave, and his mother and two girls and another brother name Josh; they are all in the country now, but I don't see them only once in awhile like I have been seeing this woman.

Q How old were her children during the war when you saw them first?

A Youngest about that high (indicating), and biggest about so (indicating); I don't know how old they were.

Q Which one was the older one? A Mary Ellen.

Q You have seen Mary Ellen and the other one ever since? A Yes sir, once in a while.

Q What were you doing at Mt. Gibson when you saw her there? A I was driving a Government team, hauling provisions there.

Q Was her tent closed? A No sir. That's the last time you saw her at Mt. Gibson? A Yes sir.

Q And you were there directly after that? A Not directly after that, but I was there in '68 after that.

Q At whose place did you see this woman up here? A It was at Mr. Whitmore's; they didn't have no house there, they was camped and working trying to build a house.

Q Where is the first place you ever saw this woman keeping house up here? A Up here on Big Creek.

Q How long ago was that? A I don't know exactly how long ago that was in on, but the first place I saw her up on Big Creek was at this George Duffin's; she was living George Duffin and his father.

Q How long did she stay there? A That was in '67 or '68; she had her children there and she was working out.

Q There was she working? A I don't know where she was working.

Q You didn't see her at that time, you just saw her children?

A I didn't see her at that time, but I saw her a short time after that time, and see her children; I don't know where she was working.

Q When did you next see her? A At Duffin's, she had to be out working and come there where she left the children.

Q How many children did she have? A Two.

Q About how many years after the war was that? A About 2 years.

Q About how many years after the war did she commence keeping house up there? A I couldn't tell you that, I lost recollection of that.

Q She has been in Texas hasn't she? A I don't know, I never did see her in Texas.

Q You've missed her up here on the Big Creek neighborhood? A I missed her every once in a while, but I didn't know where she was.

Q You don't know where she worked for? A No sir.

Q And don't remember where she lived? A No sir. I know she stayed.

Rhoda Thornton 11

around among the people there; she stayed some on Lightning, because we are all kin to her children.

Q You didn't testify for her before the Kerns-Clifton Commission did you? A No sir, this is the first time.

Q You didn't tell about her ownership then? A No sir, I don't know you did, I know you will who hold her as a slave, because I stayed there about four years myself while she was there; that's the reason - know it so well.

Q You lived with Mr. Thornton? A I was hired to him when I was a young lad.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant not identified thereon;

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;

1895 census roll of citizens of the Cherokee Nation examined and applicant not found;

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on

page 142 #2962 Rhoda Thornton, District given as "Colorado."

APPLICANT, RHODA THORNTON, re-called and further examined;

BY COUNSEL:

Q You didn't draw Strip money? A No sir.

Counsel's Motion: Rhoda Thornton applies for the enrollment of herself; she cannot be identified upon the authenticated roll of 1880 or the census roll of 1895 or the Kern-Clifton pay roll, but is fully identified upon the Wallace roll according to page and number of the roll as indicated in the testimony; she swears that she was a slave, belonging to Mr. John Thornton, was in the Cherokee Nation during and at the war, and at Ft. Gibson in '66; she swears that since that time she has lived in the Cherokee Nation, that has been her home. For particulars as to her residence, reference is made to the testimony; the evidence is conclusive to the effect that she is a slave, and was in the Cherokee Nation at the time prescribed by the Treaty of 1866; she will now be listed for enrollment as a Cherokee Freedman on a doubtful card, awaiting further consideration of the Commission; she will be notified by mail of the action of the Commission in the premises.

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 correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this July 15, 1901.

M.D. Green



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Ind., May 27, 1902.

In the matter of the application of Rhoda Thornton for the
enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL TO D-666.

APPEARANCES:

Mellette Smith for applicant.
W. S. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that all the testimony
introduced by the Cherokee Nation in the case of Freedman Doubtful
812, also in the case of Freedman Doubtful 905, be introduced into
and made a part of the record in this case.

MR. SMITH: The applicant objects to the introduction of the
above testimony for the reason that the same was not taken with
reference to this case, and not under any rule of this Commission
with regard to notice and cross-examination, and because the same
is incompetent in the manner and form offered, and because it is
immaterial and does not tend to prove any issue in this case, and
because it is not the best evidence, and because it is hearsay.

COMMISSION: This testimony will be filed with and made a
part of the record in the case of Charlotte Henry, D-668, as
well as in the case of Rhoda Thornton, D-666, the same being the
case at bar. The applicants in the above cases are represented
by Mellette & Smith.

Arthur G. 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 steno-
graphic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of July, 1902.

Seal

J. R. Ruster
Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellotte & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit.

Rheda Thornton, D 966;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., November 16, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of RHODA THORNTON as a Cherokee Freedman.

Appearances:
W. W. Mastings, Attorney for Cherokee Nation.

MARY E. MILLER, being first duly sworn, testified as follows on behalf of applicant:

- BY COMMISSION: What is your name? A Mary E. Miller.
- Q What is your post office? A Chelsea.
- Q In what district do you live? A Cooweescoowee District.
- Q What is your father's name? A Mike Whitmire.
- Q What is your mother's name? A Rhoda Thornton.
- Q Is your father living? A No sir, he is dead.
- Q Is your mother living? A No sir, she is dead.
- Q When did your mother die? A She died in November, the 14th, 1902
- Q Last year in November, A Yes sir.
- Q How old are you? A I am about forty-seven.
- Q You were born several years before the war then? A I do n't know just how many years.
- Q Do you remember anything about the war? A No sir, not very much, I can remember the soldiers.
- Q Were you living with your mother at the close of the war?
- A Yes sir.
- Q About how old were you at the close of the war? A I don't know that, I guess six or seven years old. I guess about that. I was just a small girl.
- Q You were living with your mother at that time, were you?
- A Yes sir.
- Q Did you and your mother go out of the Cherokee Nation during the war? A No sir, we were in Fort Gibson. That's what my mother always told me. I remember being in Fort Gibson, and I can remember the soldiers there. Of course I can't remember how the town looked, but I can remember the first soldiers I seen in Fort Gibson.
- Q Were you and your mother living in Fort Gibson at the close of the war? A Yes sir, my sister and my mother and myself. She had two children, Charlotte and Mary Ellen, at the close of the war. She just had three children. I have a brother, he was born after the war.
- Q How long did you live there at Fort Gibson at the close of the war, how many years? A About two or three years.
- Q Where did you go then? A Up on Big Creek.
- Q You and your mother? A Yes sir.
- Q How long did your mother live on Big Creek? A I don't know just how long.
- Q Was that in the Cherokee Nation? A Yes sir.
- Q Where did she move to next after living on Big Creek? A She went up here to her mother's, Mound City, up in Kansas.
- Q When was that? A After we went from Big Creek.
- Q About what year was that that you went to Mound City, Kansas?
- A I don't know, it must have been some place along about 1872 or 1873.
- Q How long did your mother live in Mound City, Kansas? A She stayed there, I think, about four or five months.

Q Where did you come to from Mound City back here, what place?
A Came down to Mrs. Mayes'.

Q In what Nation? A Cherokee Nation.

Q What part of the Cherokee Nation is that? A It is in Coowees-coowee District.

Q What is the name? A Mayes, Uncle Dave Mayes.

Q How long did you live - did you live there then near Dave Mayes?
A Yes, we lived there, my mother was a widow, but before my father died he lived there too. We stayed part of the time there, and part of the time at Duncan's.

Q How long did your mother live near Dave Mayes' place in Coowees-coowee? A Generally lived with them most of the time. We didn't have any farm taken up then, just one place and another. We didn't have any farm then, generally lived in the neighborhood with her folks.

Q How long did your mother and her family live in the neighborhood, after you moved down from Mound City? A Four or five years.

Q Where did you go to then? A Back to Kansas, and when we got old enough we went and worked out. Of course, this was our home, and we always came back.

Q After leaving Cooweescoowee District near Dave Mayes' that time, how long did you stay up in Kansas at that time? A The first time?

Q The second time you went up, how long did you stay in Kansas?
A I don't know what time you mean.

Q You said you went up to Mound City and stayed there five months, and came down and settled in Cooweescoowee District and lived there four or five years, then went back to Kansas? A I don't know just how long we did stay out, seems to me about a year, I think. Mother ran a laundry in Chetopa a short while.

Q How long did you live in Chetopa? A She was there I think about seven months, as near as I can remember.

Q Where did she go to then, A Back to the Territory.

Q Did your mother have any property in the Cherokee Nation when she went out the first time? A Yes sir.

Q What property did she have? A Some hogs and a cow, and then her household furniture.

Q She owned that property at the time she first went to Kansas?
A The time she first went?

Q Yes? A No, when she came she got the cow, I think it was. We must left our furniture and stuff. I think when she came back the second time I think she bought the cow. She went up there, my brother was born there then, and I think she came back and bought the cow of Mrs. Duncan when she came back.

Q Did your mother ever improve that place? A Yes sir.

Q And take possession of a claim? A Yes sir, we took possession of a claim up on Big Creek.

Q When did she take that claim? A She took it some time along about 1878, I guess it was.

Q Where did you say that claim was? A It was up on Big Creek, three or four miles from Mr. Duncan's.

Q Is Big Creek in the Nation? A Cherokee Nation.

Q What District? A Cooweescoowee District.

Q That was about 1878? A I think it was. I can't just remember what year it was, never kept account of dates hardly.

Q Make any improvements? A Made a house and it got burned down, and mother went out and worked to get another home, another place. The place is right up there now. After the house got burned down, and the posts for the fence burned, someone come along and jumped the place. Mother went out and worked again to buy lumber and stuff to build another house. That is, all of us together, we were all women, we just worked together.

Q When did you and she build the second house, how many years ago?
A It was in 1892, I think it was, when we built the second.

Q How long did she hold that first claim? A About seven or eight years, I think.

Q Did she hold the first claim continually up to the time she built the second place? A No sir, we rented, after the first place got burnt up we rented.

Q How long did she hold the second place? A Ever since 1892. I made the improvements there, started it, and then mother she helped me. I started, and my husband went away, and then my mother and myself we improved it. She bought the improvements and kept it.

Q How long did your mother hold that second place? A About 1892.

Q Up to the time of her death? A No sir, the Indians taken it from her. It was Prophet and , they taken it just before the Dawes Commission court.

Q Was that in 1896, just before 1896? A Just in April before the the court, yes sir, she was dispossessed of that. We had about 200 acres taken away.

Q For how many years did your mother live continuously in the Cherokee Nation before her death, immediately before her death?
A I can't tell you just how many years, but we have always been here, and don't know nothing else, only when we had to work. Of course, this has always been our home, and every time we would go out we would come back in the Territory. We had stock and horses and everything. That is, in the last part of our lives.

Q Did your mother go up to Kansas every year or two?
A No sir, sometimes she would be here five or six years before she would go.

Q Where was she living in 1898? five years ago? A She was living at her home, because it was 1892 when we went there.

Q For how many years just prior to 1898 did she live in the Cherokee Nation? A I can't tell just how many years, because I just can't keep account of the years she was out; but most of the time she lived in the Territory, because she would go out and work a while and then come back and stay on the farm. Of course, when we didn't have any farm we rented.

Q Did she ever buy any property up in Kansas?
A No sir, never bought a dollars worth of property. We always put our money here.

Q Did she ever move out or move all her things up in Kansas?
A No sir, I have got the furniture right now, an old stove we have had since I can hardly remember, and a few things.

Q Did she ever pay any taxes up in Kansas? A No sir, didn't have anything to pay taxes on.

Q How many sisters and brothers have you? A I have one sister and one brother.

Q What are their names? A Charlotte and Fred.

Q Which one is the oldest? A I am the oldest.

Q Your brother Fred was born before the war? A No sir.

Q Charlotte, was she born before the war? A Yes sir.

Q Then you and your sister Charlotte were born before the war?
A Yes sir, we were the childre that was with mother during the war.

Q You lived with your mother during the war? A Yes sir.

Q Were you both living with her at the close of the war in Fort Gibson? A Yes sir.

Q Do you recollect as to whether your mother and the family went out of the Cherokee Nation during the war? Did they go out of the Cherokee Nation? A Not that ever I knew of. I know mother always told me she was waiting for father to come for her, she was in Fort Gibson, that's what she always told us.

Q Where were you living in 1866, your mother and you?
A I guess we must have been living in Fort Gibson.

Q Do you know of your own knowledge where you were living at that time? A No sir, really I can't tell. I couldn't tell '66 from anything else. Of course, I wasn't old enough to swear to that, I don't know, only what other people tells me. We were living in Fort Gibson, but as far as '66 is concerned, I don't know.

Q Do you remember whether you were living in Fort Gibson just at the close of the war? A I remember the soldiers, but I don't remember the close of the war, of course; I don't remember the close of the war, or what it was.

Q You don't know anything about the war of your own knowledge?

Q Not about the war. I saw the soldiers and know there was fighting.

Q Were they still fighting in the Indian Territory when you were living at Fort Gibson? A I don't know. It was after the war a couple of years before she left Fort Gibson, that's what she tells. I remember coming away all right.

Q How long did Charlotte stay with your mother? A She has always been with her, just like me.

Q All her life? A No, not all her life, but most of the time, because I wasn't married until I was quite an old maid, and me and my husband didn't live together only about six months. My sister was married first, and her husband didn't live only about a year. Sometimes some of stayed in the Territory and others worked out, and sometimes we would all be out working. Of course, we had our living to make, and we didn't have much to do with. After we got enough to get a horse and things like that we got a farm. Mother had two or three permits.

Q During the time your mother lived in Kansas, did you always leave some property in the Cherokee Nation? A Yes sir, we have had property here, that is, our household goods, but the first property we got was from Mr. Duncan, the second time that mother went off, when my brother was a little baby. That is the first time we ever owned anything in the Territory except our household goods. When she went away she left them here to aunty's.

Q When she went away the first time, did she leave any property here at that time? A No, she left her household goods, she didn't have any just then.

Q You say she left her household goods? A If you call that property.

Q What kind of household property? A She had a stove and bedsteads just like poor people do have.

Q She left them here? A Yes sir.

Q Didn't she keep house up in Kansas at that time?

A Not at that time, no sir, she didn't. She just went to grandmother's the first time, when my brother was born. After he was old enough she come home.

MR. HASTINGS: How old were you when you were married? A I was some place along about thirty-five or thirty-six, I guess.

Q You have been married ten or eleven years? A Yes sir, I haven't married since. I was married January, 1902, I believe.

Q You mean 1892? A Yes sir.

Q What was your husband's name? A His name was Miller.

Q What was his first name? A John C. Miller.

Q Where were you and John married, who married you? A Married up on Big Creek, Mr. Abran Ward married us.

Q Did you and John keep house up there? A No, we kept house on Fryor Creek.

Q How long did you keep house together? A About six months.

Q You separated then? A No, I had never had any divorce, but he wouldn't live here, and I wouldn't go out there. He lives west and I live east, because I wouldn't go out of the Territory.

Q Where is his home? A Colorado.

Q Ever meet him in Colorado? A Yes sir.

Q How long before you married him? A About nine months, I think it was.

Q In what town in Colorado? A The first time I seen him was in Glenwood.

Q Had you ever been married then? A No sir.

Q Were you there with your mother at that time? A No sir.

Q Who was with you at that time? A My sister.

Q Charlotte? A Yes sir.

Q What other place did you see him in Colorado? A I seen him in Leadville.

Q How long after you had seen him in Glenwood? A About three months after I had seen him in Glendoow, I expect.

Q Did you see him at any other place in Colorado? A No sir.

Q Where was your mother at that time? A She was up in Leadville.

Q Keeping house? A No, she was cooking out.

Q When was that, how long before you married? A I married him, I guess, about two or three months after that.

Q How long were you in Colorado at that time? A We were out there about, I think we were out there about a year and maybe two or three months, as near as I can remember.

Q Who did Charlotte marry? A She married a man by the name of Henry.

Q Before or after you married? A She married before.

Q About how long before you married? A I don't know just how long she was married before I married, I don't remember. I forget just the year she married.

Q Has she some children? A No sir.

Q You have no children? A No sir.

Q Think over thematter, and tell us your best judgment as to how long she had been married when you married? A Well, really I can't tell you. Let me think. I think she had been married about - her second husband, I think it might have been about three years. Really, I just can't remember.

Q What was her first husband's name? A **ELY** C. L. Deranamy.

Q Was he a state raised man? A Yes sir.

Q Where did she marry him? A In Topeka.

Q Do you know who married them? A No sir.

Q What business did he follow at that time? A He was a private clerk in the Auditor's office, I think, the year that McCabe was there, he was Auditor.

Q He was a clerk in the Auditor's office? A He was a private clerk or secretary, I forget just what it was.

Q In Topeka, Kansas? A Yes sir.

Q How long did she live with this first husband? A They only lived together about a year.

Q Were they divorced? A Yes sir.

Q In what court? A I don't know, I guess in Topeka. I most know it was there. The year they was married they came down. They was married some time in the fall, and I think they came down here and stayed during the winter and went back the next spring and separated, I think it was.

Q When was she married to Henry? A Married to him in Leadville.

Q Leadville, Colorado? A Yes sir.

Q What was his business? A He just worked at anything he could get to do.

Q Does she live with Henry now? A No sir, he is dead.

Q Where did he die? A In the Territory.

Q Where? A Up on Pryor Creek.

Q How long after their marriage? A About, let me see. I don't know just how long after the marriage. Well, they came down here after they were married, but I don't know just how many years after

they were married or how long, when they came down - if I knew just the time they married I would know just how long. They came down - I do n't know just how long they was married when they came down, but anyhow they came down here about a year after I was married, seems to me. It was about nine months, I think, but I don't know just how long they had been married, because I can't remember the time they married.

Q By what name did your mother go when you can first remember?

A Rhoda Thornton. She always went by that name.

Q What name did her son, Fred, go by? A He went by Thornton too.

Q She has never married since the war? A No sir, never was married. She just went by her master's name, never was married.

Q Fred had no legitimate father? A No sir.

Q He was born where? A In Mound City, Kansas.

Q What was your grandmother's name? A Dorcas Downing.

Q She continued to live in Mound City, did she? A Yes sir, she didn't belong to the Territory. My mother was sold in here from Arkansas.

Q Your grandmother never belonged here? A No sir.

Q That is the grandmother you spoke of that your mother visited?

A Yes sir. My father's mother lived here, but my mother's mother never lived in the Territory.

Q You remember Mound City, Kansas? A Yes sir.

Q You were too young to remember of your own knowledge much about Fort Gibson? A I know I was there in Fort Gibson, but I can't remember whether it was in '66 or when it was.

Q You don't remember whose house you lived in there? A No, mother lived in a little cabin to herself.

Q You don't remember where it was? A No sir.

Q You don't remember what part of town it was? A No sir, I don't know.

Q Now, when you first lived on Big Creek, in whose house did you live there? A Aunt Sukey Mayes, when you come up from Gibson.

Q Live in the house with them? A Yes sir, that is my uncle, my father's brother.

Q How long did you live in the house with them? A Lived there about three or four years with them, that is, sometimes we children would go over with father, and mother mostly made her home with them.

Q They had a house at the time? A Yes sir.

Q And a field? A Yes sir.

Q You think that the first field your mother ever got was about 1878? A As near as I can remember it must have been about 1878, along some time there.

A That one burnt up and somebody else took it? A Yes, the first house we took got burnt up, and somebody jumped the claim. We got Mr. Ball to look after our claim and work on it all the time so no one would take it. About that time there was people jumping claims all the time.

Q You didn't have any land in cultivation at that time?

A Yes sir, we had land in cultivation.

Q About how much? A About six acres, I guess, didn't have much.

Q The fence got burnt up, and the house got burnt up, and somebody else jumped it? A We didn't have a bit of fence up.

Q Somebody else took it? A Yes sir.

Q You never got possession of it any more? A No sir.

Q Where were you when somebody else took it? A We were working out Mound City? A Leadville. I was in Denver.

Q When did you first go to Glenwood, what year?

A It was about, let me see, I think it was about 1900 (1890) somewhere along there.

Q How old were you when you went out there? A I couldn't tell you unless I would count back. I am forty-seven now.

Q Did you ever go to school in Mound City? A Yes sir.

Q How long after the war? A Oh, I didn't get to go to school until I was about fifteen or sixteen.

Q What was the name of your teacher? A Mr. Francis, a white man.

Q What was the name of your other teacher? A That's all I ever went to school.

Q How long did you go to him? A Just one term. That is, I say one term, I went a little more, I guess. I went pretty near the whole year, but didn't go quite the year out, we had to come home, mother sent for us. She was then in Coffeyville running a laundry there.

Q In Coffeyville? A Yes sir, she worked for Eldridge.

Q Did Fred ever marry? A Yes sir.

Q Who did he marry? A He married a woman from Fort Smith. Her name was Anna - let me see, what was her name?

Q Is she state raised? A Yes sir, she is a state raised woman.

Q Where did he marry her? A Ardmore.

Q Chickasaw Nation? A Yes sir.

Q Where does Fred live? A I don't know, he lives just one place and another.

Q How long has he been married. I don't know just when he married, because he was married a long time before we knew anything about it.

Q Was he married long before you? A No, he married since then.

Q He has been married some eight or ten years? A No sir, he has married since.

Q Since the Kern-Clifton court? A Yes sir.

Q Since 1896? A Yessir.

Q You don't know where he was when he was married? A We would know from him all the time, but then he didn't tell us he was married until quite a while after.

Q Where was he living when he was married? A They was married in Ardmore. He was in ~~Ardmore~~ a white Wagoner a while.

Q Where is your sister living now? A She lives on Lightning Creek.

Q She is not living with Henry, you say? A No, he is dead.

Q Did you know Buddy Brown in Mound City, Kansas? A No sir.

Q Who did you say married you and Miller? A Abram Ward.

Q He was a preacher, was he? A Yes sir.

Q What did you say become of this second place that your mother got, they beat you out of that in the courts some way?

A No, they never did give us any trial. We made it and improved it, and put everything on it, improved it all except one little patch of about five acres, that will be about a quarter of a mile from the house, and commenced to clear the farm up, and Mr. claimed that he owned it. We made all the improvements, but Mr. -- in the meantime, he had bought the farm from Mr. Akins, and he never paid for it, and Mr. Akins claimed this little field some way through fraud, and they just taken the whole business.

Q You lost it in the court? A Lost it? No, they never give us a trial, and that was about the cause of her death; she didn't live long afterwards. It nearly killed her.

Q Who hauled you from Fort Gibson to Big Creek, if you know? You don't remember that? A No sir, I don't remember that. We went in a wagon, that's all I remember.

MARIA WHITMIRE, being first duly sworn, testified as follows on behalf of applicant:

BY COMMISSION: What is your name? A Maria Whitmire.

Q How old are you? A I don't know.

Q Were you born before the war? A Yes sir.

Q How many years before the war? A I don't know. I was turned into my 11th year when the war broke out.

Q What is your post office address? Q Wimer.

Q What district do you live in? A Cooweescoowee.

Q Did you know Rhoda Thornton? A Yes sir.

Q She is the mother of Mary E. Miller, who has testified here? A Yes sir, that is her daughter.

Q When did you first get acquainted with Rhoda Thornton? A I have been knowing her about thirty-eight years.

Q Did you ever know her before the war? A No sir, I didn't know her before the war, but I heard of her. You see, I was bred and born up here, and they lived down south of me.

Q Did you get acquainted with her while the war was going on, or after the war? A After the war.

Q Do you remember what year it was when you first got acquainted with her? A No sir.

Q Where was she living at that time? A I got acquainted with her on Big Creek first, but she lived at Gibson, because she was the aunt of my husband, she was Mike's aunt. This child's father is my own husband. We always talked about Aunt Rhoda Thornton, living at Fort Gibson. I never got acquainted with her myself until I saw her on the Creek.

Q You only knew of her living at Fort Gibson from what you have heard about it? A Yes sir, by my husband.

Q About how many years after the war was it before you first got acquainted with Rhoda Thornton? A I don't know just how long it was after the war.

Q Was it four or five years after the war? A I don't know just how long, but I know it.

Q How long did she live at Big Creek after you first got acquainted with her? A She has been there all the time, only when she went out working around in the states. Her home was there on the Creek.

Q Do you know about Rhoda Thornton going to Kansas? A Yes sir, I know when they said they was going up there to work, up to Coffeyville to run a laundry up there a while.

Q Coffeyville? A Yes sir.

Q Do you remember when she went out the first time? A No sir, they was in and out. They would go home and stay a long while and then go out, and sometimes would be back down here in Gibson, they said, at work. They had no man to work for them.

Q Did she have any place around, any farm around near Big Creek? A She had a place up above me, east of me.

Q Did she have a place when you first got acquainted with her? A No sir, she made it right after that. She was living with her folks.

Q Do you remember when she first moved to Kansas? A No sir, I don't know anything about her moving to Kansas.

Q You don't know whether she took her property with her? A She never took any property that I know of. I didn't know she had ever moved to Kansas.

Q Do you know how long she stayed there the first time? A No sir, she never did move to Kansas that I ever knowed of.

Q She has been to Kansas several times, hasn't she? A She went up there.

Q Several times? A You mean Coffeyville? Yes sir, worked at Coffeyville, and come back home.

Q How long did Rhoda Thornton live in the Cherokee Nation continuously before her death? A I don't know just how long, but it was a good long time, she stayed here until she died.

Q What is the last time she went to work up in Kansas? A I couldn't tell you hardly when was the last time, it was a long time, though.

Q Has it been eight or ten years ago, the last time she went to Kansas to work? A It has been longer than that, I expect. I couldn't tell you just how long.

Q Has Rhoda Thornton lived in the Cherokee Nation continuously for the last ten years before her death, all the time.

A She lived all the time in here, only when she was working out. When she was through working she would come home.

Q How long has she lived in the Cherokee Nation continuously?

A She has been living in the Cherokee Nation ever since I was acquainted with her, as far as that is concerned, ever since I have known her.

Q You say she went to Kansas to work out? A Yes sir, to Coffeyville.

Q Stay there for several months? A Would be there at one place maybe, and sometimes it looked to me like she wouldn't be there over three or four months, then come back home and be gone again.

Q What is your best judgment as to how long she has lived in the Cherokee Nation continuously without going out at all? A I don't know that. I never knowed her to live in the states. She lived right here in the Territory all the time, only when she was working out. She lived neighbor to me right there, in about a mile from me.

Q Do you know where she was living five years ago, in 1898?

A She was living on Pryor Creek five years ago. They have been living on Pryor Creek ever since they have been living down there, that's over five years.

Q Did she move from Big Creek to Pryor Creek? A Yes sir, moved there up there where they live.

Q How long has she been living on Pryor Creek? A I guess she has been living there about - that's pretty hard for me to tell.

Q Do you know when the Wallace roll was made? A At Vinita? Yes sir, I remember when that was.

Q Has she been living on Pryor Creek ever since that time?

A She moved down there since then, if I am not mistaken.

Q Since the Wallace court, did she ever go to Kansas to work out?

A I don't remember, because at the time the Wallace court was there she was living living close neighbor to me, I think, then.

Q Did she ever go to Kansas to work out since that time?

A Oh, yes sir, she has been working out. Of course they worked out, go out and work and stay a month or two maybe, and come home.

Q What children of Rhoda Thornton were living with her when you first got acquainted with her? A This lady here.

Q What is her name? A We always called her Ellen.

Q That is Mary E. Miller now? A Yes sir, she's Miller by marriage, but her name is Thornton.

Q Her name then was Mary E. Thornton? A Yes sir.

Q She was living with Rhoda Thornton then? A Yes sir.

Q What other children? Did Rhoda Thornton have any other children?

A Lottie.

Q That's Charlotte? A Yes sir, that's the one. Then she had a boy by the name of Fred, but I am not much acquainted with him like I am with these girls, because I have been knowing these girls for always.

Q You don't know of your own knowledge where Rhoda Thornton was in 1866, do you? A No, I don't.

Q You don't know where she was in 1867 either, do you?

A You will have to come right down - I have got no education, and I don't know anything about the years. I don't know a thing about the year.

Q Do you remember how many years after the war it was when you first got acquainted with her? Was it several years after the war you first got acquainted with her? A Might have been two or three years, I don't know, I am just guessing at it.

MR. HASTINGS: How old was Freddie when you first knew Rhoda Thornton after the war? A I couldn't tell you how old he was.

Q Just stop and think about how big a boy was he when you first knew his mother after the war, your best recollection?

A I can't tell, to tell the truth about it.

Q Was he old enough to be weaned? Was he running around and playing when you first knew his mother, Rhoda Thornton, after the war? How old was he? A I don't know how old he was.

Q Your best judgment; two or three or four or five or six years of age? A I couldn't tell you just how old he was, he was a little fellow.

Q Was he in his mother's arms, or was he running about? A I don't know, seemed to me like he was a little bit of a fellow then.

Q Two or three years of age? A I would call it - I don't know just how old he was. I know he was a little fellow.

Q When you first knew his mother after the war?

A After the war when I first got acquainted with her.

Q Where was Freddie born, do you know that? A I don't know where he was born. I can tell you where they said he was born, at Mound City. She went up there to her mother, went up there to Mound City.

Q Did you ever know of her living in Topeka, Kansas? A No sir, I don't know nothing about her living there.

Q Did you ever know of Mrs. Miller living there? A No sir.

Q Ever know of her sister living there? A No sir, I don't know anything about them living in Topeka, Kansas.

Q Who did Charlotte first marry? A A man by the name of Henry.

Q Wasn't she married before that? A She has been married only twice.

Q What is the name of the first husband? A Henry.

Q What is the name of her second husband? A I don't know this last man, but I believe his name is - I don't know him at all.

Q Don't you know she was married in Topeka before she married Henry?

A That's the first man I ever knowed her to marry, was Henry.

Q Where did she marry Henry? A I don't know. They was married when she came home.

Q Where had she been to? A Up in the state working. They hadn't been gone long before they came home.

Q Where do you live? A On Big Creek.

Q What is your post office? A Wimer.

Q What was your name before you married Whitmire? A Landrum.

Q What is your mother's name? A Aggie. My father's name is George Landrum, belonged to Dave Landrum. I belonged to Aaron.

Q Did you ever see these people live in a house? A Yes sir.

Q Where? A Right on Big Creek.

Q Who had the place next to them when you saw them living in a house?

A Duffin.

Q George Duffin? A George Duffin, yes sir.

Q What kind of a house did they have? A Lived in a little log house.

Q How long did they live in that house? A Lived in there, I don't know how long; about three or four years, I guess.

Q Don't you know? A No sir, I don't know just how long they lived there, but they lived there a good while.

Q How far is that from you? A About a mile; about a mile south of me.

Q What did they do with this place? A This place I am talking about belonged to the heirs, some heirs. It was Dinah's children. They just rented it, then they took a place away up the creek. There is where they got burnt out.

Q How long had they lived up there when they got burnt out?

A I don't know just how long they lived there.

Q Were you ever at their house? A No sir, I just lived there where they lived, by Duffin's.

Q You never was at their place they calimed was burnt up?

A No sir, I never was right there, but I was passing along there all the time. Never was right in the house.

Q Ever see the house? A Yes sir.

Q What kind of a house was that? A Just a common log house.

Q Do you know how long they lived in it before it got burned up?

A No sir, I don't know just how long they lived in it.

Q Did you ever know of this woman here living out in Glenwood, Colorado? A No sir, I do n't know that she lived there. I know they said they were working out here.

Q Did you know her sister was out there in Colorado at any time?

A I can't tell that I know they lived there. I know they said they were working out there when they would come home.

Q Don't you know her sister married out there? A I don't know. She brought a man home, Henry, when she come home.

Q Did she and Henry ever keep house here? A Yes sir.

Q Where? A On Pryor Creek.

Q How long? A I don't know just how long.

Q Did she ever marry since Henry died? A Yes sir, she's married now.

Q Who did she marry now? A I don't know the man she married now.

Q Where did she marry the last time? A Right there on Lightning Creek; that's what they tell me, but she is married I know.

Q You never saw Rhoda Thornton then, for three or four years after the war; you don't remember how long? A No sir, I don't remember how long. It is a long time.

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

Wm Hutchinson

Subscribed and sworn to before me this 20th day of November, 1903.

Charles H. Sawyer
Notary Public.

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

In the matter of the application for the enrollment of
Rhoda Thornton and others, consolidating the applications of:

Rhoda Thornton
Charlotte Henry

Cherokee Freedmen D 966
Cherokee Freedmen D 968

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Rhoda Thornton for herself, and by Charlotte Henry for herself. Copies of testimony taken at various times in the cases of George B. Duffin, Cherokee Freedmen D 505, and Edward Wright, Cherokee Freedmen D 818, are made a part of the record herein.

The evidence shows that Rhoda Thornton and her daughter, Charlotte Henry, were the slaves of a Cherokee citizen at the commencement of the rebellion; that said Rhoda Thornton left the Cherokee Nation during the rebellion but returned thereto and established her residence therein, within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitacre, trustee, etc. v Cherokee Nation et al., for the return of Freedmen to the Cherokee Nation; and that Charlotte Henry was residing with her mother in the Cherokee Nation during the said period specified in the above mentioned decree.

The evidence further shows that since the close of the rebellion, the applicants have lived at various times outside of the Cherokee Nation, but it does not appear that they ever removed with their effects from said Nation or became citizens of another government. It is further shown that said Charlotte Henry resided continuously in the Cherokee Nation from 1892 to 1900; and that said Rhoda Thornton resided continuously therein from about 1892 down to the date of her application herein.

It is, therefore, the opinion of this Commission that Rhoda Thornton and Charlotte Henry should be enrolled as Cherokee Freedmen, 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, Indian Territory,
this MAR - 5 1904

DEPARTMENT OF THE INTERIOR,
commission to the five civilized tribes,

In the matter of the application for the enrollment of
Rhoda Thornton F. D. 966
Charlotte Henry F. D. 968.

Protest.

The Cherokee nation protests against the decision of this commission
in these cases and asks that the record of proceedings be forwarded to
the Honorable Secretary of the Interior for review.

Respectfully,

Attorney for the Cherokee Nation.

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

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

REFER IN REPLY TO THE FOLLOWING

~~Sherokee Nation~~
D 988

ALLISON L. AYLESWORTH,
SECRETARY

AS
COMMISSIONER

Muskogee, Indian Territory, October 14, 1903.

W. V. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that Mary A. Miller, daughter of
John Thornton, Cherokee Freedom D 988, has this day been requested
to appear before the Commission at its offices in Muskogee, I. T.,
on Friday November 16, 1903, and introduce testimony as to residence
of the said John Thornton since 1868; also testimony as to which
of John Thornton's children were living with her in 1868, the
applicant having failed to appear before the Commission at Vinita,
I. T., in September and introduce testimony requested.

Respectfully,

[Handwritten Signature]
Commissioner Charge.

mdg

COMMUNICATIONS SECTION
U. S. DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFERRED TO THE FOLLOWING

**Cherokee Freedmen
D 966 & D 968**

Muskegee, Indian Territory, June 8, 1904.

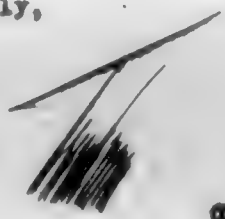
**W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.**

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 applications for the enrollment of Rhoda Thornton and Charlette Henry as Cherokee freedmen.

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 principal applicant. If you fail to file such protest within the time allowed this decision will be considered final.

Respectfully,



Chairman.

Encl. V-21

COMMISSIONERS:
TAMM BERRY,
THOMAS B. NEEDLES,
C. E. BRACKENRIDGE.

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:
<u>Cherokee Freedmen</u>
<u>D-966 D-968</u>

Muskogee, Indian Territory, October 29, 1904.

Bell, Hastings and Davenport,
Attorneys for Rhoda Thornton, et al.,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the Commission's decision dated March 5, 1904, granting the applications for the enrollment of Rhoda Thornton and Charlotte Henry as Cherokee freedmen, was affirmed by the Secretary of the Interior on October 20, 1904.

Respectfully,



Chairman.

F. D. 966

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in 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 **SEP 23**, 190
Mellish J. Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

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.**

SEP 24 1901

NOTICE!

IN THE MATTER OF the application of Rhoda Thornton
for enrollment as Cherokee citizens:
Case No. D 966.

To Rhoda Thornton or Mellette & Smith her Attys.

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 Vinita Indian Territory, on Sat. 25th 1901 10:00 A.M. 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 SEP 21 1901

M. W. Hastings
Attorneys for the Cherokee Nation.

Cher. Fr. D. 967

Cher. Fr. D. 967

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Mary Ellen Miller for enrollment as a Cherokee Freedman, said Miller being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Louis T. Brown, Agent for Applicant.

James S. Davenport, Cherokee Representative:

- Q What is your name? A Mary Ellen Miller.
- Q What is your age? A Well, I don't know my age exactly, I am about 44 I guess.
- Q What is your post office address? A Chelsea.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Who do you want to enroll besides yourself? A No, one.
- Q Is your name on any of the rolls of the Cherokee Nation?
- A No, sir; not that I know of.
- Q Where were you born? A Born in the Cherokee Nation; I am a daughter of Rhoda Thornton that applied for enrollment Saturday.
- Q Where were you born? A I was born in the Cherokee Nation.
- Q Were you a slave? A Yes, sir.
- Q What is your father's name? A Mike Whitwire.
- Q What is your mother's name? A Rhoda Thornton.
- Q Do you claim your citizenship through Rhoda Thornton your mother?
- A Yes, sir.
- Q Are you married? A Yes, sir.
- Q What is your husband's name? A John Miller.
- Q Is he a citizen? A No, sir.
- Q Have you any children? A No, sir.
- Q What was your owner's name? A Dr. John Thornton.
- Q You say you were born in the Cherokee Nation? A Yes, sir.
- Q Where have you lived there all your life, in the Cherokee Nation?
- A Yes, sir, except went out to work sometimes.
- BY MR. BROWN:
- Q Have you always lived with your mother? A Well, part of the time, and then most of the time I would stay with my father when I would be in the Territory, that is when my mother stayed in the Territory.
- Q You lived in the Cherokee Nation all your life except when you would go out to Kansas during the war? A Yes, sir, and sometimes would go out to Kansas and work.
- Q Do you know when you returned to the Cherokee Nation?
- A Not sir.
- Q Do you know whether you returned with your mother? A Yes, sir, I went with my mother.
- Q Returned with her? A Yes, sir.
- BY COM'R NEEDLES:
- Q Where did you marry? A I married in the Cherokee Nation, on Big Creek.
- Q You say your husband is not a citizen?
- A No, sir.
- Q Have you ever had any children? A No, sir.
- Q Well, you have kept house outside of the Cherokee Nation have you? A No, sir Not only with my mother, I wasn't married until I came here.
- Q When were you married? A I was married in '94.
- Q You lived with your mother until you were married in 1894?
- A Yes, sir, with my father part of the time.
- Q Where did your father live? A He lived on Big Creek in the Cherokee Nation.
- Q Well, after you married in 1894 you went away with your husband didn't you? A No, sir; have lived here ever since on Fryers Creek.
- BY MR. DAVENPORT:
- Q Where have you lived from the time you can remember up to you were married in 1894? A I lived in the Territory.

Mary E. Miller, --2.

- Q How much of the time? A I can't tell you.
When you can first remember you were living in Scott Country, Kansas? A No, sir.
- Q You have a brother Freddie? A Yes, sir.
- Q Is he older than you? A No, sir, he is a great deal younger.
- Q You were living up there when he was born? A No, sir.
- Q Now, how much have you lived in Kansas all told?
A I can't tell you, sometimes I would go up there and work sometimes six months or may be a year.
- Q You haven't lived there as much as your brother Fred?
A No, sir.
- Q In the time of the Kern-Clifton enrollment he lived in Kansas?
A I don't know exactly how long he has lived there.
- Q Have you lived in Kansas as long as your brother Fred?
A I don't know.
- Q How long have you been living in the Cherokee Nation the last time since you came from Kansas? A I have been here about nine years.
- Q How long did you live in Kansas prior to coming here nine years ago? A I was there pretty near two years and a half.
- BY COM'R NEEDLES:
- Q You have never been recognized by the Cherokee Authorities?
A I went before the Wallace Court and all my people drew but me and my name could not be found.
- Q Well, how about the Kern-Clifton? A We was put on the doubtful roll or rejected roll I don't know what.

The Tribal Rolls of the Cherokee Nation of Freedmen citizens examined and names of applicant not found thereon.

COM'R NEEDLES: Mary E. Miller applies for the enrollment of herself. She avers that she was married to one John Miller a non citizen. She was born a slave or one Dr. John Thornton. She avers that she is a daughter of Rhoda Thornton and claims her citizenship through her mother. Said Rhoda Thornton is listed for enrollment as a Cherokee Freedmen upon doubtful card #966, and the testimony taken in said case will be made part of the record in the case at bar and copy thereof filed herewith. Upon examination of the rolls her name cannot be found upon any of the rolls in the possession of this Commission. She will now be listed for enrollment as a Cherokee Freedmen upon a doubtful card. She will be notified of the result of the Commission when a decision is arrived at.

---00000000---

J. O. Reason, 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. Reason

Subscribed and sworn to before me this 17th day of July, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Waskogen, I. T., May 31, 1902.

In the matter of the application of **PERCY ADAMS** for enrollment
as a Cherokee Freedman:

Applicant appears by Mellatte & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of **Moses Whitmire, Trustee for the Freedman, vs The Cherokee Nation, No. 17209** filed in the **Mariah Hayden** case **F D 493**, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said **Mariah Hayden**, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Mary E. Miller, D 967;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1805, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of **Mariah Hayden** will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Hill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the **Mariah Hayden** case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. V. Hastings:
The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. J. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

To be filed with case of Mary E. Miller, C. T. D. 9007.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29, 1904

In the matter of the application of Rhoda Thornton for the enrollment of herself as a Cherokee Freedman; she being sworn and examined by Commissioner Needles, testified as follows:

Appearances:

Mr. Smith, of Kelletts & Smith, for the Applicant;
Mr. Davenport, for the Cherokee Nation.

- Q What is your name? A Rhoda Thornton Thornton.
Q How old are you? A About 66.
Q What is your post office address? A Chulissa, I. T.
Q You live in Cooweescoowee district? A Yes, sir.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself and 2 daughters and my son.
Q Are your daughters of age? A Yes, sir.
Q Your son of age? A Yes, sir.
Q They must appear for themselves; you just apply then for the enrollment of yourself? A Yes, sir.
By Mr. Smith: Where do you live? A I live about I guess it is about 18 miles east of here, in Cooweescoowee district, on the head of Pryor's Creek.
Q How long have you lived where you live now? A I have lived between seven and eight years there.
Q You may give the names of your grown children? A Mary Ellen is the eldest.
Q What is her name now? A Mrs. Miller, Mrs. E. J. Miller.
Q How old is she? A She is about 42 I guess.
Q Is she married? A She has been married; she is a widow.
Q Has she any children? A No, sir.
Q Where does she live? A She lives with her sister.
Q Where? A It is about two miles, she is staying on her sister's farm.
Q Where does her sister live? A She lives on her farm.
Q Where is her farm? A About two miles from me, about 27 or 28 miles from here I guess.
Q How far from Nowata? A I guess it must be between 18 and 19 miles from here I guess.
Q In the Cherokee Nation? A Yes, sir.
Q How give me the names of your next one? A Charlotte, Mrs. R. D. Henry.
Q She is married to a man named R. D. Henry? A Yes, sir.
Q Where does she live? A She lives on her farm.
Q At the place you just spoke of? A Yes, sir, her and her sister lives together.
Q Have you any children? A One boy.
Q What is his name? A Freddie Thornton.
Q How old is he? A About 31 or 2 now.
Q Were you a slave before the war? A Yes, sir.
Q To whom did you belong? A Mr. John Thornton.
Q Was he a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living when the war commenced? A In Coingsenake district, on Barron Fork.
Q Where were you living at that time? A I was living with him.
Q Were you taken out of the Nation during the war? A Oh no sir, I wasn't taken out, yes I was out a little while right then the soldiers and all was there.
Q What children did you have at the time the war commenced? A I had Mary Ellen and Charlotte and little boy that died named Lewis; he died; I was the mother of three children time of the war.

Q Where were the children whose names you have mentioned born, outside of Mary Ellen and Charlotte? A Freddie was born in Kansas just a little after the war.

Q When did you come back to the Cherokee Nation? A No?

Q Yes, after the war, or after you went out with the soldiers?

A When I went out with the soldiers?

Q That's what I said? A I went up to Cane Hill, and I soaked there a while for Major Willett.

Q That is Cane Hill, Arkansas? A Yes, sir.

Q That during the war? A Yes, sir, just after the Prairie Grove battle.

Q What I want to know is when you came back to the Cherokee Nation after you went out of the Nation during the war and went to Cane Hill and these places you have mentioned? A I went right from Cane Hill on down by Ray's Mill, and went down in a Government wagon, after cooking for Major Willett; I cooked for him about six weeks on Cane Hill and I cooked for him about two weeks at Ray's Mill, then I went in the Government wagons on to Ft. Gibson.

Q Do you know what time you went down to Ft. Gibson? A No, sir, the wagons went down before the close of the war.

Q It was during the war then? A Yes, sir, right during the war I come back.

Q How long did you stay at Ft. Gibson after you got back there?

A I stayed there at Ft. Gibson off and on I guess for three or four years.

Q Where were you when peace was declared? A I was in Ft. Gibson, sir.

Q How long did you remain in Ft. Gibson after the war closed?

A I must have remained thereafter the war closed for a year or so, there in Ft. Gibson and about Ft. Gibson, because I cooked for Colonel Phillips there.

Q Then where did you go? A I come up on Big Creek.

Q Was that in the Cherokee Nation? A Yes, sir.

Q How long did you live on Big Creek? A I stayed there on Big Creek quite a while.

Q You stayed about how long? A I couldn't tell you just how long, but I must have stayed there off and on for four or five years I guess, off and on.

Q I don't want to know anything about how long you stayed off and on, but when you went to Big Creek after you left Ft. Gibson how long did you stay at Big Creek? A I stayed at one place there at Nathan Tyner's there I guess a year or more, not there at one place but I made that my stepping place pretty much.

Q Where were you during the year of 1866? A I was in Ft. Gibson.

Q I believe you left Ft. Gibson you said? A When I come to uncle Nathan Tyner's, when I come from Ft. Gibson I come to uncle Nathan Tyner's.

Q Then where did you go? A I went to aunt Susy Hayes, I was a widow and had to do the best I could, and had my children.

Q How many children did you have then? A Two children.

Q Where were your other children born? A In Goingsnake district, right at my master's before the war.

Q How is that? A They was born at old Dr. Thornton's in Goingsnake district.

Q I saw where were your young ones born? A I didn't have but one younger one, he was born in Kansas.

Q When was he born? A He was born way last of '67 I think, I don't remember exactly.

Q Which one is that? A That's Freddie, my boy.

Q When were you in Kansas? A No?

Q In '67 too? A I was there for a short while while my child was born, I was at my mother's.

Q Was your mother in Kansas at that time? A She was in Kansas, yes, sir.

Q Well now then since that time after you left Reuben Tyner, -did you say Reuben Tyner? A Nathan Tyner, we called him, he goes by Nathan Duffin now.

Q Since you left Nathan Tyner where did you go? A I lived with them until I rented my farm and when I rented a farm I lived on that.

Q Where at? A About 6 or 7 miles north of Chelsea.

Q How long have you had it? A I guess about between 5 and 7 years.

By Mr. Hastings, Cherokee Pop'yer

Q How far from the Arkansas line did you live at the time the war come up? A It must have been about two miles and a half or three miles; you mean when I lived where my master was?

Q Yes, sir? How far was that from Dutch Mills? A I can't tell you.

Q Was it north or south or east, or do you know? A I do not.

Q What was your trading point? A Yes, sir.

Q You know the direction you went to town? A I know the direction they went to town, but I don't know.

Q What direction did they go? A I just know the road they went over the hill.

Q How old are you now? A I am about 66.

Q You was about 26 when the war come up? A Yes, sir, I was the mother of three children.

Q Were they all born on that place? A Yes, sir.

Q What was Mr. Thornton's wife named? A Frankie.

Q Did they have any children? A Yes, sir.

Q What were their names? A They had three, Miss Martha and John and Walter.

Q At the time you left home? A Yes, sir.

Q How long did you live with him? A He bought me when I was about 13 years old.

Q You lived with him and was freed under him? A Yes, sir, I was the last slave that left that place, and wouldn't have left him then but was took away.

Q What kind of a house did Mr. Thornton live in? A A log wide house, and porch between it you know.

Q Double log cuse? A No, I think it was a frame, it was ceiled inside; I am not sure whether it was log outside or not.

Q Did you get water out of a well or a spring? A Spring.

Q What direction from your place was Barron Fork?

A I don't know.

Q You don't know whether you were living north or south of Barron Fork? A No, sir, I do not, but he had a saw mill down on Barron Fork.

Q About what aged man was Dr. Thornton when the war come up?

A He was quite an old man, he was quite gray; he used to be clerk of the court.

Q What were some of the neighbors there? A Mr. Wafford and Cornelius Wright.

Q Did you know Jack Alberty before the war? A Yes, sir, he was my master's brother, you know here are so many Jack's, but she had a brother Jack, you ought to make some distinction between the Jacks, you know.

Q He was a grown man at that time? A He was quite a tall man, he wasn't so old, dark eyes and hair, hair about the color of yours.

Q How far did he live from Mrs. Thornton's at that time? A He must have lived as near as I can guess about 7 or 8 miles.

Q You saw him frequently? A Yes, sir, he was there on the place often.

Q You stayed there until the war come up and then you went out to Cane Hill? A Yes, sir, I stayed until the war come up, and we was all to come there, Major Willatt sent some agents down there and took me and I looked for him.

Q Where did you live at Ft. Gibson? A I lived in a little shack

- Q Who did you live with? A Irvin and RGilbert Vann boarded with me and I washed for the soldiers, and I cooked for Col. Phillips quite a while.
- Q Where did you go from there? A When I left there I don't-
I went to Nathan Tyner's on Big creek.
- Q Did you have a husband at that time? A No, sir.
- Q Did you ever marry the father of Fred? A No, sir.
- Q You never married him? A We just lived together.
- Q Did you live with the father of Fred as your husband?
- A Yes, sir.
- Q What was his name? A I never did tell his name.
- Q Did you live with him as your husband? A Yes, sir.
- Q How long did you live with him as your husband? A Me.
- Q Yes? A I lived with him I guess until he died.
- Q Well about how many years? A Well about 6 or 7 years.
- Q Keep house together? A Me.
- Q Yes? A No, sir.
- Q You never kept house with him? A No, sir, I worked for him and that was all, the truth is the truth.
- Q You say Fred was born in Kansas? A Yes, sir, because I went up to my mother's.
- Q You lived with Fred's father up there in Kansas? A No, sir.
- Q Where did you live with him at? A What did you say?
- Q Where did you live with his father at? A In the Cherokee Nation on Big creek. A No, sir, down about Ft. Gibson.
- Q You went up to uncle Nathan Duffin's from Ft. Gibson? A Yes, sir.
- Q What time in the year was that? A I don't know just what time of the year, it must have been along, it was kind of cold weather.
- Q What year was it? A I don't know sir exactly what year it was, but when I left Ft. Gibson it must have been along up in '67 or '68 and I cooked for Col. Phillips quite a while and that was along you know in '65.
- Q Have you got a very distinct idea about dates? A No, sir, I haven't.
- Q Your memory is faulty about dates. A Yes, sir, and names I can't remember hardly at all these late days; I am telling you the truth gentlemen as near as I can tell it to you.
- Q What was your mother's name? A Markus Downing.
- Q Did she live over there with your master before the war?
- A No, sir.
- Q Where did she live? A In Mound City, Kansas; she never came to the Nation at all; the only way I belonged to the Nation I was sold to the Nation.
- Q Who sold you to Dr. Thornton? A Old Dr. Richard Williams.
- Q You went to your mother's and there Fred was born? A Yes, sir. in Linn County, Kansas, because I was a widow and had to go up there.
- Q How long before Fred was born that you went up there?
- A I don't know, it was over a month.
- Q About how old is Freddie now? A Freddie is about 32 I guess, 31 or 2, I really don't know their ages exactly.
- Q What were the members of uncle Nathan Duffin or Tyner's family when you first went up there? A One George Duffin, they go by the name of Duffin now, and Josh was there.
- Q What was his wife's name at that time? A I think Fanny; they belonged to the same man I did.
- Q Did you know Lewis Wright or Whitmore, before the war?
- A Yes, sir. I knew him well.
- Q Did you know Rufus Miller before the war? A Yes, sir, because my master was their family doctor. They lived in about two miles of our house.
- Q You brought Freddie back down here when he was a baby?
- A Yes, sir, he was quite small.
- Q What place did you go to them? A Uncle Nathan Tyner; we call

him Tyner, but he changed his name; go now by Duffin.

Q How long did you live there right then when you first came back there? A Please your Honor, Mr. Hastings, I can't tell exactly.

Q Well, your best judgment? A I must have stayed there 6 or 8 months before I went to work.

Q Then where did you go to work? A I went up there to Coffeyville and worked a little while, not Coffeyville, I will tell you the place in a minute, -Ft. Scott.

Q Did you have your children with you? A No?

Q Yes? A I took my two girls to my mother's and then I went to Ft. Scott.

Q And your mother lived at Mound City, Kansas? A Yes, sir, she lived and died there; her and my father both.

Q Have you ever been married since? A No, sir, I have never been married since the war.

Q After you worked at Ft. Scott, Kansas, where did you go? A Me?

Q Yes? A I come back to the Nation.

Q At what place? A To Aunt Sukey Naves.

Q On Big Creek? A Yes, sir.

Q How long did you stay there? A I stayed at aunt Sukey's I guess, but I don't know, I guess, I don't know just how long.

Q Well, your best judgment? A Well I must have stayed there as much as a month or two; I would stay first at one of them places and another, and when I could get work to do I would do it.

Q Worked in Kansas? A Yes, and around, I got wa hing to do there and so on.

Q Nothing but colored people to work for there? A No, sir, but when I could work for a little peice of meat I did.

Q When did you ever keep house in the Cherokee Nation? A I have been running a farm for I don't know how long in the Nation.

Q About how long? A I stayed on the farm down on Big Cree four or five years.

Q Was that four or five years ago? A Which?

Q When you commenced living on the farm, a out how many years ago when you commenced keeping house and living on a farm? A Well let je think, Mr. Hastings, I suppose this is Mr. Hastings?

Q Yes, that's who it is? A I rented the Johnson farm, and I think I lived there four yearz.

Q How long since you commenced keeping house for yourself? A I stayed on the Andy Johnson farm for about I guess about three or four years, you know, and I kept house there.

Q When did you commence doing that, how many years ago was it when you commenced doing that? A I see what you are trying to get out, and that's what I am trying to tell you, yes; how many years ago has that been?

Q Yes? A I was there on that farm quite a while before the Wallace roll, and I made a kind of farm of my own.

Q Wallace roll was made in 1889, how long before that did you commence keeping house? A I must have been there two or three years before the Wallace roll.

Q Up to '86 or '7, you hadn't kept house in the Cherokee Nation? A Not to say particular, you know, because I was, a widow woman and I had to work to get money enough to make a farm and save all my,

and I had to take care of my children.

Q When did you come back from Denver, Colorado? A When I went to Denver I didn't stay there very long.

Q You haven't told that before? A Well you didn't ask me.

Q I am trying to get that from you now; you did go to Denver, Colorado? A Yes, sir, I went to Denver, Colorado.

Q How commence and tell us all about it, what you know of your whereabouts, that's what we are trying to get at? A If I was to undertake to tell you of my whereabouts I couldn't tell you, when I went out there I went to seek for some people.

Q When did you go? A I don't know exactly what year it was.
 Q About how long after the war? A Well, it was quite a while, Freddie was plenty big for me to leave him and I went out there and cooked out there, and stayed out there about 6 or 8 months and cooked.
 Q You didn't take your family? A No, sir.
 Q None of your family taken with you? A No, sir.
 Q Where was Freddie in the meantime? A He was with his sisters, his sisters stayed mostly with their father's, down here on Big Creek
 Q You know Albert Morris? A Yes, sir, I know Mr. Morris, at least I wouldn't know Mr. Morris if I was to see him on the road.
 Q You know William Noble? A Yes, sir.
 Q Did you ever keep house near them? A I think it was about a mile from Mr. Morris and three or four from Mr. Nobel's, that's what they call it, but I never was in Mr. Noble's yard or Mr. Morris' yard, because I would keep house and my daughters went out and worked on the farm.
 Q When did you commence keeping house on the farm? A I can't tell you exactly.

RUFUS MILLER, being sworn by Com'r Needles, testified as follows: By Mr. Smith:

Q What is your name? A Rufus Miller.
 Q How old are you, Mr. Miller? A I am somewhere between 53 and 55 I expect, I don't know my age just exactly what I am.
 Q Where do you live? A I live at Centralia.
 Q How long have you lived in the Cherokee Nation? A All my life.
 Q How are you a Cherokee Indian? A Yes, sir.
 Q Do you know this applicant, Rhoda Thornton? A Yes, sir.
 Q How long have you know her? A I have knowed her ever since I was a child.
 Q You know who she belonged to? A Yes, sir.
 Q Who? A Dr. Thornton.
 Q Was he a Cherokee Indian? A Yes, sir.
 Q Citizen of the Cherokee Nation? A Yes, sir.
 Q Where did he live before the war? A He lived about three miles west of a little town they called Dutch Town, ever next to Evansville.
 Q You know where Rhoda Thornton was at the time the war commenced? A Yes, sir.
 Q Where? A Dr. Thornton's.
 Q Did she have any children at that time? A Yes, sir, she had two.
 Q You know what their names was? A Believe one was named Mary Ellen and I believe the other one was named Lottie or something.
 Q Where were you during the war? A I went south.
 Q What time did you get back? A I got bak Christmas Eve, '65.
 Q Do you know when Rhoda Thornton first went to the Cherokee Nation after the war? A She wasn't out of here at the close of the war, she went out after the war.
 Q Where was she when the war closed? A At Ft. Gibson.
 Q Where was she in the year '66? A She was at Ft. Gibson.
 Q You know where she lives now? A No, I don't know where she lives now; I did know where she lives, she throwed me off of her place here a little bit ago; lived down here on Pryer's Creek.
 Q Near what town? A Chelsea.
 Q Well since you know her in '66 at Ft. Gibson have you seen her often? A No, sir, I ain't seen her often; she left there some time in '66 along in the fall, and I don't know where she went; I never saw her then until about 6 or 8 years ago.
 Q Where did you see her then about 6 or 8 years ago? A Down here to Pryer's Creek.
 Q Near what place? A Near Chelsea there, where she is living now.
 Q First time I saw her down here at Hayden, and the next time I saw her

at the other place.

Q How long have you lived in the neighborhood where you live now?

A I have lived there about 6 years I reckon.

Q How long after 1866 did you live down in that part of the Cherokee Nation? A I left Ft. Gibson about '74.

Q Where did you go to? A I went to Flint District.

Q Near what place? A Near Evansville.

Q When did you get up in this part of the country? A I come up here in '81.

Q What place did you come then? A Come to Vinita.

Q And then some years before that you saw this woman over about Chelsea? A No, when I went from Vinita I went to Grand river, and lived 17 years and came to this place and the first time I saw Rhoda was that Lightning Creek payment, and the next place I saw her at home.

Q When you were living on Grand river how far were you from Chelsea?

A 25 or 30 miles, maybe 35 miles, I don't know just how far it is.

Q When she was back here in Ft. Gibson in '66 you knew where her children was that you have mentioned? A She had them with her I guess, I wasn't down at the house, she said she had them

with her.

By Mr. Hastings: How far did you live from her before the war? A About a mile and three quarters.

Q What direction from Thornton? A South/

Q How old were you when the war come up? A I was 11 or 12 years old.

Q How old was her oldest child? A Her oldest child was up somewhere about that high. (indicating.)

Q Three or four years old? A Yes, sir, maybe a little elder.

Q How old was the next one? A Next one was tolerable small.

Q Did she only have the two? A Just had the two.

Q She had no husband there? A No, sir, her husband went off in the war.

Q What was his name? A Mike Whitmore.

Q You was in Ft. Gibson and saw her down there? A Yes, sir.

Q What was she doing? A When I first saw her she was cooking for Col. Phillips.

Q You haven't seen her since that time until the Lightning Creek Payment? A Not since the latter part of '66, until the Lightning Creek payment? A No, sir.

Q Were you ever tried in the courts for anything? A Oh yes.

Q What for? A They tried me for Larceny.

Q Were you convicted? A Yes, sir.

LUSTER FOREMAN, being sworn by Commissioner Needles, testified as follows: By Mr. Smith:

Q What is your name? A Luster Foreman.

Q How old are you? A About 50 or 60, I don't know which.

Q Do you know this applicant, Rhoda Thornton? A Yes, sir.

Q How long have you known her? A I got acquainted with her during the war.

Q Where? A I got acquainted with her first place I saw her at Cane Hill.

Q Where did you next see her after that? A In Ft. Gibson.

Q When you saw her at Cane Hill was that before the war or during the war or after the war? A During the war.

Q When you saw her next after seeing her at Cane Hill was at Ft. Gibson? A Yes, sir, at Ft. Gibson.

Q When you next saw her at Ft. Gibson was that during the war or after the war was over? A Well when I saw her first she come down from Cane Hill to Ft. Gibson.

Q When was that now? A That was in during the war.

Q How long did she stay about Ft. Gibson? A She stayed there to my best judgment until about '67, to my best knowledge.

Q Where was she during the year '66? A She was there.
 Q Where? A Ft. Gibson.
 Q In the Cherokee Nation? A Yes, sir.
 Q Did you know her before the war? A No, sir.
 Q When she came there before the war was over at the time you speak about did she have any children? A Yes, sir, she had a couple of little girls.
 Q When did you next see her after she left Ft. Gibson at that time? A I didn't see her any more until I come up here in Vinita.
 Q Until you left Ft. Gibson? A Yes, sir, until I come up here in Vinita, I met her again.
 Q Where did you see her then? A In Vinita.
 Q When? A I don't know exactly how long that's been, about 10 years ago or 12, 10 years ago I guess.
 Q Did you live at Ft. Gibson until that time? A No, sir, I lived there until about '75, and went into Canadian district.
 Q You say you left Ft. Gibson in '75? A Yes, sir, as near as I can remember.
 Q And went to live in what part of the Nation? A In Canadian district.
 Q Then how long ago was it you lived in this section of the country? A I lived up there about 15 years.
 Q About how long ago was it before you got up in this part of the country? A I distemember, about 15 years I reckon, as near as I can think of it.
 Q When she left Ft. Gibson do you know where she went to? A No, sir.
 By Mr. Hastings: Who did she live with at Ft. Gibson? A She hired out, working out.
 Q How many children did she have when you saw her thereafter the '75? A She had the same two children I found her with, she had children all along that I know of.
 Q About how old was the eldest child when you first saw her? A I don't know, I couldn't tell you.
 Q As much as 15 years of age? A No, I don't think she was that old; good sized little girls (indicating.)
 Q Your best judgment as to the age of the eldest one? A I could not tell you.
 Q Your best judgment as to the age of the next one? A I couldn't tell you as to that; there was two little girls; one a little bigger than the other one.
 Q You can't tell anything about the age at all? A No, sir, I couldn't tell anything about the age of the person, I was about 20 years old and I wasn't no more than about that high I reckon, (indicating.)
 Q How old were ~~you~~ they when you saw them at Ft. Gibson, were they grown at that time? A No, just small girls, come down from Cane Hill, and stayed there until about '67; she worked in the garrison there for those officers.
 Q Where did she go from there? A I don't know; I don't know when she went away.
 Q You keep up pretty well with these colored people? A Not much; I always make it a rule to attend to my business.
 Q You never met this woman until about 10 years ago, in Vinita? A I didn't see her no more after Gibson until I met here in Vinita.
 Q Was she keeping house in Ft. Gibson? A I don't know; she worked out for some major up there, worked up in the garrison most of the time.
 Q What was she doing in Vinita when you saw her there? A Nothing particular, no more than I met her there.
 Q She wasn't living there? A Not as I know of.
 Q You don't know where she has lived in the meantime? A No, sir.
 Q Don't know whether she has been in Kansas or Colorado or where? A No, sir, I don't know anything about where she has been.

LEWIS WHITMIRE, being sworn by Com'r Needles, testified as follows: By Mr Smith:

- Q State your name? A Lewis Whitmire.
Q Do you know this applicant, Rhoda Thornton? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A Well I have lived in here all my life.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Are you on the 1830 roll? A Yes, sir.
Q How long have you known this applicant? A Yes, sir.
Q How long have you known him? A Ever since we was young folks.
Q Did you know her before the war? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q Who did she belong to? A Dr. John Thornton.
Q Was he an Indian? A Yes, sir.
Q Cherokee Indian? A Yes, sir.
Q Where was he living when the war commenced? A In Goingsnake.
Q How far was that from where you lived? A About 5 miles.
Q You know whether Rhoda had any children or not when the war commenced? A Yes, she had two.
Q What were they, boys or girls? A Girls.
Q Where was Rhoda when the war commenced? A She was at home, when the war commenced.
Q Do you know what became of Rhoda Thornton during the war? A Yes, sir, she went to Ft. Gibson after she left home where she lived.
Q When did you first see her after the war closed? A Why I saw her in Ft. Gibson in the summer of '66, last trip I made from Ft. Scott drifting a Government team; that is the last place I saw her that was just before the war closed.
Q In the summer of '66? A Yes, sir.
Q Where did you next see her after that? A Next place I saw her was up here on Big Creek.
Q When did you see her up on Big Creek? A It was along in the winter of '67, I don't know exactly what time, but it was either ~~xxxxxx~~ ~~xxxx~~ January or somewhere along in there; it was cold weather.
Q Of '67? A Yes, sir.
Q How long did she stay up there on Big Creek? A I don't know exactly, quite a while I suppose; I was traveling around among them, there - once in a while, I didn't live there.
Q When did you next see her after that? A Every once in a while until now I see her every once in a while all along every month or two; she was a widow woman and working about, and I didn't see her every time I went in among the people, I didn't see her every time, but I have known her ever since that time, around about in the Nation, working about.
Q You know where she lives now? A Yes, sir.
Q You know how long she has lived there? A I don't remember exactly how long she has been living where she lives now, but it has been three or four years, I guess.
Q You know where she was living before she went to live at the place she now lives? A No, sir, I don't.
BY MR. HASTINGS: What was Dr. Thornton's wife's name? A Frankie Alberty before he married her.
Q She a sister of Jack Alberty's? A Yes, sir.
Q How far did Jack Alberty live from there at that time?
A About seven miles, I think it was.
Q Did she have some more brothers over there, Mrs. Thornton?
A Yes, sir, had Neal and Jess.
Q I would like to ask you if Thornton had any other slaves?
A Yes, sir, he had several other slaves, several others, I couldn't tell their names unless I studied a while.

Q You don't know the names of them? A I know there's Butler Duffin, he was born a slave, and his mother and two girls and another brother named Josh; they are along in the country now, but I don't see them only once in a while like I have been seeing this woman.

Q How old were her children during the war when you saw them first? A Youngest about that high (indicating) and biggest about so (indicating); I don't know how old they were.

Q Which one was the older one? A Mary Ellen.

Q You have seen Mary Ellen and the other one ever since?

A Yes, sir, once in a while.

Q What were you doing at Ft. Gibson when you saw her there?

A I was driving a Government team; hauling provisions there.

Q Wasn't closed? A No, sir.

Q That's the last time you saw her at Ft. Gibson? A Yes, sir.

Q And you were there directly after that? A Not directly after that, but I was there in '68 after that.

Q At whose place did you see this woman up there? A It was at Mike Whitire's; they didn't have no house there, they was camped and working trying to build a house.

Q Where is the first place you ever saw this woman keeping house up here? A Up here on Big Creek.

Q How long ago was that? A I don't know exactly how long ago that has been, but the first place I saw her up on Big Creek was at this George Duffin's; she was living George Duffin and his father.

Q How long did she stay there? A That was in '67 or '68; she had her children there and she was working out.

Q Where was she working? A I don't know where she was working.

Q You didn't see her at that time, you just saw her children?

A I didn't see her at that time, but I saw her a short time after that time, and see her children; I don't know where she was working.

Q When did you next see her? A At Duffin's, she had been out working and come there where she left the children.

Q How many children did she have? A Two.

Q About how many years after that was that? A About 2 years.

Q About how many years after the war did she commence keeping house up there? A I couldn't tell you that, I lost recollection of that.

Q She has been in Kansas hasn't she? A I don't know, I never did see her in Kansas.

Q You have missed her up here on the Big Creek neighborhood?

A I missed her every once in a while, but I didn't know where she was.

Q You don't know who she worked for? A No, sir.

Q And don't remember where she lived? A No, sir. I know she stayed around amongst the people there; she stayed some on Lightning, because we are all kin to her children.

Q You didn't testify for her before the Kern Clifton Commission did you? A No, sir, this is the first time.

Q You didn't tell about her ownership then? A No, sir, I don't know who did, I know very well who held her as a slave, because I stayed there about four years myself while she was there; that's the reason I know it so well.

Q You lived with Mr. Thornton? A I was hired to him when I was a young lad.

Kern Clifton pay roll of citizens of the Cherokee Nation examined and applicant not identified thereon;
1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;
1896 census roll of citizens of the Cherokee Nation examined and applicant not found.
Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 142, #2942, Rhoda Thornton, district given as "Colorado."

APPLICANT, RHODA THORNTON, re-called and further examined:
By Comdr Needles: You didn't draw Strip mamsy? A No, sir.

COMDR NEEDLES: Rhoda Thornton applied for the enrollment of herself; she cannot be identified upon the authenticated roll of 1880 or the census roll of 1896 or the Horn-Clifton pay roll, but is fully identified upon the Wallace roll according to page and number of the roll as indicated in the testimony; she avers that she was a slave, belonging to Dr. John Thornton, was in the Cherokee Nation during the war, and at Ft. Gibson in '66; she avers that since that time she has lived in the Cherokee Nation, that has been her home. For particulars as to her residence, reference is made to the testimony; the evidence is conclusive to the effect that she is a slave, and was in the Cherokee Nation at the time prescribed by the time prescribed by the treaty of 1866; she will now be listed for enrollment as a Cherokee freedman on a doubtful card, awaiting further consideration of the Commission; she will be notified by mail of the action of the Commission in the premises.

-----0-----

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 July 15, 1901.

(Signed) T. B. Needles

Commissioner.

---000 00000---

J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original.

J. O. Rosson

Subscribed and sworn to before me this September 5th, 1901.

M. D. Green
M. D.
Commissioner.

Cherokee Freedman
D-967.

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

-000-

In the matter of the application for the enrollment of
Mary E. Miller, as a Cherokee Freedman.

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

The record in this case shows that Mary E. Miller appeared before this Commission at Nowata, Indian Territory, on July 1, 1901, and made application for enrollment as a Cherokee Freedman. A copy of the testimony taken in the case of Rhoda Thornton, Cherokee Freedman D-966, is filed herewith and made a part of the record herein.

The evidence shows that said Mary E. Miller was the slave of a Cherokee citizen at the commencement of the War of the Rebellion; that she was taken out of the Cherokee Nation during said rebellion but returned thereto with her mother, Rhoda Thornton, within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, Trustee, et al., vs. the Cherokee Nation, et al., for the return of freedmen to said nation. Rhoda Thornton appears as No. 3847 upon the lists prepared by this Commission of persons entitled to enrollment as Cherokee Freedmen, and approved by the Secretary of the Interior October 20, 1904.

It further appears that the applicant has been out of the Cherokee Nation at different times since her return thereto but that said absences from said nation were of a temporary character, and it does not appear that she removed with her effects and became a citizen of any other government.

It is therefore the opinion of this Commission that following the ruling of the Department in the case of Joseph D. Yeargain, et al., (I.T.D.2900-1903), Mary E. Miller should be enrolled as a Cherokee Freedman, 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)

Tame Bixby.

Chairman.

(SIGNED)

T. B. Needles.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

MAR 23 1905

(C O P Y)

Tahlequah, Indian Territory, January 31, 1905.

Commission to the Five Civilized Tribes,
(Cherokee Enrollment Division)
Muskogee, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Mary E. Miller as a Cherokee Freedman, case D-967, I beg to say that an examination of the record show that this applicant is old enough to be upon all the rolls taken since the year 1866 and her name is not identified upon any one of them.

She claims through her mother, Rhoda Thornton, now living. She too is not identified upon any citizenship roll of the Cherokee Nation.

In addition to the foregoing, the applicant's testimony is contradictory and apparently unreliable in its character. Also the supporting testimony is, to a large extent at least, from those I believe to be among the most unreliable professional witnesses in the Cherokee Nation.

Under these circumstances I cannot concur in the decision as at present prepared making a favorable finding upon the application of Mary E. Miller for enrollment as a Cherokee freedman. I suggest that the case be reexamined and recommend that her application be refused. If, however, this view does not meet with the

Commission--2.

Concurrence of the other Commissioners, I then desire my vote upon this case to be recorded in the negative and that it be forwarded to the Interior Department for its review and final adjudication.

Respectfully,

(Signed) C. R. Breckinridge

Commissioner in Charge
Cherokee Land Office

MM

Enc. 7-013

COMMISSIONERS:
TAMM HIXBY,
THOMAS B. HERRICK,
C. R. BRECKINRIDGE,
Wm. O. SMALL,
Secretary.

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

J. H.

REPORT TO BE MADE TO THE COMMISSIONER Cherokee Freedmen
D-967.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 23, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 23, 1905, granting the application for the enrollment of Mary E. Miller as a Cherokee freedman, Commissioner C. R. Breckinridge dissenting.

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,

Incl. 3-63.


Chairman.

Refer in reply
to the following:
Land.
22976-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. April 7, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated March 23, 1905, transmitting the record of the application for enrollment as a Cherokee Freedman by Mary E. Miller.

March 23, 1905, the Commission decided favorably to the applicant, Commissioner Breckinridge filing a dissenting opinion.

The record shows that the applicant was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee nation during the war and returned there to with her mother, Rhoda Thornton, on or before February 11, 1867, and has continued to reside in said Nation.

On October 20, 1904 (I.T.D.7874-1904), the Department affirmed the decision of the Commission favorable to Rhoda Thornton.

In view of the record the approval of the Commission's decision favorable to the applicant is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

M.M.M.
W.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

W.C.F.
LLB

I.T.D.3616-1905.

October 9, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

March 23, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application of Mary E. Miller for her enrollment as a Cherokee freedman, including the Commission's decision of March 23, 1905, favorable to the applicant. Commissioner Breckinridge dissents from the holding of the Commission.

Reporting April 7, 1905, the Indian Office recommended that the Commission's decision, favorable to the applicant, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation and the Commission's decision is hereby affirmed.

Respectfully,

E.A. Hitchcock.

Secretary.

1 inclosure.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen

D-967.

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



Muskogee, Indian Territory, October 16, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated March 23, 1905, granting the application of Mary E. Miller for enrollment as a Cherokee freedman, Commissioner C. R. Breckinridge dissenting, was affirmed by the Secretary of the Interior on October 9, 1905.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,



Commissioner.

Incl. 8-268

F. D. 967

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in 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, } S. S.
NORTHERN DISTRICT. }

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.

SEP 24 1901

Proof of Service made
and original filed with the
DAWES COMMISSION.

NOTICE!

IN THE MATTER OF the application of Mary E. Miller
for enrollment as Cherokee Freedmen:

Case No. F. D. 967

To Mary E. Miller or L. J. Brown her agent

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct 25, 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept 23, 1901

L B Bell

W. W. Hastings

Attorneys for the Cherokee Nation.

Cher. Fr. D. 968

Cher. Fr. D. 968

Serial, S. B. 7018, Freedmen.

to be introduced by 70965

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedmen, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on E. B. Lawson, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tending to disapprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 2nd day of March, 1903, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation represented by its representative, L. R. Bell,

G. E. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell me your name? A G. E. Rogers.
Q Age? A 63 years old.
Q Place of residence? A Claremore.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q How long have you been such? A All my life, a little over 63 years.
Q Did you go out of the country during the war? A Yes, sir.
Q When did you return? A '06.
Q Where did you come to? A Came to Fort Gibson.
Q And stayed there did you? A Yes, sir.
Q Tell what was your business? A After I come back?
Q Yes? A I followed freighting for something over three years.
Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
Q Were you ever acquainted with a Freedman by the name of Moses Whitire? A Yes, I know him.
Q Where did he belong before the war? A He belonged in Co. in Snake District.
Q Do you know what particular Whitire he belonged?
A I don't remember whether he belonged to George Whitire or Lee Whitire.
Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
A As well as I can remember it was in February, '08; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, more 24 to 26 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I met in the outfit.
Q Did you have any conversation with them, stop and talk with them?
A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
Q Did you ask them where they was going to? A They said they was moving back.
Q Well this 25 or more wagons was loaded with people?
A Yes, nearly every one had household goods in them.
Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
Q Well how far was; where you say it was? A It was right on this side of the Neosho River; bet. on the old Hudson place and Neosho River.
Q How far from the Neosho River? A I can see half a mile.

- Q How far from the north line of the Cherokee Nation?
A I think the river is the line, about half a mile.
Q And how far is that from the Kansas line? A The Neosho is the line, way I understand it.
Q You had referred to where the military road crosses the Neosho river? A Yes, sir.
Q At Jack McLean's ferry? A They called it Hudson ferry at that time.
Q Hudson lived there? A Yes, sir, in about a half mile.
Q And this Moses Whitacre you got and talked with is the same one you knew in Going Snake and belongs to the Whitacre family there?
A Yes, sir.
Q About how old a man was he when you met him? A He is an older man I think than I am.
Q And you saw other with him you know? A I think Aaron Whitacre and Moses Whitacre and old Major Wright is the old ones I know.
Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
Q Do you know where this man Whitacre lives now, Moses Whitacre you met?
A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Elyden? A No, I don't know for certain I heard he lived on Big Creek. I don't know whereabouts he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

-----00000000-----

I 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.

(Signed) J. O. Hudson,
Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Waskogen, I. T., May 20, 1902.

In the matter of the application of Edward Wright for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Seaville, representing E. B. Lawson, for applicant,
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, takes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Seaville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Chambers Commission on citizenship as found on page 57 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Pocket of the Chambers com'n on citizenship," as follows:

"No. 25 Edward Wright
vs
Cherokee Nation.

(Ex. 7th of June.
Answer filed.

Judgment against claimant June 27, 1873."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 29. Major Wright
vs
Cherokee Nation.

(Ex. June 7th. Statement filed
on the 28 of June.
1st July set, 1st Aug.
set for trial.

Judgment against claimant June 27th, 1872."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 25th day of June, 1878, as found on pages 164 and 5 of book 2, entitled, "Citizenship record 1874," as follows:

"Before the commission sitting at Tallahatchee to try claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmire
vs

Cherokee Nation

respectfully presents the following statement of his claim according to the requirement of the Commission:

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

Claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during his war and returned in the summer of 1866 to collect and prepare a home for his family (they then being without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they would subsist without discomfort and exposure and until a removal of them was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his home in the spring of 1867.

Claimants rights have been called in question by competent authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.

This June 26, 1878.

Lewis Whitmire,

By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee Citizenship.

In case of Moses Whitmire

vs

Cherokee Nation,

claiming Cherokee citizenship.

Claimant claims under the fifth specification of the classes of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,

Moses Whitmire.

June 26, 1878.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Chambers Court, Book A." page 239, case No. 80, as follows:

"Case 80.

Aaron Whitmire

vs

Cherokee Nation.

Tahlequah,

July 3, 1878.

Witness fields a witness for claimant called and sworn.

I am I think I am about 47 years old. I live in Illinois District, C. M. Am a citizen of the Nation. I have been on the doubtful roll but had my rights proven up before the Supreme Court.

AM a citizen under the treaty of 1869. I went north to the state of Kansas in '62. I returned in August - 21st or 22nd, 1866. I left my family in Fort Scott when I came. I came down to get me a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1866. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the 1st of January. When I first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Senders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Haco, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting houses. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by the Cherokee Delegation. They were some who come here were authorized by others to locate claims for them, one was by MeKey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1862. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left them there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me they could read.

I do not know myself that it was the month of Aug. When I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.

his mk.

Aaron Whitmire

vs
Cherokee Nation,
called and sworn.

August 1, 1878.

Bluford Alberty, witness for claimant.

I reside in Coconoscouee District, C. H. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Coconoscouee District.

on the end of September, 1866. I saw occasion some time in the last of Oct., or the first of Nov., or probably it might have been as late as the middle of November, to go to the Virginia. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crumones. I did not go to the camp. They were colored people. I know least of them. Their names were old Sam Webber, Aaron Whitmire, and a younger brother and Lewis Whitmire. There was another person whom I was told was a Landrum. I do not recollect any of the others and can not identify them. The Whitmires were Johnson and George Whitmire, Aaron, Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves horses or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man, but that he had sent his son down to work for him and make him a claim. He then asked what chances there was to get provisions over on the river; I told him there was none there, but that there was a lot of condemned flour at Gibson and if they would go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build them homes and so fourth. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I camped out at night. I did not see any of these parties after this in May, 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this some of them went back to Kansas. At the time I saw them I do not know whether their families were with them. I think I saw Dennis Whitmire with this party, but was not certain of seeing Dennis or Nelson. I know there was four of the Whitmire boys. They were owned in the Nation and resided here up to the breaking out of the war.

R. W. Albany,

Aaron Whitmire
vs
Cherokee Nation,

I know Melissa Battiff. She was twelve or thirteen years old at the close of the war.

She was living with me then and still lives in my family. Jack Landrum was one of the boys above referred to, also Samuel Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the river in coming down at Helene's Ferry in 1866. The chief ferryman who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Albany but had no conversation with him, but Sam Webber had in my presence.

George Whitmire,

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers. Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the party that come with me to the Nation are as follows: Mike Sanders, Sam Webber, Peter Leigs, Bill Foreman, Tuck Sanders, Ransom Daniels, Sam Webber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, in all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any others. Witness was a man of family in 1866 when we came on from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Mike Sanders were Nelson's family and back at Fort Scott. We went back to Kansas 1866 to Kansas after coming to the Nation. They were returned in 1867 to the Nation. Tuck, Leigs, and the families of Cross and the families all come as a wife unless others not particularly mentioned. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alee Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was with in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Albert as a witness in this case.

Re Direct.

Mariah's family at the close of the war was a separate family. Harry Whitmire, her son, represented his father on the first trip in 1866. Witness is about 43 years old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

George Whitmire,
Claimant.

Case 63.

Aaron Whitmire & Family)
vs) claiming citizenship.
Cherokee Nation.)

Now comes claimant by Atty before the Commission sitting at Tahlequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Geo. Whitmire a Cherokee citizen at the commencement of the war of the rebellion and was then living in this

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence.

While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to remit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the time provided for by treaty, in that having no residence to come to as other former citizens he did ever thing possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully submitted,
Aaron Whitire,
By Atty Wm. P. Boudinot.

Aaron Whitire
vs
Cherokee Nation.

August 1st, 1878.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Cooweescoowee, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military road leading from Fort Scott, Kansas to Fort Gibson, C. N. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I meet him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having meet claimant and Mose, Lewis, Dennis and Nelson, Whitire, Peter Neigs, Mike Sanders, Sam Webber, and Young Sam, Bill Foreman and others but I do not recollect anything about Lem. They were traveling. They stated they were coming from Fort Scott, Kans, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. McLean gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I meet claimant and the others spoken of it was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas at I left them at Christmas or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the time,

I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Lewis, Halsey and Dennis Whitmire and little Sam Webber and I think they were some who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped there long enough that were they any women and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I got them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire)
 Vs)
 Cherokee Nation.)

July 4th 1878.

Wm. McDracken for Claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1868. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McDracken.

B. L. Nicholson, Clerk.

Aaron Whitmire
 vs
 Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools &c until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The home of claimant is in the same locality as that at the time mentioned above. In Oct. or Nov. 1866 I gave claimant and other colored men permission to occupy two old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitmire in the name of the other man, I also permitted to go on the old field. The Spring of 1867 I saw Aaron and Louis Whitmire at work on the two fields spoken of. This settlement of colored folks has the character of quiet industrious and law abiding citizens as such as any in the Nation. Some of these people have large families and some all care by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards on the north western corner for the purpose as they said at the time of selecting their homes. Several claims was filed in sight of witness which the colored party said they had not and had now the names of the party above indicated.

A great debate was at the time advising said Col party. A Delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to expel or drive off from their claims this colored party at the time they were trespassing the country. This was advised against by witness and it was not done or carried out. Witness' party mentioned above was composed of Cherokee citizens except one colored man. I am the sole survivor of their party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at what time spoken of.

"Continued on page 222."

Aaron Whitmire et al

July 17th 1878.

Charles Patton

John Riley,

Coconawocooe Dist. I first went there in 1854 and have continued to reside there except in the month of August. I came back in the month of August 1866 to the Nation. I saw Aaron Whitmire. He returned or came to the Virginia River to live in the month of March 1867. Also came at the same time Ben Sanders, Sam Walker, Billy Foxman, with their families and others whom I don't recollect. Claimant says a crop was sown in 1867 on an old place of Aaron Whitmire. He had settled no other place before that.

Crops sown.

I don't know of any colored heads of families coming in to the Nation in the month of Dec. 1866 to locate horses but I know of no one who came in Dec. '66 for that purpose. I knew where Aaron Whitmire lived at this time. I was near Coody's Bluff in Dec. '66. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Dec. 1866 I never heard of them. I never knew of Blufford Liberty being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitmire was not along but Hiko Conley, Sam Walker, Gilbert & perhaps Billy Foxman. Moses was not along. Hanks was not along as I know of nor Mariah nor Major Wright or Nelson Whitmire that I know of. If any such party had come down in Dec. 1866 I think certainly I would have known it.

Joseph Riley.
Benjamin Riley.

(Page 222)

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this colored party told witness that they returned in March 1867 to the Nation.

Re Direct.

I learned from John Coker that most of this colored party returned to Kansas after their families and a few remained. I was at General Convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug. 1866 is my information. It might have been July 29, 1866.

Witness went south during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. V. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitwire

vs

Cherokee Nation.

Tableau May 10, 1878.

This day comes John F. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John F. Lyons,
Atty for C. N."

Arthur G. Croninger, being first 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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1902.

(SEAL)

(Signed) F. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 15th day of Aug., 1902.

Bruce E. Jones
Notary Public.

To be filed with case of Charlotte Henry, C. F.D.#968.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29, 1901.

In the matter of the application of Rhoda Thornton for the enrollment of herself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, she testified as follows:

APPEARANCES:

Mr. Smith of Wellette & Smith, for the applicant;
Mr. Davenport, for the Cherokee Nation.

- Q What is your name? A Rhoda Thornton.
Q How old are you? A About 66.
Q What is your post office address? A Chelsea, I. T.
Q You live in Coweescowee district? A Yes, sir.
Q You apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself and 2 daughters and my son.
Q Are you daughters of age? A Yes, sir.
Q Your son of age? A Yes, sir.
Q They must appear for themselves; you just apply then for the enrollment of yourself? A Yes, sir.
Q BY R. SMITH: Where do you live? A I live about, I guess it is about 15 miles east of here, in Coweescowee district, on the head of Pryor's creek.
Q How long have you lived where you live now? A I have lived between seven and eight years there.
Q You may give the names of your grown children? A Mary Ellen is the oldest.
Q What is her name now? A Mrs. Miller, Mrs. L. J. Miller.
Q How old is she? A She is about 42 I guess.
Q Is she married? A She has been married; she is a widow.
Q Has she any children? A No, sir.
Q Where does she live? A She lives with her sister.
Q Where? A It is about two miles, she is staying on her sister's farm.
Q Where does her sister live? A She lives on her farm.
Q Where is her farm? A About two miles from me, about 27 or 28 miles from here I guess.
Q How far from Nowata? A I guess it must be between 18 and 19 miles from here I guess.
Q In the Cherokee Nation? A Yes, sir.
Q Now give me the names of your next one? A Charlotte, Mrs. R. D. Henry.
Q He is married to a man named R. D. Henry? A Yes, sir.
Q Where does she live? A She lives on her farm.
Q At the place you just spoke of? A Yes, sir, her and her sister lives together.
Q Have you any children? A One boy.
Q What is his name? A Freddie Thornton.
Q How old is he? A About 31 or 2 now.
Q Were you a slave before the war? A Yes, sir.
Q To whom did you belong? A Dr. John Thornton.
Q Was he a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living when the war commenced? A In Goingsnake district, on Barron Fork.
Q Where were you living at that time? A I was living with him.
Q Were you taken out of the Nation during the war? A Oh no, sir, I wasn't taken out, yes I was out a little while right time the soldiers and all was there.
Q What children did you have at the time the war commenced?
A I had Mary Ellen and Charlotte and a little boy that died named Lewis, he died, I was the mother of three children time of the war.

- Q Where were the children whose names you have mentioned born, outside of Mary Ellen and Charlotte? A Freddie was born in Kansas just a little after the war.
- Q When did you come back to the Cherokee Nation? A No?
- Q Yes, after the war, or after you went out with the soldiers?
- A When I went out with the soldiers?
- Q That's what I said? A I went up to Cane Hill, and I cooked there a while for Major Willett.
- Q That is Cane Hill, Arkansas? A Yes, sir.
- Q That during the war? A Yes, sir; just after the Prairie Grove battle.
- Q What I want to know is when you came back to the Cherokee Nation after you went out of the Nation during the war and went to Cane Hill and these places you have mentioned? A I went right from Cane Hill on down by Ray's Mill, and went down in a Government wagon, after cooking for Major Willett; I cooked for him about six weeks on Cane Hill and I cooked for him about two weeks at Ray's Mill, then I went in the Government wagons on to Ft. Gibson.
- Q You know what time you went down to Ft. Gibson? A No, sir, the wagons went down before the close of the war.
- Q It was during the war then? A Yes, sir, right during the war I come back.
- Q How long did you stay at Ft. Gibson after you got back there?
- A I stayed there at Ft. Gibson off and on I guess for three or four years.
- Q Where were you when peace was declared? A I was in Ft. Gibson, sir.
- Q How long did you remain in Ft. Gibson after the war closed?
- A I must have remained there after the war closed for a year or so, here in Ft. Gibson and about Ft. Gibson, because I cooked for Colonel Phillips there.
- Q Then where did you go? A I come up on Big Creek.
- Q Was that in the Cherokee Nation? A Yes, sir.
- Q How long did you live on Big Creek? A I stayed there on Big Creek quite a while.
- Q You stayed about how long? A I couldn't tell you just how long, but I must have stayed there off and on for four or five years I guess, off and on.
- Q I don't want to know anything about how long you stayed off and on, but when you went to Big Creek after you left Ft. Gibson how long did you stay at Big Creek? A I stayed at one place there at Nathan Tyner's there I guess a year or more, not there at one place but I made that my stopping place pretty much.
- Q Where were you during the year of 1866? A I was in Ft. Gibson.
- Q I believe you left Ft. Gibson you said? A When I come to uncle Nathan Tyner's, when I come from Ft. Gibson I come to uncle Nathan Tyner's.
- Q Then where did you go? A I went to aunt Sukey Hayes, I was a widow and had to do the best I could, and had my children.
- Q How many children did you have then? A Two children.
- Q How many children did you have then? A Two children.
- Q Where were your other children born? A In Going Snake district, right at my master's before the war.
- Q How is that? A They was born at old Dr. Thornton's in Going Snake district.
- Q I saw where were your young ones born? A I didn't have but one younger one, he was born in Kansas.
- Q When was he born? A He was born way last of '67 I think, I don't remember exactly.
- Q Which one is that? A That's Freddie, my boy.
- Q When were you in Kansas? A No?
- Q In '67 too? A I was there for a short time while my child was born, I was at my mother's.
- Q Was your mother in Kansas at that time? A She was in Kansas, yes, sir.

Q Well now then since that time after you left Reuben Tyner, - did you say Reuben Tyner? A Nathan Tyner we called him, he goes by Nathan Duffin now.

Q Since you left Nathan Tyner where did you go? A I lived with them until I rented my farm and when I rented a farm I lived on that.

Q Have you a farm of your own now? A Yes, sir.

Q Where at? A About 4 or 7 miles north of Chelsea.

Q How long have you had it? A I guess about between 6 and 7 years.

BY MR. HASTINGS, Cherokee Rep'v:

Q How far from the Arkansas line did you live at the time the war come up? A It must have been about two miles and a half or three miles; you mean when I lived where my master was?

Q Yes, sir, how far was that from Dutch Mills? A I guess two or three miles.

Q Did you live west of Dutch Mills? A I can't tell you.

Q Was it north or south or east, or do you know? A I do not.

Q That was your trading point? A Yes, sir.

Q You know the direction you went to town? A I know the direction they went to town, but I don't know-

Q What direction did they go? A I just know the road they went over the hills.

Q How old are you now? A I am about 66.

Q You was about 26 when the war come up? A Yes, sir, I was the mother of three children.

Q Were they all born on that place? A Yes, sir.

Q What was Dr. Thornton's wife named? A Frankie.

Q And they have any children? A Yes, sir.

Q What were their names? A They had three, Miss Martha and John and Walter.

Q At the time you left home? A Yes, sir.

Q How long did you live with him? A He bought me when I was about 13 years old.

Q You lived with him and was freed under him? A Yes, sir, I was the last slave that left that place, and wouldn't have left him then but I was took away.

Q What kind of a house did Dr. Thornton live in? A Long wide house, and porch between it you know.

Q Double log house? A No I think it was a frame, it was ceiled inside; I am not sure whether it was log outside or not.

Q Did you get water out of a well or a spring? A Spring.

Q What direction from your place was Barron Fork? A I don't know.

Q You don't know whether you were living north or south of Barron Fork? A No, sir, I do not, but he had a saw mill down at Barron Fork.

Q About what aged man was Dr. Thornton when the war come up? A He was quite an old man, he was quite gray; he used to be clerk of the court.

Q What were some of the neighbors there? A Mr. Vefford and Cornelius Wright.

Q Did you know Jack Liberty before the war? A Yes, sir, he was my mother's brother, you know there are so many Jacks, but she had a brother Jack, you ought to make some distinction between the Jacks, you know.

Q He was a green man at that time? A He was quite a tall man, he wasn't so old, dark eyes and hair, near about the color of yours.

Q How far did he live from Mrs. Thornton's at that time? A He must have lived as near as I can guess about 7 or 8 miles.

Q You saw him frequently? A Yes, sir, he was there on the place often.

Q You stayed there until the war come up and then you went out to Camp Hill? A Yes, sir, I stayed until the war come up, and we was all to come there, Major Willitt sent some scouts down there and took me and I looked for him.

Q Where did you live at Ft. Gibson? A I lived in a little shack.

Q Who did you live with? A Evans and Gilbert was boarded with

ma, and I washed for the soldiers, and I cooked for Col. Phillips quite a while.

Q Where did you go from there? A When I left there I don't- I went to Nathan Tyner's on Big Creek.

Q Did you have a husband at that time? A No, sir.

Q Did you ever marry the father of Fred? A No, sir.

Q You never married him? A We just lived together.

Q Did you live with the father of Fred as your husband? A Yes, sir.

Q What was his name? A I never did tell his name.

Q But you lived with him as your husband? A Yes, sir.

Q How long did you live with him as your husband? A No?

Q Yes? A I lived with him I guess until he died.

Q Well, about how many years? A Well about 6 or 7 years.

Q Kept house together? A No?

Q Yes? A No, sir.

Q You never kept house with him? A No, sir, I worked for him and that was all; the truth is the truth.

Q You say Fred was born in Kansas? A Yes sir, because I went up to my mother's.

Q You lived with Fred's father up there in Kansas? A No, sir.

Q Where did you live with him at? A What did you say?

Q Where did you live with his father at? A In the Cherokee Nation

Q On Big Creek? A No, sir, down about Ft. Gibson.

Q You went up to Uncle Nathan Duffin's from Ft. Gibson? A Yes, sir.

Q What time in the year was that? A I don't know just what time of the year, it must have been allong, it was kind of cold weather.

Q What year was it? A I don't know sir exactly what year it was,

but when I left Ft. Gibson it must have been along up in '67 or '68 when I left Ft. Gibson you know, because I stayed around Ft. Gibson I cooked there for Col. Phillips quite a while around Ft. and that was along you know in '65.

Q Have you got a very distinct idea about dates? A No, sir, I haven't.

Q Your memory is faulty about dates? A Yes, sir, and names I can't remember hardly at all these late days; I am telling you the truth gentlemen as near as I can tell it to you.

Q What was your mother's name? A Darkus Downing.

Q Did she live over there with your master before the war?

A No, sir.

Q Where did she live? A In Mound City, Kansas; she never come to the Nation at all; the only way I belonged to the Nation I was sold to the Nation.

Q Who sold you to Dr. Thornton? A Old Dr. Richard Williams.

Q You went to your mother's and there Fred was born? A Yes, sir, in Linn County, Kansas, because I was a widow and had to go up there.

Q How long before Fred was born that you went up there?

A I don't know, it was over a month.

Q About how old is Freddie now? A Freddie is about 32 I guess, 31 or 2, I really don't know their ages exactly.

Q What were the members of Uncle Nathan Duffin or Tyner's family when you first went up there? A One George Duffin, they go by the name of Duffin now, and Josh was there.

Q What was his wife's name at that time? A I think Fanny; they belonged to the same man I did.

Q Did you know Lesi Fright, or Whitwire, before the war? A Yes, sir I knew him well.

Q Did you know Rufus Miller before the war? A Yes, sir, because my master was their family doctor. They lived a about two miles of our house.

Q You brought Freddie back down here when he was a baby? A Yes, sir he was quite small.

Q What place did you go to then? A Uncle Nathan Tyner; we call him Tyner, but he changed his name; go by Duffin.

Q How long did you live there right then when you first come back there? A Please your Honor, Mr. Hastings, I can't tell exactly.

Q Well, your best judgment? A I must have stayed there 6 or 8 months before I went to work.

Q Then where did you go to work? A I went up there to Coffeyville and worked a little while, not Coffeyville, I will tell you the place in a minute, -Ft. Scott.

Q Did you have your children with you? A No?

Q Yes? A I took my two girls to my mother's and then I went to Ft. Scott.

Q And your mother lived at Mound City, Kansas? A Yes, sir, she lived and died there; her and my father both.

Q Have you ever been married since? A No, sir, I have never been married since the war.

Q After you worked at Ft. Scott, Kansas, where did you go? A No?

Q Yes? A I come back to the Nation.

Q At what place? A To Aunt Sukey Naves.

Q On Big Creek? A Yes, sir.

Q How long did you stay there? A I stayed at aunt Sukey's I guess but I don't know, I guess, I don't know just how long.

Q Well, your best judgment? A Well I must have stayed there as much as a month or two; I would stay first at one of them places and another, and when I could get work to do I would do it.

Q Worked in Kansas? A Yes, and around, I got washing to do there and so on.

Q Nothing but colored people to work for there? A No, sir, but when I could work for a little piece of meat a did.

Q When did you ever keep house in the Cherokee Nation? A I have been running a farm for I don't know how long in the Nation.

Q About how long? A I stayed on the farm down on Big Creek four or five years.

Q Was that four or five years ago? A Which.

Q When you commenced living on the farm, about how many years ago when you commenced keeping house and living on a farm? A Well let me think, Mr. Hastings, I suppose this is Mr. Hastings?

Q Yes, that's who it is? A I rented the Johnson Farm, and I think I lived there four years.

Q How long since you commenced keeping house for yourself?

Q I stayed on the Andy Johnson farm for about I guess about three or four years, you know, and I kept house there.

Q When did you commence doing that, how many years ago as it when you commenced doing that? A I see what you are trying to get out, and that's what I am trying to tell you, yes; how many years ago has that been?

Q Yes? A I was there on that farm quite a while before the Wallace roll, and I made a kind of farm of my own.

Q Wallace roll was made in 1889, how long before that did you commence keeping house? A I must have been there two or three years before the Wallace roll.

Q Up to '86 or '7 you hadn't kept house in the Cherokee Nation?

A Not to say particular, you know, because I was a widow woman and I had to work to get money enough to make a farm and save all my, - and I had to take care of my children.

Q When did you come back from Denver, Colorado? A When I went to Denver I didn't stay there very long.

Q You haven't tel that before? A Well you didn't ask me.

Q I am trying to get that from you now; you did go to Denver,

Colorado? A Yes, sir, I went to Denver, Colorado.

Q Now commence and tell us all about, it what what you know of your whereabouts, that's what we are trying to get at? A If I was to undertake to tell you of my whereabouts I couldn't tell you, when I went out there I went to cook for some people.

Q When did you go? A I don't know exactly what year it was.

Q About how long after the war? A Well it was quite a while, Freddie was pretty big for me to leave him and I went out there and cooked out there, and stayed out there about 6 or 8 months and so on.

- Q You didn't take your family? A No, sir.
Q None of your family taken with you? A No, sir.
Q Where was Freddie in the meantime? A He was with his sisters, his sisters stayed mostly with their father's, down here on Big Creek.
Q You know Alberty Morris? A Yes, sir, I know Mr. Morris, at least I wouldn't know Mr. Morris if I was to see him on the road.
Q You know William Noble? A Yes, sir.
Q Did you ever keep house near them? A I think it was about a mile from Mr. Morris and three or four from Mr. Noble's yard or Mr. Morris' yard, because I would keep house and my daughters went out and worked on the farm.
Q When did you commence keeping house on the farm? A I can't tell you exactly.

RUFUS MILLER, being sworn by Com'r Needles, testified as follows: By Mr. Smith:

- Q What is your name? A Rufus Miller.
Q How old are you, Mr. Miller? A I am somewhere betwixt 53 and 54 I expect, I don't know my age just exactly what I am.
Q Where do you live? A I live at Centralia.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Are you a Cherokee Indian? A Yes, sir.
Q Do you know this applicant, Rhoda Thornton? A Yes, sir.
Q How long have you known her? A I have knowed her ever since I was a child.
Q You know who she belonged to? A Yes, sir.
Q Who? A Dr. Thornton.
Q Was he a Cherokee Indian? A Yes, sir.
Q Citizen of the Cherokee Nation? A Yes, sir.
Q Where did he live before the war? A He lived about three miles west of a little town they called Dutch Town, over next to Evansville.
Q You know where Rhoda Thornton was at the time the war commenced? A Yes, sir.
Q Where? A At Dr. Thornton's.
Q Did she have any children at that time? A Yes, sir, she had two.
Q You know what their names was? A Believe one was named Mary Ellen and I believe the other one was named Lottie or something.
Q Where were you during the war? A I went south.
Q What time did you get back? A I got back Christmas, Eva, '65.
Q Do you know when Rhoda Thornton first went to the Cherokee Nation after the war? A She wasn't out of here at the close of the war she went out after the war.
Q Where was she when the war closed? A At Ft. Gibson.
Q Where was she in the year '66? A She was at Ft. Gibson.
Q You know where she lives now? A No I don't know where she lives now; I did know where she lives, she throwed me off of her place here a little bit ago; liv'ed down here on Pryor's Creek.
Q Near what town? A Chelsea.
Q Well since you knew her in '66 at Ft. Gibson have you seen her often? A No, sir, I ain't seen her often; she left there some time in '66 along in the fall, and I don't know where she went; I never saw her then until about 6 or 8 years ago.
Q Where did you see her then a out 6 or 8 years ago? A Down here to Pryor's Creek.
Q Near what place? A Near Chelsea there, where she is living now, first time I saw her down here at Hayden and the next time I saw her at the other place.
Q How long have you lived in the neighborhood where you live now? A I have lived there about 8 years I reckon.
Q How long after '66 did you live down in that part of the Cherokee Nation? A I left Ft. Gibson about '74.

- Q Where did you go to? A I went to Flint dist. lot.
Q Near what place? A Near Evansville.
Q When did you get up in this part of the country?
A I come up here in '81.
Q What place did you come then? A Come to Vinita.
Q And then some years before that you saw this woman over about Chelsea? A No, when I went from Vinita I went to Grand river, and lived 17 years, and came to this place and the first time I saw Rhoda was that Lightning Creek payment, and the next place I saw her at home.
Q When you were living on Grand river how far were you from Chelsea?
A 25 or 30 miles, maybe 35 miles, I don't know just how far it is.
Q When she was back here in Ft. Gibson in '66 you know where her children was that you have mentioned? A She had them with her I guess, I wasn't down at the house, she said she had them with her.
BY MR. HASTINGS: Q How far did you live from her before the war? A About a mile and three quarters.
Q What direction from Thornton? A South.
Q How old were you when the war come up? A I was 11 or 12 years old.
Q How old was her oldest child? A Her oldest child was up somewhere about that high (indicating.)
Q Three or four years old? A Yes, sir, maybe a little older.
Q How old was the next one? A Most one was tolerable small.
Q Was she only have the two? A Just had the two.
Q She has no husband there? A No, sir, her husband went off in the war.
Q What was his name? A Mike Whitmire.
Q You was in Ft. Gibson and saw her down there? A Yes, sir.
Q What was she doing? A When I first saw her she was cooking for Col. Phillips.
Q You haven't seen her since that time until the Lightning Creek payment; not since the latter part of '66, until the Lightning Creek payment? A No, sir.
Q Were you ever tried in the courts for anything? Oh yes.
Q What for? A They tried me for larceny.
Q Were you convicted? A Yes, sir.

LUSTER FOREMAN, being sworn by Com'r Needles, testified as follows: BY MR. SMITH:

- Q What is your name? A Luster Foreman.
Q How old are you? A About 50 or 50 I don't know which.
Q Do you know this applicant, Rhoda Thornton? A Yes, sir.
Q How long have you known her? A I got acquainted with her during the war.
Q Where? A I got acquainted with her first place I saw her at Cane Hill.
Q Where did you next see her after that? A In Ft. Gibson.
Q When you saw her at Cane Hill was that before the war or during the war or after the war? A During the war.
Q When you saw her next after seeing her at Cane Hill was at Ft. Gibson? A Yes, sir, at Ft. Gibson.
Q When you next saw her at Ft. Gibson was that during the war or after the war was over? A Well when I saw her first she came down from Cane Hill to Ft. Gibson.
Q When was that now? A That was in during the war.
Q How long did she stay about Ft. Gibson? A She stayed there to my best judgment until about '67, to my best knowledge.
Q Where was she during the year '66? A She was there.
Q Where? A Ft. Gibson.
Q In the Cherokee nation? A Yes, sir.
Q Did you know her before the war? A No, sir.
Q When she came there before the war was over at the time you speak about did she have any children? A Yes, sir, she had a couple of

little girls.

Q When did you next see her after she left Ft. Gibson at that time? A I didn't see her any more until I come up here in Vinita.

Q Until you left Ft. Gibson? A Yes, sir, until I come up here in Vinita, I met her again.

Q Where did you see her then? A In Vinita.

Q When? A I don't know exactl how long that's been, about 10 years ago or 12, 10 years ago I guess.

Q Did you live at Ft. Gibson until that time? A No, sir, I lived there until about '75, and went into Canadian district.

Q You say you left Ft. Gibson in '75? A Yes, sir, as near as I can remember.

Q And went to live in what part of the Nation? A In Canadian district.

Q Then how long ago was it you lived in this section of the country? A I lived up there about 15 years.

Q About how long ago was it before you got up in this part of the country? A I disremember, about 15 years I reckon, as near as I can think of it.

Q When she left Ft. Gibson do you know where she went to?

A No, sir.

BY MR. HASTINGS: Who did she live with at Ft. Gibson? A She hired out, working out.

Q How many children did she have when you saw her there after the war? A She had the same two children I found her with, she had two children all along that I know of.

Q About how old was the oldest child when you first saw her? A I don't know, I couldn't tell you.

Q As much as 15 years of age? A No, I don't think she was that old; good sized little girls (indicating.)

Q Your best judgment as to the age of the oldest one? A I could not tell you.

Q Your best judgment as to the age of the oldest one? A I could not tell you.

Q Your best judgment as to the age of the next one? A I couldn't tell you as to that, there was two little girls; one a little bigger than the other one.

Q You can't tell anything about the age at all? A No, sir, I couldn't tell anything about the age of the person, I was about 20 years old and I wasn't no more than about that high I reckon (indicating.)

Q How old were they when you saw them at Ft. Gibson, were they grown at that time? A No, just small girls, come down from Kane Hall, and stayed there until about '67; she worked in the garrison there for those officers.

Q Where did she go from there? A I don't know, I don't know when she went away.

Q You keep up pretty well with these colored people? A Not much; I always make it a rule to attend to my business.

Q You never met this woman until about 10 years ago, in Vinita?

A I didn't see her no more after Gibson until I met her in Vinita.

Q Was she keeping house in Ft. Gibson? A I don't know; she worked out for some Major up there, worked up in the garrison most of the time.

Q What was she doing in Vinita when you saw her there? A Nothing particular, no more than I met her there.

Q She wasn't living there? A Not as I know of.

Q You don't know where she has lived in the meantime? A No, sir.

Q Don't know whether she has been in Kansas or Colorado or where?

A No, sir, I don't know anything about here she has been.

LEWIS WHITMIRE, being sworn by Deane's Needles, testified as follows: BY MR. MOYER:

Q State your name? A Lewis Whitmire.

Q Do you know this applicant, James Thornton? A Yes, sir.

- Q How long have you lived in the Cherokee Nation? A Well I have lived in here all my life.
- Q Are you a citizen of the Cherokee Nation? A Yes, sir.
- Q Are you on the 1880 roll? A Yes, sir.
- Q How long have you known this applicant? A Yes, sir.
- Q How long have you known him? A Ever since he was young folks.
- Q Did you know her before the war? A Yes, sir.
- Q Was she a slave? A Yes, sir.
- Q Who did she belong to? A Dr. John Thornton.
- Q Was he an Indian? A Yes, sir.
- Q Cherokee Indian? A Yes, sir.
- Q Where was he living when the war commenced? A In Goingsnako.
- Q How far was that from where you live d? A About 5 miles.
- Q You know whether Rhoda had any children or not when the war commenced? A Yes, sir, she had two.
- Q What were they, boys or girls? A Girls.
- Q Where was Rhoda when the war commenced? A She was at home, when the war commenced.
- Q Do you know what became of Rhoda Thornton during the war? A Yes, sir, she went to St. Gibson after she left home where she lived.
- Q When did you first see her after the war closed? A Why I saw her in St. Gibson in the summer of '66, last trip I made from St. Scott driving a Government team; that is the last place I saw her that as just before the war closed.
- Q In the summer of '66? A Yes, sir.
- Q Where did you next see her after that? A Next place I saw her was up here on Big Creek.
- Q When did you see her up on Big Creek? A It was along in the winter of '67, I don't know exactly what time, but it was either January or somewhere along in there; it was cold weather.
- Q Of '67? A Yes, sir.
- Q How long did she stay up there o Big Creek? A I don't know exactly, quite a while I suppose; I was traveling around among them, there once in a while, I didn't live there.
- Q When did you next see her after that? A Every once in a while up until now I see her every once in a while all along every month or two; she was a widow woman and working about, and I didn't see her every time I went in among the people; I didn't see her every time, but I have known her ever since that time, around about in the Nation, working about.
- Q You know where she lives now? A Yes, sir.
- Q You know how long she has lived there? A I don't remember exactly how long she has been living; where she lives now, but it has been three or four years, I guess.
- Q You know where she was living before she went to live at the place she now lives? A No, sir, I do n't.
- BY MR. HASTINGS: What was Dr Thornton's wife's name?
- A Frankie Alberty, before he married her.
- Q Was she a sister of Jack Alberty's? A Yes, sir.
- Q How far did Jack Alberty live from there at that time? A About seven miles, I think it was.
- Q Did she have some more brothers over there, Dr's. Thornton?
- A Yes, sir, had Neal and Jess.
- Q I would like to ask you if Thornton had an other slaves? A Yes, sir, he had severl other slaves, several others, I couldn't tell their names unless I studied a while.
- Q You don't know the names of them? I know there's Butler Duffin he was born a slave, and his mother and two girls and another brother named Josh; they are along in the country now, but I don't see them only once in a while like I have been seeing this woman.
- Q How old were her children during the war? when you saw them first?
- A Youngest about that high (indicating), and biggest about so (indicating); I don't know how old they were.

- Q Which one was the older one? A Mary Ellen.
Q You have seen Mary Ellen and the other one ever since?
A Yes, sir; once in a while.
Q What were you doing at Ft. Gibson when you saw her there?
A I was driving a Government team hauling provisions there.
Q War hadn't closed? A No, sir.
Q What's the last time you saw her at Ft. Gibson?
A Yes, sir.
Q And you were there directly after that? A Not directly after that, but I was there in '68 after that.
Q At whose place did you see this woman up there? A It was at Mike Whitmore's; they didn't have no house there, they was camped and working trying to build a house.
Q Where is the first place you ever saw this woman keeping house up here? A Up here on Big Creek.
Q How long ago was that? A I don't know exactly how long ago that has been, but the first place I saw her up on Big Creek was at this George Duffin's; she was living George Duffin and his father.
Q How long did she stay there? A That was in '67 or '68; she had her children there and she was working oft.
Q Where was she working? A I don't know where she was working.
Q You didn't see her at that time, you just saw her children.
A I didn't see her at that time, but I saw her a short time after that time, and see her children; I don't know where she was working.
Q When did you next see her? A At Duffin's; she had been out working and come there where she left the children.
Q How many children did she have? A Two.
Q About how many years after the war was that? A About 2 years.
Q About how many years after the war did she commence keeping house there? A I couldn't tell you that, I lost recollection of that.
Q She has been in Kansas hasn't she? A I don't know; I never did see her in Kansas.
Q You have missed her up here on the Big Creek neighborhood?
A I missed her every once in a while, but I didn't know where she was.
Q You don't know who she worked for? A No, sir.
Q And don't remember where she lived? A No, sir. I know she stayed around among the people there she stayed some on Lightning, because we are all kin to her children.
Q You didn't testify for her before the Kern-Clifton Commission did you? A No, sir, this is the first time.
Q You didn't tell about her ownership then? A No, sir, I don't know who did, I know very well he held her as a slave, because I stayed there about four years myself while she was there; that's the reason I know it so well.
Q You lived with Dr. Thornton? A I was hired to him when I was a young lad.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant not identified thereon;
1890 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;
1896 census roll of citizens of the Cherokee Nation examined and applicant not found;
Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 142, #2967, Rhoda Thornton, district given as "Holodoo."

APPLICANT, RHODA THORNTON, re-called and further examined:
BY COM'R NEEDLES:

- Q You didn't draw strip money? A No, sir.

-11-

COM' R NEEDLES: Rhoda Thornton applies for the enrollment of herself; she cannot be identified upon the authenticated roll of 1860 or the census roll of 1896 or the Kern-Clifton pay roll, but is fully identified upon the Wallace roll according to page and number of the roll as indicated in the testimony; she avers that she was a slave, belonging to Dr. John Thornton, was in the Cherokee Nation during the war, and at Ft. Gibson in '66; she avers that since that time she has lived in the Cherokee Nation, that has been her home. For particulars as to her residence, reference is made to the testimony; the evidence is conclusive to the effect that she is a slave and was in the Cherokee Nation at the time prescribed by the time prescribed by the treaty of 1866; she will now be listed for enrollment as a Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission; she will be notified by mail of the action of the Commission in the premises.

-----02-----

M. D. Green, being first duly sworn, states that as a 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 July 15, 1901.
(Signed) T. B. Needles,
Commissioner.

---00000000---

J. O. Rosson, being first duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original in the above case.

J. O. Rosson

Subscribed and sworn to before me this 5th of September, 1901.

M. D. Green
MDP

Commissioner

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATAH I.T., JULY 1st, 1901.

In the matter of the application of Charlotte Henry for enrollment as a Cherokee Freedman; said Charlotte Henry being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mr. Louis T. Brown, for Applicant.
Mr. James E. Davenport, For Cherokee Nation.

Q What is your name? A Charlotte Henry.
Q How old are you? A About 43.
Q What is your present office address? A Chelsea.
Q What district do you live in? A Coowesscoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to be enrolled by any other Nation or tribe besides the Cherokees? A No, sir.
Q Who do you want to enroll besides yourself? A Nobody.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Wallace roll.
Q What you married? A Yes, sir.
Q What is your husband's name? A Richard Henry.
Q Is he a citizen? A No, sir.
Q What is your father's name? A Mike Whitmore.
Q What is your mother's name? A Rhoda Thornton.

BY MR. BROWN:

Q Where were you born, Mrs. Henry? A Cherokee Nation.
Q Did you live here all your life? A Yes, sir.
Q Live here now? A Yes, sir.
Q What do you say your father's name was? A Mike Whitmore.
Q And your mother's name? A Rhoda Thornton.
Q Do you know to whom you belonged to at the beginning of the war? A Dr. John Thornton.
Q Do you know whether or not you went out of the Cherokee Nation during the war? A No, sir.
Q Have you lived with your mother all your life? A Yes, sir.

BY COM'R NEEDLES:

Q How many times have you been married? A Twice.
Q What was your first husband's name? A Lee Durandemo.
Q Was he a citizen? A No, sir.
Q Where did you marry him? A Married him in Kansas.
Q Is he living? A No, he is dead.
Q Was he dead before you married your present husband? A Yes, sir.
Q When did you marry your present husband? A In 1882.
Q Where? A In Leadville, Colorado.
Q Married your first husband in Kansas and your second husband in Colorado and you have always lived in the Cherokee Nation? A Yes, sir.
Q How do you account for that? A I was there cooking about four months, and married him and came home.
Q What was your first husband? A Yes, sir.
Q How about your second husband? A I came home as soon as I married.
Q Have you got any children? A No, sir.
Q Ever had any? A No, sir.

BY MR. DAVENPORT:

Q Now, what year were you in Colorado? A In '82.
Q Now, what year did you come back to the Cherokee Nation? A I come back in the fall.
Q Who were you working for in Colorado? A Mrs. Peppers.
Q Where? A At Leadville.
Q What was Mrs. Peppers' full name? A Mrs. J. D. Peppers.
Q And you had been in Kansas before that? A Yes, sir.
Q And you lived in Kansas the same time your brother, Freddie, did? A No, sir.

Charlotte Henry.--2.

- Q You were there with your mother and Freddie? A I was there going to school.
- Q But you have been living along about 18(0 in the Cherokee Nation?
- A No, I came here.
- Q How long have you been living over here at Chelsea the last time? A About nine years.
- Q That is when your mother lived there? A Yes, sir.
- Q How far does your husband live from your mother? A Two miles.
- Q Has he been living there nine years? A No, we rented from mother two year and lived on out place above.
- Q Well, have you and your husband lived in the Cherokee Nation continuously for nine years. A Yes, sir.

BY COM'R NEEDLES:

- Q How old were you when you went to Colorado?
- A I don't know, about 23.
- Q Were you single when you went out there? A Went with white people I was working for.
- Q And you married out there? A Yes, sir.
- Q And then returned? A Yes, sir.
- Q Where did your first husband die? A He died there.
- Q Colorado? A No, Kansas, my first husband, we came here.
- Q You married your first husband in Kansas? A Yes, sir; I came back and his health wasn't good and went back and he died.
- Q Were you there when he died? A Yes, sir.
- Q What part of Kansas? A Epeka.
- Q Well, how long after you husband died before you came back to the Cherokee Nation? A I come back right after he died.
- Q When did he die? A '83.
- Q Who went with you to Colorado? A Went by myself.
- Q You were a widow then? A Yes, sir.
- Q Married in Colorado? A Yes, sir.
- Q How long did you live there after you married?
- A I was married in '82 and I came back in the fall.
- Q Been living here ever since? A Yes, sir, my second husband died here.

The 1880 Authenticated and 1896 Census Rolls of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 142, #2972, Charlotte Thornton, residence "Colorado."

BY MR. DAVENPORT:

- Q Isn't it a fact you came from Colorado last week? A Yes, sir; came back last Friday, when last fall after I lost my husband went out to work to pay off my debts.

BY COM'R NEEDLES:

- Q When did you go to Colorado? A Last fall, late in the fall.
- Q You were married then? A No, I had just lost my husband, I went away to work to save my property here.
- Q How long had you been married the last time? A Nine years.
- Q I don't understand that you have been married nine years; it was your Colorado husband that died? A Yes, my Colorado husband that died; he has been dead one year.
- Q After his death you went back to Colorado?
- A Yes, sir.
- Q You had some property out there had you?
- A No, sir, worked out, cooked.
- Q Well, did you have to go all the way to Colorado to work?
- A I went in order to get better wages and pay off my debts.
- Q What wages did you get out there? A I get \$6 a month; cooked at a boarding house.

Charlotte Henry.--3.

BY MR. BROWN:

- Q Where did your husband die? A Chelsea.
Q Prior to his death where were you living? A On Lightning.
Q Is that in the Cherokee Nation? A Yes, sir.
Q Own any farm or property in the Cherokee Nation?
A Yes, sir.

CHARLOTTE HENRY applies for the enrollment of herself. Her name cannot be identified upon any of the rolls of the Cherokee Nation except the Wallace roll, and she is fully identified upon the Wallace roll according to the page and number of the roll as indicated in the testimony. She avers that she is a child of Rhoda Thornton who is listed for enrollment upon doubtful card #966, and claims her citizenship through her mother and asks that the testimony taken in the matter of the enrollment of her mother be made part of the record in the case at bar, which will be done and copy thereof filed herewith. She avers that she is married to one Lee Durandeme, and since that time she has married Richard Henry. She is identified upon the Wallace roll as Charlotte Thornton, that having been her maiden name. Said Charlotte Henry will now be listed for enrollment as a Cherokee Freedman upon a doubtful card. She will be notified by mail at her post office address of the decision of the Commission.

BY MR. DAVENPORT OF APPLICANT:

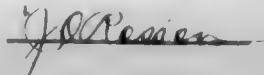
- Q Are you working out in Colorado now? A No, sir.
Q Who were you working for? A Mrs. Mansfield, she was a widow.
Q What was her first name? A Carrie Mansfield.

BY COM'R BROWN:

- Q Keeping a hotel there? A Yes, sir.

---00000000---

J. O. Robson, 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 17th day of July, 1901.



Commissioner.

To be filed with F.D-968 (Charlotte Henry)

F.D-966.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 27, 1902.

In the matter of the application of Rheda Thornton for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL TO D-966.

APPEARANCES:

Mellette & Smith for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced by the Cherokee Nation in the case of Freedman Doubtful 318, also in the case of Freedman Doubtful 505, be introduced into and made a part of the record in this case.

MR. SMITH: The applicant objects to the introduction of the above testimony for the reason that the same was not taken with reference to this case, and not under any rule of this Commission with regard to notice and cross-examination, and because the same is incompetent in the manner and form offered, and because it is immaterial and does not tend to prove any issue in this case, and because it is not the best evidence, and because it is hearsay.

Commission: This testimony will be filed with and made a part of the record in the case of Charlotte Henry, D-968, as well as in the case of Rheda Thornton, D-966, the same being the case at bar. The applicant in the above cases are represented by Mellette & Smith.

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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 7th day of July, 1902.

(Signed) F. G. Reuter,

(SEAL)

Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 5th, 1901.

In the matter of the application of George B. Duffin for the enrollment of himself as a Cherokee Freedman; said Duffin being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A George B. Duffin.
Q How old are you? A I was born in '51.
Q Well, how old would that make you? A 49 I guess, about 49.
Q What is your postoffice? A Wimer.
Q What district do you live in? A Coowescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever been recognized by the Cherokee authorities?
A I have been voting and issuing permits.
Q Is your name on the roll of 1880? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation?
A It is on the Kern- and Wallace roll.
Q Who do you want to enroll? A None but myself.
Q What is your father's name? A Nathan.
Q Is he living? A No, sir.
Q What is your mother's name? A Francis Duffin.
Q Is she living? A No, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and the name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 182, #4436, Geo. B. Duffin, Coowescoowee District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 110, #2345, George B. Duffin, Coowescoowee District.

- Q Were you a slave, Mr. Duffin, before the war? A Yes, sir.
Q To whom did you belong? A Dr. John Thornton.
Q Was he a Cherokee citizen? A Yes, sir.
Q Were you taken out of the Cherokee Nation during the war?
A Yes, sir.
Q Where to? A Fort Scott, Kansas.
Q Who took you out? A The United States troops.
Q Were you a soldier? A Yes, sir, I was a child.
Q When did you return to the Cherokee Nation? A In the summer or fall of '66.
Q Where did you come to? A Big Creek.
Q Have you been living in the Cherokee Nation ever since that time? A Yes, sir.
Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q You say you have voted in the Cherokee Nation? A Yes, sir.
Q Had permits issued to you? A Yes, sir.
Q Who did you return with? A Just the family, we came down, father come down in the summer of '66, with quite a troop of them and selected his home and he went back and sold his crop that fall and come down and arrived on Big Creek in the fall of November of '66.
Q Who did you say your owner was? A Doctor John Thornton.
Q Did he own your father and mother? A No, sir.
Q When did they belong to? A He owned mother.

Q Did your father and mother return with you? A Yes, sir, and four children.
Q They are both dead, are they? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q What was your mother's name? A Frances Duffin.
Q Do you sometimes go by the name of George Keyes? A No, sir.
Q You have a sister by that name? A Eliza Keyes.
Q You have another sister, Sarah Moss? A Yes, sir.
Q When you came back you come to Big Creek? A Yes, sir, when we moved.
Q What part of Big Creek was it? A Near the head of Big Creek, near about eight miles from the Kansas line.
Q How far is that from Snow Creek? A About ten miles, east ten or 12 miles.
Q Any other family come with you except yours? A No other family.
Q You come right there and located first? A Yes, sir.
Q Who was living around there at the time? A On Big Creek?
Q Yes. A Well, there was Andy Dougherty.
Q Was he a Freedman? A Yes, sir; Daniel Sanders, Mike Sanders and Sam Webber.
Q They were all living on Big Creek, were they? A Yes, sir, some of them in houses and some partly in tents and so forth.
Q They had come before you? A Yes, sir.
Q Had they made a crop there that year? A They had some little patches killed out.
Q Had corn in them? A They had gathered what corn they had, it was in November when I got there.
Q Did you know Jim Martin? A Did I know him?
Q Yes. A Yes, sir.
Q How far do you live from him? A I live about 12 miles from where ~~you~~ he lives.
Q Do you know William Noble? A Yes, sir.
Q Where did he live? A He lives about four miles now.
Q How long has he lived there? A I got acquainted with him in November in the fall of '70.
Q He was not there then? A No, sir, the place he lives on now was made by Doctor Brown.
Q Was any Cherokees living near that place when you come?
A Yes, sir.
Q From what place in Kansas did you come? A Anderson County.
Q What point? A Near Garney.
Q Did you come by way of Chetopa? A Yes, sir.
Q Through what other towns did you pass? A In our coming?
Q Yes. A We came down through a little town that was called Osage Agency I think; that is about the only town I remember of; we came through several towns, but we came through what is known as the Osage Nation or the Osage Mission, I don't remember now; I remember there was Osage to it.
Q Did you pass by any Cherokee houses in the Cherokee Nation?
A No, sir.
Q Didn't see any at all? A No, sir; never seen a house after we left the little village of Chetopa until I came down to Big Creek.
Q You come by way of Chetopa and then turned west?
A Yes, sir.

Permission is granted Mr. Edgar Smith to interrogate the applicant:

- Q You state Eliza Keyes was your sister? A Yes, sir.
Q And what is your other sister's name? A Sarah Moss.
Q Who was with you when you came back from Kansas? A Just two wagons, the family.
Q Well, state who was in the family? A My father, mother, brother and two sisters.
Q What are your two sister's names? A Sarah and Eliza and Joshua.
Q Was Sarah or Eliza elder than you? A They are younger.
Q Are they both your full sisters? A Yes, sir.
Q To whom did they belong? A The sawman, Doctor Theraten.
Q Did they go out with you? A Yes, sir.
Q Come back with you? A Yes, sir.
Q When do you say they came back into the Nation after the war?
NA In the fall of '66.
Q Where did they take up their residence; where did they live after they come back here in the fall of '66? A They lived until they became women in the house with us and Sarah lived with us part of the time; two of her children were born right in Father's house.
Q These two sisters you have named lived with you and your father? A Yes, sir.
Q Where was your father's house? A About eight miles from the Cherokee line on Big Creek.

BY W. W. HASTINGS:

- Were these girls married when you come down here? A They was quite small, small children.
Q Have you ever worked in Kansas after you come down here?
A Yes, sir, I have been working a great deal from '87, I travelled in the Ministry.
Q Are you married? A No, sir.
Q Where were you traveling in the Ministry? A All through this Nation and in Kansas, in Arkansas, until '84, father was taken sick and I was going to school.
Q Where? A Baker University, in Kansas.
Q You remember the Osage Mission? A Yes, sir.
Q You remember Chetopa? A Yes, sir; that is, what there was of Chetopa, you know there was not much of Chetopa; there wasn't but one or two stores.
Q I knew it was not named until '67? A I think it was there.

BY COM'R NEEDLES:

- Q Do you know own any improvements in the Cherokee Nation?
A Yes, sir.

BY W. W. HASTINGS:

- Q You knew that you were not a recognized citizen of the Cherokee Nation? A Well, I don't know.
Q You knew the Cherokees didn't recognize you? A Yes, sir.
Q What did you make your home for when you knew they didn't recognize you? A I knew I wasn't a citizen if I come by the Cherokees' recognition.
Q You then went out on the Public Domain and took a home?
A Yes, sir.

COM'R NEEDLES:

Q Do you know the reason your name is not on the 1880 roll, Mr. Duffin? A No, sir; in 1880 the census taker came to my father's house and eat supper and breakfast and the next morning them taken all of our names and I don't know what they done with them.

BY MR. W. W. HASTINGS:

Q What was their names? A I don't know; I didn't know any Indians then only those down in Goingsnake District, where I was bred and born.

BY MR. SMITH:

Q You spoke of Chetopa having one or two stores; do you know whether it was named at that time or not? A No, I don't.
Q You had reference to the place? A Yes.

BY MR. HASTINGS:

Q You heard me say that it wasn't named since you give the other testimony, didn't you?
A I don't remember what you said in that regard.

COM'R NEEDLES:

Q Now, Mr. Duffin, you passed by the place that is now called Chetopa didn't you? A Yes, sir.
Q How old were you when you passed by there? A Well I guess I was about 14; I think I was 14 when we came to the Nation.

BY MR. HASTINGS:

Q When did you first see Allen Lynch after the war, on Big Creek?
A No, sir, I don't remember; I have knowed him nearly all my life.

ALLEN LYNCH BEING SWORN AND EXAMINED BY COMMISSIONER T. B. NEEDLES, testified as follows:

Q What is your name? A Allen Lynch.
Q What is your postoffice? A Vinita.
Q How old are you, Mr. Lynch? A 61 years old.
Q You are a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q Name on the roll of 1880? A Yes, sir.
Q Do you know the applicant, George B. Duffin? A Yes, sir.
Q How long have you known him? A I have known him ever since he was a little boy.
Q Was he a slave? A Well, yes, sir; that is, his parents was.
Q Do you know to whom he belonged? A His father belonged to a man by the name of Tyner.
Q Do you know who his mother belonged to? A His mother belonged to Dr. Thornton.
Q Well now, do you know whether the applicant was taken out of the Cherokee Nation during the war? A No, sir, I don't know.
Q Where did you first see him after the war? A The first time I saw him was down here.
Q Down where? A In the Nation.
Q Where? A I never seen this man until about '67 or '68.
Q How? Did you see his father and mother before that? A Saw his father.
Q When? A Saw his father in October or September, '68.

- Q Where was his father living then? A His father was living in Kansas and come down here and I saw him at Art Williams'.
- Q Was any other man with him? A Not that I saw.
- Q You don't know whether this applicant was here in 1866 or not? A No, sir.
- Q You know his father? was? A Yes, sir.
- Q Well, have you known him ever since? A Yes, sir.

BY MR. SMITH:

- Q Do you know Eliza Keys? A Yes, sir.
- Q What kin is she to him? A Sister.
- Q Do you know Sarah Moss? A Yes, sir.
- Q When did you first see them after the war? A I never saw any of the family until after they moved down except the old man until along in '67, somewhere along there.
- Q Where were they living when you saw them? A They were living over on Big Creek, and the old man come over there on Grand River and preached for us.
- Q What year was that? A In '67 or '68, and along until he died.

BY MR. HASTINGS:

- Q Allen, do you draw a pension? A Yes, sir.
- Q For a wound that was inflicted during the war? A Yes, sir.
- Q On the point of the left shoulder? A Yes, sir.
- Q Where was that wound inflicted? A At Honey Springs.
- Q Down here? A Down in the Creek Nation.
- Q What year? A '64 I believe, July 16th, I think that is the time.
- Q Now where did you see this man Duffin ever on the Grand River? A At Art Williams' on Grand River.
- Q Were they living over there? A No, sir; they were there looking around.
- Q Did they go back to Kansas? A Yes, sir, they went back to Kansas.

FILMORE HICKS, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Filmore Hicks.
- Q Postoffice? A Vinita.
- Q Are you a Cherokee citizen? A Yes, sir.
- Q By blood? A Yes, sir.
- Q Do you know George B. Duffin, the applicant? A Yes, I am acquainted with him.
- Q How long have you known him? A I don't know exactly how long; I have known him; I have known him 25 years I reckon.
- Q Do you know whether he was a slave before the war? A No, sir, I don't.
- Q Do you know whether he was taken out of the Cherokee Nation during the war? A No, sir.
- Q When did you first see him after the war? A I met him about '73 or '74.
- Q Did you know his father? A Yes, sir, I knew his father.
- Q And his mother? A No, sir, I didn't know his mother.
- Q Where did you first see his father after the war? A On Grand River at Lynch's Prairie.
- Q What year? A '66.
- Q Did he have his family with him? A No, sir.
- Q Did you see any other members of his family, his sisters?

A In '66?

Q Yes? A No, sir.

Q Didn't see anybody but the old man? A No, sir.

BY MR. DUFFIN, the Applicant:

Q I would like to ask Mr. Hicks before this Commission what was father's business down in '66? A Well I saw him up there at Lynch's and he was talking about looking out for places, him and Tom Mayfield together looking for locations.

BY MR. HASTINGS:

Q He went back to Kansas? A I suppose so.

COM'R NEEDLES:

Q How do you know? A I don't know.

Q Did you testify for Aaron Martin? A Yes, sir.

Q Anderson Lynch, commonly known as Crap Lynch, testified for him? A No, sir, I don't think he did.

Q Didn't Aaron Martin promise to give you and Anderson Lynch a mule to testify for him? A Promised to pay.

Q What? A Yes, he paid us for it.

Q A mule? A Yes, sir.

Q What is the mule worth? A I don't know.

BY COM'R NEEDLES:

Q When was that? A When the Commission was at Vinita.

Q Well he was a s good as his word and paid the mule did he?

A Yes, sir.

MOSES RILEY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Moses Riley.

Q What is your age, Mr. Riley? A About 51.

Q Postoffice address? A Chelsea.

Q Are you a Cherokee Freedman? A Yes, sir.

Q Is your name on the roll of 1880? A No, sir.

Q Well do you know the applicant, George B. Duffin? A Yes, sir.

Q How long have you known him? A All my life, right near.

Q Was he a slave? A I never saw him when he was a slave, I saw his father,

Q His father was a slave, was he? A Yes, sir.

Q Do you know whether George here was taken out of the Cherokee Nation during the war? A Yes, sir.

Q Where was he taken? A Kansas.

Q Who took him? A I don't know, sir, who took him.

Q You saw him in Kansas? A Yes, sir.

Q Did you know when he returned to the Cherokee Nation?

A His father returned here in the fall of '66, or somewhere along about there.

Q Did his father have his family with him? A He didn't when I saw him.

Q You say his father didn't have his family with him? No, sir, his father was at my father's house.

Q When did you first see George? A I knew George a little before Christmas.

Q Little before Christmas? A Yes, sir.

Q What year? A The same winter.

- Q The same winter that you saw his father in the summer?
A No, sir, I saw his father, I never saw his father until the winter.
Q When did you see George? A I saw him the same winter, saw him on Big Creek.
Q Do you know whether that was '66 or '67? A Winter of '68.
Q Was his father keeping house there? A Yes, sir, his father was keeping house.
Q George was one of the children? A Yes, sir.
Q George was a minor; was he under 21? A Yes, sir.

BY W. W. HASTINGS:

- Q Now, you are a son of Riley McNair? A I guess so, that is what I am claiming to be.
Q That is what you swore? A Yes, sir.
Q You are on a doubtful card yourself? A I expect so, I am not on the 1880.
Q You applied at Vinita and you know it?
A Yes, sir.
Q Were you present the other day when Mrs. Martin Thompson testified in your case? A Yes, sir.
Q Where did you go when you returned to the Cherokee Nation yourself? A Returned to the old McNair place in Saline.
Q What time did you reach there? A In the fall, sir.
Q How old were you then? A I don't know, sir, how old I was.
Q Grown? A No, sir, I wasn't grown I know.
Q Just a boy? A Somewhere along between a boy and a lad.
Q Now, how far is Grand River from Big Creek? A Yes, sir.
Q From where you lived on Grand River to where this man lived on Big Creek? A I expect it must have been about 30 miles, I expect from where we was then.
Q Lots of other people living up on Big Creek at the time?
A Yes, sir, lots of darkies.
Q Lots of them? A Yes, sir, lots of them.

GEORGE B. DUFFIN, the applicant, recalled:

BY COM'R NEEDLES:

- Q Your earliest recollection where were you? A My earliest recollection I was down here in Going Snake District about six miles they called it from Dutch town, that is where I was born.
Q Then you recollect going to Kansas? A Yes, sir, I never could forget that, we left the Nation with about 50,000 soldiers and they carried us about 20 miles horseback.
Q Now, when you returned, did you return with your father's family? A Yes, sir.
Q You don't recollect whether your father had been down in the Cherokee Nation before he went back after his family or not?
Q Yes, sir, he came down the summer preceeding the fall lookin out a location.
Q Then went back to Kansas after his family? A Yes, sir.
Q Did he bring your mother? A Yes, sir; well our crops and effects there all we could haul and come on down.
Q You were quite a child then? A Yes, sir.
Q About how old were you? A It has been quite a while, but I think I was ~~at~~ about 14.
Q You have been living in the Cherokee Nation ever since?
A Yes, sir.
Q You have been out occasionally in the Ministry, around in the different States? A Yes, sir, I have been in Missouri, and Kansas and Arkansas and in this Nation.
Q Have you ever established a home outside? A No, sir; I

went two years to school at Baker University.

COM'R NEEDLES: George B. Duffin applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. He is fully identified upon the Kern-Clifton roll and Wallace pay roll. By reason of the fact that his name is not upon the roll of 1880 and further fact that his citizenship is contested by the Cherokee Nation, George B. Duffin will be listed for enrollment as a Cherokee Freedman on a doubtful card. He will be notified of the decision of the Commission when arrived at.

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 7th day of June, 1901.

(Signed) C. R. Breckinridge,

Commissioner.

Supl. C.F.D-#503.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. I., OCTOBER 25th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of George B. Duffin as a Cherokee Freedman, introduced on part of the Cherokee Nation:

Appearances:

Mellette & Smith, Counsel for applicant;
Mr. Hastings, of Counsel for Cherokee Nation.
(Witnesses called and sworn and placed under the rule.)

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows.

- MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your postoffice address? A Barnett, Kansas.
Q How long has that been your postoffice? A Since 1858.
Q Did you know a colored man by the name of Nathan Duffin?
A Yes, sir.
Q Did you know his wife, Frances? A I don't know what his wife's name was.
Q You knew her, knew he had a wife? A I knew he had a wife.

- Q Did you know any of his children? A I knew two boys, two sons, young men.
- Q Do you remember their names? A I do not, I don't know that I ever knew their first name.
- Q Did he have any girls you remember? A Yes, he had a couple of girls, but I don't know what their names was.
- Q Well, when did you first learn to know this family? A About '66.
- Q Where did they live at that time? A They lived in the vicinity of Garnett, Kansas.
- Q Live on the farm? A Yes, sir.
- Q Did you know what old man Duffin's occupation was? A He was a preacher.
- Q How long did they continue to live in that vicinity from 1866? A My recollection is that they were there in the spring of '70.
- Q What fixes that date that date as the date that you think they were there last? A That was the date in which the Leavenworth, Florence & Galveston Railroad was built to Garnett, and they were there during the building of that road until it was down to Garnett, and I know that they were there from the fact that they hauled railroad ties right past my house to the road until it was finished.
- Q How far did they live from you, Mr. Johnson? A About two mile and a half.
- Q Did you have occasion to see them frequently? A Saw them almost every day, that is the two young men.
- Q Did any of them ever work for you? A Yes, sir, I had them chop wood for me.
- Q You remember when that was? A I think that was in the winter of '67 and '8.
- Q I believe that you stated that you are practicing attorney at Garnett, Kansas? A Yes, sir.
- Q You also stated in another case that you had been County Attorney and Judge? A Yes, sir.
- Q Up in the State of Kansas? A Yes, sir.
- Q You didn't know but two boys of Duffin's? A That is all I have recollection of now.

MR. SMITH: Mr. Johnson, you don't know whether the men or the boys that you knew there, whose names you didn't know, are the men who apply in these applications for enrollment do you? A No, sir, I do not, I haven't seen the men since they left Kansas.

- Q Now, when did you last see the girls? A It was somewhere about the spring of '70.
- Q Well now, you spoke of the boys having got wood for you in '67 or '8, did you have any occasion to know anything about the girls at that time? A Nothing more than the fact that the girls were there about the house where their father lived, the man I supposed to be their father.
- Q Where did they live? A They lived about two miles southeast, from Garnett on the farm owned by Judge Campbell.
- Q They lived out in the country on the farm? A Yes, sir.
- Q And you lived in Garnett? A No, sir, I lived adjoining Garnett.
- Q Did you live on a farm? A Why I lived on a small tract of land adjoining the City.
- Q Well practically you lived in Garnett? A Yes, sir, my office was in Garnett and has always been.

Q When was the last time that you could state you have been at the house of these people? A I could not state that exactly, but it was sometime about the time the railroad was completed to Garnett.

Q Well, you stated that you remember seeing the father and I don't remember whether you said the boys or not, working there hauling the time the railroad came there, but did you see the girls at the same time, they weren't hauling? A No, sir, but I frequently passed the place, I have seen them around the house.

Q Who would you see around the house? A I would see some girls there.

Q How many? A Two that I remember.

Q What was the difference in their sizes? A I have no recollection now whether there was any particular difference in the sizes or not.

Q You don't know what two girls they was? A No, sir; I understood that they were Duffin's girls.

Q Were you ever at the house? A Yes, sir, I have been at the house, not in the house but I have been at the house.

Q When did you first know Duffin? A I think it was in the winter of '66.

Q Can you state positively whether Duffin was there in the winter of '66 and Spring of '67? A In the spring of--

Q Winter of '66? A Well, that is my best recollection.

Q But you can't state that positively? A No.

MR. HASTINGS: You mean to say by that that you don't know just any one time or what did you mean by that? A I mean by that that I could not be positive about just the exact time I saw him there.

Q Did you see him up until the spring of '70? A Yes, sir, I saw him frequently then.

MR. SMITH: Now, let me understand you, I want to know whether you can state positively whether he was there at all during the winter of '66 and spring of '67? A I would say he was.

Q Now what time did you see him in the spring of '67? A I could not say just what time, there is nothing by which I could distinctly fix the time.

Q If you can't fix the time you don't know he was there?

A Well sir, I had just come home from the army during the winter of '65, and when I come home a short time afterwards I got acquainted with him.

Q Well, now, how long afterwards? A I could not say how long.

Q About how long? A It has been a good long time ago, about, probably it was three months.

Q What time did you get home from the army? I got home on the day of the election in November.

Q That was in '65? A Yes, sir.

Q And you don't know within three months of that time you got first got acquainted with Duffin, do you? A Yes.

Q Now, what time? A I say about three months after that.

Q About three months after November, 1865? A 1865.

Q Then one year from that time, where was Duffin? A I could not say just where he was just one year after that.

Q Have you anything by which you fix these dates at all, or are you testifying from your independent recollection of facts?

A I am testifying from my recollection of facts, except that I know the railroad was completed to Garnett on the first day of May, 1870, and that they were there then.

Q Can you state with reference to the two girls you mentioned when, before that railroad was completed, when you last met them and under what circumstances? A No, sir, I could not state under what circumstances I saw them at any time, simply see them there about the house as I would see any other lady.

Q Was there a man up there named Amby? A Hamby.

Q Hamby? A Yes, sir.

Q Did they live on his place? A I am not certain whether they did or not.

Q Do you have any recollection of their ever being on there or living on that place at all, Hamby's place, the preacher?

A No, sir.

Q Well, what do you say about that, were they on his place, or do you remember? A Not that I recollect of and I think too they were, but I am not positive about that, it has been a long time ago, and I haven't thought about those matters.

Q Did you see this man, Nathan Duffin, in October, '66?

Q I could not say whether I did or not.

Q Can you state whether he was in Kansas during October or September, '66? A It would be my recollection that he was, but I could not fix any particular time that I saw him in the fall of '66.

COM'R NEEDLES: This testimony will be made part of the record in the case at bar, D-505, and also will be made part of the record in Cherokee Freedmen cases D-506, D-507, D-509, D-510.

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 12th, 1901.

(Signed) T. B. Needles,
Commissioner.

I, the undersigned, a stenographer to the Commission to the Five Civilized Tribes, do hereby certify on my official oath that the above and foregoing is a true and correct copy of the testimony and proceedings in this case.

Maxwell

Subscribed and sworn to before me this 11th day of August, 1902.

Prince C. Jones
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmore, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Charletta Henry, D 968;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file or make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
Notary Public.

F. D. 968

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, } S. S.
NORTHERN DISTRICT. }

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.**

SEP 24 1901

NOTICE!

IN THE MATTER OF the application of Charlotte Henry
for enrollment as Cherokee Freedmen:

Case No. F. D. 968

To Charlotte Henry or L. J. Brown her agent

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory. Indian Territory, on Oct 25, 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sep 23, 1901

L. B. Bell

W. W. Hastings

J. S. Davenport

Attorneys for the Cherokee Nation.

Cher. Fr. D. 969

Cher. Fr. D. 969

To be filed with the case of Valinda Beeson, C. F. D. #969.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 16, 1901.

In the matter of the application of William Tucker for the enrollment of himself and three grandchildren as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Tucker.
- Q How old are you? A Well, I don't know exactly; somewhere between sixty and seventy; about 65 I will say.
- Q What is your post office? A Welch.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir..
- Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know; there has been so many different rolls taken.
- Q Is your name on the roll of 1880? A I don't know.
- Q You don't know whether it is on any roll? A Yes, sir, I know it is on the Clifton and Kerns roll and the Wallace roll.
- Q Who do you want to enroll besides yourself? A Three grandchildren.
- Q Give me their names? A William Banks.
- Q How old is William? A He is twenty.
- Q Next? A Irene.
- Q How old is Irene? A 15.
- Q The name of the next one? A Virdie.
- Q How old is Virdie? A 10 years old.
- Q What is the father's name of these children? A William H. Banks.
- Q Is he living? A Yes, sir.
- Q Why don't he enroll his own children? A He is living in the States.
- Q What is their mother's name? A Mary, she is dead.
- Q Where are these children now? A One is at my home, and the other two are in Kansas going to school. The youngest ones are in Kansas.
- Q Living there with their father? A Yes, sir, same place he is living.
- Q Where were they born? A They were born in Kansas.
- Q All the children born in Kansas? A Yes, sir.
- Q Was Mary Banks your daughter? A Yes, sir; she went up there and married.
- Q When did she marry in Kansas? A I don't know just what year it was in.
- Q Where you a slave? A Yes, sir.
- Q To whom did you belong? A George Whitmire.
- Q Was he a Cherokee? A Cherokee Indian.
- Q Is he alive? A No, sir, he is dead.
- Q Were you taken out of the Cherokee Nation during the war? A I wasn't taken out; I went out.
- Q Where did you go? A I went to Kansas.
- Q When did you return from Kansas to the Cherokee Nation? A I come back in the fall of '66.
- Q Where to? A I went to Gibson when I first come.
- Q Been living here ever since? A Yes, sir, been in this Nation ever since.
- Q How old would your daughter, Mary, be if she were alive? A I guess 46 or 7 years old. She was born before the war. She never did go out of here; I left her here with the old lady, and when I come back I found her here.
- Q When did she go to Kansas? A She went out to Kansas and married.

- Q Do you know when she married? A No, sir, I don't.
Q Do you know how old she was when she married? A No, sir.
Q Is William Banks her oldest child? A Yes, sir.
Q She must have been out then over twenty years? A No, she wasn't out that long; she was at my place.
Q She never did come back from Kansas? A Yes, sir.
Q After they were married? A Yes, sir.
Q After she married, did she move back? A Yes, sir.
Q Did she move back or just on a visit? A She didn't move back; she was visiting backwards and forward.
Q But she lived in Kansas? A Yes, sir, she lived in Kansas.
Q So she must have been about twenty years old or less than twenty years old when she married? A Yes, sir, I guess so, somewhere along there.
Q And she died in Kansas, did she? A Yes, sir.
Q And her husband still lives in Kansas? A Yes, sir.
Q And these three children were born in Kansas? A Yes, sir.
Q And they always lived in Kansas? A This boy has been living with me, the oldest one, and the other ones have been in Kansas.
Q How long has he been living with you? A He has been there quite a while.
Q Since his mother died? A And before too.
Q He lived with you before? A Yes, sir.
Q But the other children never lived in the Cherokee Nation?
A No, sir, they never have lived in the Cherokee Nation.

The 1880 Authenticated roll and the 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicant and his deceased daughter are not found thereon.

The Kerns Clifton roll examined and the name of the applicant is found on page 168, No. 4151, William Tucker, Cooweescoowee district.

- Q Did you draw strip money for these children? A Yes, sir.

The Kerns Clifton roll examined and the names of the applicants grandchildren are found thereon as follows:
Page 169, No. 4168, Willie Banks, Cooweescoowee district.
Page 169, No. 4169, Irene Banks, Cooweescoowee district.
Page 169, No. 4167, Lettie Banks, Cooweescoowee district.

- Q When was it you say you came back to the Cherokee Nation from Kansas? A I came back in the fall of '66.

L. B. BELL: Where do you live now? A I live where I have been living for thirty years on Cabin Creek where Rogers used to live.

- Q Don't you live in Chatopa? A Never been there to live in my life. I live on Cabin Creek.

Q You say you have been living there for thirty years? A Yes, sir, I went there in '69; that is over 31 years.

- Q You have been living at the same place all the time?

A Yes, sir, Mr. Schrimsher taken the census when I was there.

- Q Why didn't they put you on the roll of 1880? A I don't know why it is. Some way Mr. Bell you all managed it.

Q You never moved out of the country since you come in?

A Never have been out of the country.

- Q When you returned in '66, where did you go to? A To Bart Gibson.

Q How long did you stay there? A Along until about winter. Everybody was so hungry and they were issuing rations there and we had to go there to get something to eat.

- Q Who did you stay with? A I just camped out.

Q Did you have a family then? A Yes, sir.

- Q Did you have a family when you went off? A No, sir.

Q You married after that? A I married in Kansas.

- Q Did you marry a Cherokee? A Yes, sir, a Cherokee, and of

the name of Mrs. [unclear]; she used to live with his sister that has been married.

- Q These children you report here are they that woman's children?
A No, sir, another's woman's children. Mary is by a woman I had when I lived here.
Q Who are these children's mother now? A My daughter.
Q I mean your other children? A Them was Lydia's children.
COMMISSIONER NEEDLES: Do you own any property in the Cherokee Nation? A Yes, sir, I got a good farm.
Q Been living on it for thirty years? A Yes, sir.
Q How many acres have you got? A About three hundred acres.
Q Have you any witnesses? A Yes, sir.

L. D. DANIELS, being sworn and examined by Commissioner Needles, testified as follows:

- Q Your name is L. D. Daniels? A Yes, sir.
Q How old are you? A 56.
Q What is your post office? A Claremore.
Q Do you know William Tucker? A Yes, sir.
Q How long have you known him? A I have been knowing him about 36 years, I guess, near about.
Q Well, was he a slave before the war? A No, I don't know that.
Q Where was he in 1866? A I met him at Gibson in November, I believe it was, and he come there to get something to eat and I let him have it and I got acquainted with him and others that was with him.
Q In the year of 1866? A Yes, sir.
Q Have you known him continuously since that time? A About five years or six or seven years I found him up here in Cooweescoowee, I have been knowing him ever since that.
Q You don't know whether he went out of the country during the war or not? A Yes, he said so.
Q You don't know who his owner was? A No, sir they called him Walt. I wasn't acquainted with him until I met him down there; he said that was a nickname or something.

- L. B. BELL: The first time you saw him was in 1866?
A Yes, sir.
Q He was a stranger? A Yes, sir, he come there with Jesse Vann.
Q And you recollect him right straight on? A Yes, sir, they told me who he was down there.
Q He was introduced to you? A He was introduced; he come to get rations and I issued it.
Q Did you keep a memorandum? A Yes, sir, we had to do it to keep the Creek darkies from gettin rations, and those who were citizens. We were issuing to the Cherokee freedmen.
Q Probably you can give us the day and the month? A If I know this was coming up, I would have kept the book; I could have made some money on it.
Q You recollect this is the man you issued the rations to?
A Yes, I recollect it, because when I met him in '76, when I moved up here and met him frequently; his wife's folks lived right near me at Cooseneck; he told me that he was the same man I met.
Q You would not have remember it? A Maybe not.
Q Did you remember all that you issued rations to? A I come might near knowing all the old folks; I don't remember all the children.
Q Did you issue rations to a great any? A Yes, sir, from 1865 to 1867.

LESTER FOREMAN, being sworn and examined by Commissioner

- T. H. Needles, testified as follows:
Q What is your name? A Lester Foreman.
Q What is your age? A 58.
Q What is your post office? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Do you know William Tucker? the applicant? A Yes, sir, I know him well.

Q Was he a slave before the war? A I don't know.

Q When did you first see William Tucker? A The first time I seen him was along in '66 or sometime along there when the came down after the rations after he had come back from somewhere, I don't know where he come from, I got acquainted with him then; we were both young men.

Q Where was that at? A Fort Gibson.

Q You are satisfied you saw him in Fort Gibson? A Yes, sir.

Q Has he been living in the Cherokee Nation ever since to your knowledge? A Yes, sir, to the best of my knowledge. I haven't missed him out very long at a time.

Q Do you know whether he had a daughter named Mary or not?

A No, sir, I don't know anything about his daughter.

Q L. B. BELL: What were you doing at Gibson about that time?

A A little of everything directly after the war; I was having a good time; I was a young man, I didn't have any steady occupation at all.

Q Were you living there continually or just in and out?

A I was raised there.

Q I am talking about 1866? A Yes sir, I was there all the time.

Q That was your home? A Yes, sir.

Q What ever business you had was in Gibson? A Yes, sir, everything I done was in Gibson.

Q How long did this man stay about Gibson in '66? A I don't remember; I seen him just the same as I seen other people there, in and out.

Q Did he stay a month, do you reckon? A I don't know whether he stayed a month or not. He didn't stay with me; I often seen him there.

Q I understood you to say you and he were having good times?

A He was a young man and we were all having good times there.

COMMISSIONER OF APPLICANT: How long has Mary been dead?

A About seven years, I believe.

Q Did she draw money on the Wallace roll? A I don't know whether she got money what time or not.

Q Did she draw it on the Kerns Clifton roll? A She was dead then.

The Wallace roll examined for the name of the applicant's daughter and her name is not found thereon.

Q Is there anybody here that knew Mary Banks? A I don't know whether anybody is here or not; yes, there is.

Q You have got to prove now that Mary Banks was called your child? I don't know only by what the woman said. She was always claimed to be my child.

Q Is your wife living? A No, sir.

Q Mary was never married but once? A No, sir. She might be down as Pack, Mary's mother belonged to Betsey Pack.

JOE DAVIS, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Joe Davis.

Q What is your age? A 46 years old.

Q What is your post office? A Vinita.

Q Are you a recognized freedman of the Cherokee Nation?

A I don't know whether I am or not.

Q You are disputed, are you? A Yes, sir.

Q Do you know William Tucker, the applicant, here? A Yes, sir, he raised me.

Q Did he have daughter named Mary? A Yes, sir.

Q Was she his oldest daughter? A Yes, sir.

Q Who did she marry? A She married a fellow by the name of Banks from Kansas.

- Q What was her mother's name? A I don't recollect - aunt Nancy Pack.
- Q Was William Tucker married to Nancy Pack? A I couldn't tell you; I wa only a little boy; they lived together I guess before the war like old colored folks did.
- Q He was recognized as the child of William Tucker? A Yes, sir.
- Q You and she were raised together? A Yes, sir.

COMMISSIONER OF APPLICANT: What was Mary Banks' mother?

- A Nancy Pack.
- Q Were you married to her at that time? A No, sir; there was no use in marrying them then; they would be taken away from you.
- Q You weren't married in slave time? A No, sir.
- Q Is Nancy Pack living? A No, sir, she is dead.
- Q Who did she belong to? A Betsy Pack.
- Q Was Betsy Pack a Cherokee Indian? A Yes, sir.
- Q Is Betsy pack dead? A Yes, sir, long ago.
- Q She was the child of Nancy Pack? A Yes, sir.
- Q You took Mary to Kansas with you when you went? A No, sir, she was here during the war. I went to Kansas.
- Q She never did leave until she married? A No, sir, she never did leave until she married.

William Tucker applies for the enrollment of himself and three grandchildren, William Banks, Irene Banks and Virdie Banks. He avers that said children are the children of his daughter, Mary Banks, b her husband, William H. Banks; that they were born and lived in the state of Kansas. Said Mary Banks was married in the State of Kansas. He avers that Mary Banks was the child of Nancy Pack, a slave, and that Nancy Pack belonged to Betsy Pack, a Cherokee citizen. He avers that said Mary Banks never left the Cherokee Nation until she married her husband, William, which facts are all stated in the testimony. The name of William Tucker cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns Clifton roll, and his three grandchildren, William Banks, Irene and Virdie Banks, are identified on the Kerns Clifton roll. He avers that he was the slave of one George Whitmire. He makes satisfactory proof as to residence. By reason of the fact that his name is not found upon the authenticated roll of 1880, and the further fact that his citizenship is contested, said William Tucker will be listed for enrollment as a Cherokee Freedman upon what is known as a doubtful card. By reason of the fact that Mary Banks, the mother of the children applied for, does not appear upon the authenticated roll of 1880, not upon any rolls in the possession of the Commission at this time, and the further fact as to their residence in the State of Kansas, and further as to their citizenship be protested against by the authorities of the Cherokee Nation, the said children will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. Said William Tucker will be duly notified of the action of the Commission when the same is consummated by mail.

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, full and correct transcript of his stenographic notes thereof.

(Signed) A. G. Rothenberger.

Subscribed and sworn to before me this 20th day of May, 1901.

(Signed) C. H. ...
Commissioner.

J. O. Hoeser, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly made the foregoing copy and that same is a true and complete copy of the original transcript in the above case.

J. O. Hoeser

Subscribed and sworn to before me this 5th of September, 1901.

[Signature]
Commissioner

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Malinda Beeson for enrollment as a Cherokee Freedman; said Beeson being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Malinda Beeson.
Q How old are you? A 24.
Q What is your post office address? A Welch.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A NO one else.
Q Are you married? A Has been married.
Q What was your husband's name? A John Beeson.
Q What is your father's name? A William Tucker.
Q What is your mother's name? A Charlotte Tucker.
Q Is William Tucker living? A Yes, sir.
Q Is Charlotte Tucker living? A No, sir.
Q Where were you born? A Born in the Cherokee Nation.
Q Lived in the Cherokee Nation all your life? A Yes, sir.
Q Never lived out of it? A No, sir.
Q Through whom do you claim your citizenship your father or mother? Either one.
Q Have they been enrolled here? A Yes, sir, my father is enrolled at Vinita.
Q Where is your mother living? A She is dead.
Q Did you have a sister marry a man by the name of Banks? Yes, sir.
Q What is his name? A William Henry.
Q Is your name on any of the rolls of the Cherokee Nation? Yes, sir.
Q What roll? A The Kern and Wallace.

The 1830 Authenticated roll and 1890 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 168, #4153, Malinda Tucker, Cooweescoowee District.

- Q You say you were born in the Cherokee Nation? A Yes, sir.
Q Always lived in the Cherokee Nation? A Yes, sir.
BY MR. J. S. DAVENPORT: Cherokee Representative.
Q Where were you married, Malinda? A I was married in the Nation.

The Wallace Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 141, #2956, Malinda Tucker, Cooweescoowee District.

BY COM'R NEEDLES:

- Q You say you were married in the Cherokee Nation? A Yes, sir.
Q You are positive you have never lived out of the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Malinda Beeson applies for the enrollment of herself. She avers that she is the child of William Tucker and Charlotte Tucker. She avers that she is married now to one John Beeson; she cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton and Wallace rolls; she is identified upon said rolls according to the page and number of the rolls as indicated in the testimony. She makes satisfactory proof as to residence, and asks that the testimony taken in the matter of the enrollment of her father, William Tucker, who is listed for enrollment on doubtful card #329, be made a part of the record in the case at bar, which will be done and copy thereof filed herewith. Said Malinda Beeson, nee Tucker, will now be listed for enrollment as a Cherokee Freedman.

Malinda Beeson.--2.

upon a doubtful card. She will be notified at her post office address of the action of the Commission.

---00000000---

J. O. Beeson, 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. Beeson

Subscribed and sworn to before me this 17th day of July, 1901.

[Signature]
Commissioner.

969
~~104~~
~~107~~

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, | S. S.
NORTHERN DISTRICT. |

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.

filed

NOTICE!

IN THE MATTER OF the application of Malinda Beason
for enrollment as Cherokee citizens:
Case No. D 969

To Malinda Beason or Mellette & Smith her Attys.

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 Vinita Indian Territory, on Oct. 15th 1901 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 Sept. 20th 1901

L. B. Bell
M. W. Hastings

Attorneys for the Cherokee Nation.

Cher. Fr. D. 970

Cher. Fr. D. 970

To be filed with case of Mattie Merrell, C.F.D.#970.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29th, 1901.

In the matter of the application of Sallie Humphreys for the enrollment of herself and one child as Cherokee Freedmen, she being sworn by Commissioner T. B. Needles, testified as follows:

Mellette & Smith for Applicants.
W. W. Hastings for Cherokee Nation.

- By C^om'r Needles: What is your name? A Sallie Humphreys.
Q How old are you? A 60 so said.
Q What is your post office? A Lenapah.
Q In what district do you live? A Coowescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A No, sir.
Q Who do you want to have enrolled besides yourself? A One daughter.
Q What is her name? A Ada.
Q How old is she? A 19 years.
By Smith: What is your daughter's name? A Mattie Merrell.
Q Is she married to Lewis Merrell? A Yes, sir.
Q Where does she live? A Coowescoowee district.
Q Where does your other daughter live? A With me.
Q How long have you lived where you do? A I went there the fall before the payment.
Q Where were you before that? A In a hotel at Caddo, Choctaw Nation, but my home was then at Fort Gibson.
Q Were you a slave before the war? A Yes, sir.
Q Who did you belong to? A Mary Chambers.
Q Where did she live? A In Sequoyah district.
Q Was she a citizen of the Cherokee Nation? A Yes, sir.
Q Where was she living when the war commenced? A In Flint district.
Q Where were you living then? A With her.
Q Were you taken out of the Cherokee Nation during the war?
A Yes, sir. went with her to Texas.
Q When did you come back to the Cherokee Nation? A With her, in '65 so she said.
Q How old are you now? A 60 years old so Mrs. Chambers says, I asked her three months ago.
Q Where did you come to on your return? A Sequoyah.
Q What part of Sequoyah? A The lower part of it between Fort Gibson and Fort Smith, there is a place called the Nine Mile House and I was ten miles from that on a place she bought.
Q Near Fort Smith? A Yes, sir.
Q And in Sequoyah district, Cherokee Nation? A Yes, sir.
Q How long did you stay there? A Lived with her about a year and got a message from my mother that she was dying and I went to Fort Gibson and staid there with her until she got well and then went back.
Q Where have you lived since? A I staid with her until her father died and then went to work for the United States officers at Fort Gibson and staid there two and a half years and then went to Fort Smith and worked four weeks and then went to Caddo.
Q Where did you start from when you returned to the Cherokee Nation?
A I believe the county was Lamar County, Texas, I was still with her.
Q How long after peace was declared was it that you returned? A Seems to me it was the same year, in the fall, we stopped in the Choctaw Nation all winter and came here in the spring.
MR. HASTINGS: Did you come through Fort Smith when you returned?
A Yes, sir.
Q What is your mistress' name? A Mary Chambers, it was Mary.
Q Where does she live now? A Sequoyah, if you know where the mouth of Sallisaw, well it is 10 miles south of there.
Q And you went there in the spring of 1865? A Yes, sir, we started in the fall, stopped all winter in the Choctaw Nation and the next

spring when it turned warm we come on.

Q Did you come to Webbers falls? A Yes, sir, I have been there too.

Q Who kept a store there? A Seems to me there was man named Perry or Breedlove had one there.

Q And you went by the Nine Mile House? A Yes, sir, we passed a place that used to be the old Childers station, it has some other name now, Muldrow I think.

Q How long did you stay with your Mistress after you got back here?

A A year and six months, but I went to see my mother during that time and staid with her until she got weell and then came back to my Mistress' place.

Q What was your mother's name? A Katy Nave.

Q How long did you stay at Fort Gibson? A About three months before I went back.

Q Where do you live now? A Two Miles the other side of Lanpah.

Q How long have you been there? A Since the winter of the Lightning Creek payment.

Q Where did you come from there? A Caddo, worked in a hotel there.

Q Where were you married? A Right there in the hotel at Caddo.

Q How long had you worked there in the hotel? A One year at one time.

Q This last time? A 6 months, 5 or 6 months.

Q You married Humphreys there? A Yes, sir.

Q Where did you go from to Caddo? A Fort Gibson.

Q How long had you been in Fort Gibson when you left there?

A I had been working there two and a half years before I went to Caddo.

Q How long after the war before your mother died? A 6 or 7 years.

Q Did you live there until your mother died? A I was working in the hotel when my mother died.

Q Who did you work for in Fort Gibson? A Used to work for Mr. Cunningham who married Frances Nave, he used to keep the post office there.

Q You came back with your Mistress to Sequoyah in '66, and staid with her until you heard of your mother being sick and then went to see her? A Yes, sir.

Q Then you went back to Sequoyah? A Yes, sir.

Q And then back to see your mother? A Yes, sir.

Q And then to Caddo? A Yes, sir.

Q And when your mother died you was there? A I went there before she died.

Q And your mother died 6 or 7 years before the war? A Yes, sir.

Q And you had gone to Caddo before your mother's death? A Yes, sir.

Q And you never came back here to live until the time of the lightning Creek payment? A Yes, sir, I did.

Q Did you have a house in Fort Gibson? A My mother had a house.

Q Where was your husband then? A He is a citizen down there; he is a Chickasaw and I am a citizen up here.

Q Do you know Dolly Humphreys? A She lives at Winnie wood.

Q You say your husband is down there? A Yes, sir, he don't want to be caught up here and I don't want to be caught down there.

Q When did you first see L. D. Daniels after the war?

A When I went to see my mother.

Q Was he issuing rations then? A I don't know.

Q Was that before or after Christmas? A I don't know.

Q And you don't know what year it was? A No, sir.

Q Where did you first see Columbus Lasley? A He was there too.

BY THE COMMISSION: How many children have you? A Two.

Q Where were they born? A One was born in the Choctaw Nation and one was born in Sequoyah.

Q What is the one's name for whom you apply? A Ada.

Q Where was she born? A In the Choctaw Nation.

Q Where was the next one born? A In Sequoyah.

Q Where does she live? A With me.
Q Your husband is a Chickasaw? A Yes, sir.
Q Did your husband ever try to have these children enrolled as Chickasaws? A If he did I don't know it.
Q Is your husband enrolled there? A Yes, sir.
Q Dont he live here at all? A Yes, sir, he comes here some times.

BY HASTINGS: Where did Mattie marry? A At Caddo.
Q Has she any children? A She has five.
Q What is the oldest one's name? A William.
Q How old is he? A He is 10 or 11 years old.
Q He is dead isn't he? A He is alive.
Q Where was he born? A Down there on the railroad, her husband was a railroad man at a place called Caney in the Choctaw Nation.
Q Where was the next one born? A There.
Q Where the next one? A There.
Q Next one? A There.
Q How old is the third one? A I don't know exactly.
Q 5 or 6 years old? A Somew ehre along there.

L. D. DANIELS, called and sworn as a witness for the applicant:

Q What is your name? A L. D. Daniels, age 56, post office Claremore.
Q Do you know this applicant, Sallie Humphreys? A Yes, sir.
Q How long have you known her? A Got acquainted with her in '65, summer of spring of '65
Q Where? A At Fort Gibson, sir.
Q How long did you know her after you got acquainted with her? A Until '72 or 3.
Q Where was she in '66? A There in Fort Gibson.
Q Where is she living now? A On Hickory creek, a mile from my place.
Q How long has she been living there? A Only about six years since she came up there, maybe a little longer.
Q You didn't know her before the war? A No, sir.

HASTINGS: What became of her when she left Fort Gibson?
A I believe she went to the choctaw Nation.
Q Do you know where she came from when she came here five or six years ago? A No, sir.
Q You never saw her between the time you first saw her at Fort Gibson and five or six years ago? A Twice, before the Wallace payment and then in Fort Gibson the time that Bushyhead was going to run.
Q Was it in the fall? A In August, 1879, I was there at the convention.
Q Who did she live with there in Fort Gibson? A With her mother Katy Hove and cooked for the officers.
Q Do you think that she was there in the spring of '65?
A Yes, sir, the spring or summer.
Q And worked there? A She was in town there then.

BY SMITH: When did you leave Fort Gibson to come up here?
A 4th of December, 1875.
Q Have you been up here ever since? A Yes, sir.
BY HASTINGS: She left there before you had? A If she did I dont know it.
Q You said she left there in '72 or 3? A I said I knewed her there till then.

COLUMBUS LASLEY, called and sworn as a witness for the applicant:

Q What is your name A Columbus Lasley.
Q What is your age? A 55.
Q Where do you live A Tahlequah.
Q How long have you lived there? A I came there in '74.

- Q Where did you move from there? A Fort Gibson.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant? A Yes, sir.
Q Did you know her before the war? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q Who did she belong to? A Alex Hove in Flint district.
Q Was he a married man. A Yes, sir, I suppose so.
Q Do you know the family he married into? A I don't know exactly, it was the Timberlake or Chambers family.
Q When did you see this applicant first after the war? A In '65 or '66.
Q Where? A Fort Gibson.
Q How long was she there? A I saw her again in '69 I guess, we went down to Greenleaf south of Fort Gibson, I and her and Jim Quirt, Luster Foreman, Roswell Mackey and some others.
Q Do you know in what time it was in '66 that she returned from where she had been taken out during the war? A I can't say for certain, it was before I went to Four Mile Branch, we had the shelter in '67 and it was before that time.
Q How long before that time? A I can't say for certain.
Q But you think it was in '65 or '66? A Yes, sir.
Q How long did she stay there or around there? A I think until about '68 or '9.

BY HASTINGS: How long did she live there after '69?

- A I don't know, I left that neighborhood in '74.
Q Had she gone away from there before you left? A Yes, sir.
Q Don't you know where she went? A I heard she went to the Chectaw Nation.
Q Did you ever see her around Fort Gibson after that? A No, sir.
Q Was she married then? A I don't know.
Q Did she have a husband with her? A No, sir, not that I saw.
Q What name did she go by at that time? A Hove is what I called her.
Q Never called her Humphreys? A No, sir.
Q You don't know if she is married to Humphreys or not? A No, sir.
Q All you know is that you think you saw her there in '65 or '66 and until '69 and that you heard she went from there to the Chectaw Nation? A Yes, sir, that is all.

Kern Clifton roll examined and the name of the applicant found as follows:

Page 109, No. 2721, Sallie Humphries, Tahlequah district.
page 109, No. 2723, Ada Merrell,

- Q Did your child ever go by the name of Merrell? A No, sir, my daughter's husband is named Merrell.

Wallace roll examined and the name of the applicant found as follows: Page 116, No. 2487, Sally Humphreys, Caddo Chectaw Nation; Page 116, No. 2459, Adda Humphreys, Caddo Chectaw Nation.

BY COM'R NEEDLES: Sallie Humphreys applies for her sole fund and one child, Ada Humphreys; she avers that she was the slave of Mary Chambers went to Texas during the war, returned in '65; avers she married her husband Humphreys in the Chectaw Nation and that she remained in the Chectaw Nation until about six years ago when she returned to the Cherokee Nation. Her child Ada was born in the Chectaw Nation; they are not identified on any of the rolls except the Wallace and Kern Clifton roll, but they are identified on these rolls according to the page and number of the rolls as indicated in the testimony.

Now the said Gallie Humphreys and her child also will be listed for enrollment as Cherokee freedmen on a doubtful card and when the final decision of the Commission is arrived at she will be notified thereof.

-----0-----

Chas. von Weiss being 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.
(Signed) Chas. von Weiss.

Subscribed and sworn to before me this the 13th of July, 1901.
(Signed) T. B. Needles,
Commissioner.

---ooo000ooo---

J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original.

J. O. Rosson

Subscribed and sworn to before me this 5th of September, 1901.

M. D. Green
M. D.
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Mattie Merrell for the enrollment of herself and five children as Cherokee Freedmen; said Merrell being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mr. Louis T. Brown, for Applicants.
Mr. J. S. Davenport for Cherokee Nation.

Q What is your name? A Mattie Merrell.
Q How old are you? A 32.
Q What is your post office address? A Lenapak.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply for enrollment in any other Tribe or Nation?
A No, sir.
Q Who do you want to enroll besides yourself? A Five children.
Q Give me the names of your children? A Willie.
Q Willie Merrell? A Yes, sir.
Q How old is Willie? A 12.
Q Named Willie or William? A Willie.
Q The name of the next one? A Sadie.
Q How old is Sadie? A She is nine.
Q The next one? A Ethel.
Q How old is Ethel? A She is six.
Q Will? A Cora.
Q How old is Cora? A She is four; Charley.
Q Charley or Charles? A Charles.
Q How old is Charles? A Six months.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Lewis Merrell.
Q Is he a citizen? A No, sir.
Q What is your father's name? A Andy Merrell.
Q What is your mother's name? A Sallie Humphreys.
Q BY MR. BROWN.
Q Where were you born, Mrs. Merrell? A I don't know what district,
at Port Gibson.
Q What Nation? A Cherokee Nation.
Q Lived here all your life? A No, sir, not all my life.
Q Where have you lived? A Caddo, Caney and Summit and Wagoner.
Q You say your mother's name is Sallie Humphreys? A Yes, sir.
Q Is she the Sallie Humphreys she has been listed for enrollment?
A Yes, sir.
Q Do you claim your citizenship through her? A Yes, sir.
Q Where were these children born? A Born at Caddo.
Q BY COM'R NEEDLES:
Q Where was Willie born? A Caddo.
Q Where is that? A Chectaw Nation.
Q Where was Sadie born? A Caddo.
Q Where was Ethel? A Caney.
Q Where is Caney? A Chectaw Nation.
Q Where was Cora born? A Here, Coowescoowee.
Q Cherokee Nation? A Yes, sir.
Q Where was Charles born? A Coowescoowee.
Q BY MR. BROWN:
Q What does your husband do? A He is a section Foreman.
Q He goes wherever the railroad Company sends him?
A Yes, sir.
Q And you go wherever he goes? A Sometimes I do and sometimes
I don't.
Q Have you any farm upon the public domain of the Cherokee Nation?
A Yes, sir.
Q BY MR. DAVENPORT:

- Q Where is that farm located? A Hickory Creek.
Q How far from here? A I don't know.
Q Who lives near by the farm? A Mr. Brown.
Q What Mr. Brown? A Hammer Brown.
Q You have a farm up there by George Hammer Brown?
A Yes, sir.
Q Who did you buy the farm from? A John V. Kinney.
Q Now, you have lived you say at Caddo in the Choctaw Nation?
A Yes, sir.
Q And at Caney in the Choctaw Nation? A Choctaw Nation.
Q Where is Caney from Caddo? A About eight miles.
Q Where were you married? A Married at Caddo.
Q You were living there before you and your husband were married?
A Yes, sir.
Q Where were you living when you can first recollect? A Fort Gibson.
Q How long did you live there after you got big enough to recollect? A I don't know, I lived there with my grandmother.
Q I thought you were Sallie Humphreys Daughter?
A Yes, sir, she cooked out.
Q Where was your mother at that time? A Cooking; she was cooking for the officers.
Q She wasn't cooking for the officers that you can remember?
A Yes, sir.
Q You have never lived anywhere except the Choctaw Nation?
A No, sir.
Q Never lived in Kansas? A No, sir.
Q Texas? A No, sir.
Q Arkansas or Oklahoma? A No, sir.
BY COM'R NEEDLES:
Q Where were you born, do you know? A No, sir.
Q Choctaw Nation? A No, sir.
Q Where can you first recollect being? A Fort Gibson.
Q When did you remove to the Choctaw Nation? A I don't know; I didn't move, I just went to Mama.
Q Was your Mama living there when you were lived at Fort Gibson?
A She lived backwards and forwards, she cooked out; that was her home.
Q You say your mother went to the Choctaw Nation before you did?
A Yes, sir.
Q How long? A I could not tell you.
Q How old were you when you went to the Choctaw Nation?
Q About 14 or 15 years old.
Q And you married in the Choctaw Nation? A Yes, sir.
Q What is your husband's name? A Lewis Marrell.
Q Is he a Choctaw citizen? A No, sir.
Q Did you ever have these children enrolled down there as Choctaw citizen? A No, sir.
Q Now, your oldest child was born in the Choctaw Nation?
A Yes, sir.
Q They were all born there except the youngest? A Yes, sir.
Q Cora is four years old? A Yes, sir.
Q Then you must have come from the Choctaw Nation about four years ago? A I have been here longer than that; of course I was not out where I am living.
Q Ethel was born in the Choctaw Nation? A Yes, sir.
Q She is six years old? A Yes, sir.
Q How old was she when you came back to the Cherokee Nation?
A She was about a year old.
Q Well, then Cora was born in the Cherokee Nation? A Yes, sir.
Q So you would not have been back from the Choctaw Nation more than four or five years could you? (No response.)
Q You kept house in the Choctaw Nation didn't you?
A No, sir, I didn't have any house.

Mattie Merrell, et al., - 2.

Q Were these children all born out of doors? A In the railroad Company's house.

Q A person could keep house without owning a house; you kept house down there with your husband? A Yes, sir.

Q Lived down there? A Yes, sir.

Q You say your mother's name is Sallie Humphreys? A Yes, sir.

Q You claim citizenship through your mother? A Yes, sir.

BY MR. BROWN:

Q I believe you stated your husband was working for the railroad?

A Yes, sir.

Q Sent by the railroad Company from place to place? A Yes, sir.

Question objected to by Attorney for Cherokee Nation.
Objection sustained by the Commissioner.

BY MR. DAVENPORT:

Q Your mother when you can remember was living at Caddo?

A She was living in the Garrison.

Q Since that time hasn't she lived at Caddo in the Choctaw Nation, your mother I am speaking of? A Yes, sir.

Q And didn't you go there and live with her? A With my grandmother did.

Q I don't care when it was? A Yes, sir.

Q Now, when have you ever lived in the Cherokee Nation after you went to Caddo to live with your mother at all until after Ethel was born, four or five years ago? A Yes, sir, I have been back.

Q Well, have you lived here? A No, sir.

BY COM'R NEEDLES:

Q Are these children all living with you? A Yes, sir.

COM'R NEEDLES: Mattie Merrell applied for the enrollment of herself and five children. She avers that she is now married to one Lewis Merrell, a non-citizen. She applies for the enrollment of her five children, to-wit: Willie, Sadie, Ethel, Cora and Charles. The three older children were born in the Choctaw Nation and the testimony shows that she was born in the Cherokee Nation and removed to the Choctaw Nation and there was married and returned to the Cherokee Nation some four or five years ago. She avers that her children are all living. She avers that she is the child of Sallie Humphreys and she asks that the testimony taken in the application of Sallie Humphreys, her mother, upon doubtful card #938, be made part of the record in her case, which will be done and a copy thereof filed herewith. Upon examination of the rolls of the Cherokee Nation the name of said Mattie Merrell is found as follows:

Kern-Clifton Roll, page 109, #2722, Mattie Merrell, Tahlequah District.

Page 109, #2723, Willie Merrell, Tahlequah District.

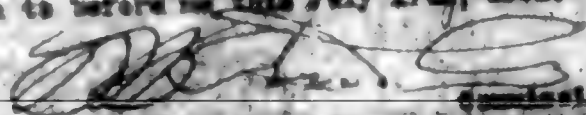
The Wallace Roll, page 118, #2486, Mattie Merrell, address "Caddo, Chickasaw Nation."

Her oldest child, Willie, is also identified upon the Kern-Clifton roll, and it will be necessary for her to file satisfactory proof of her four younger children's birth. They will now be listed for enrollment as Cherokee freedmen upon a doubtful card. She will be notified by mail of the action of the Commission at her post office address.

---00000000---

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 as thereof.

Subscribed and sworn to before me this July 17th, 1901.



Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Hellotte & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitnair, Trustee for the Freedmen, vs The Cherokee Nation, No. 17208 filed in the Mariah Hayden case T D 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Mattie Merrell, D 970;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, first: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1835, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

7209

COMMISSIONERS:
TAMM RIXBY,
THOMAS S. NEEDLES,
C. R. BRONKHORSTOR,
W. E. STANLEY.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D-970 D-958.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

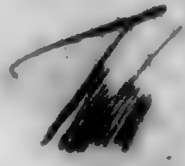
Muskogee, Indian Territory, October 9, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In Cherokee Freedmen D-970 and D-958, Sallie Humphreys et al., you are hereby advised that the principal applicant has this day been requested to appear before the Commission at its offices in Muskogee, on October 30, 1903, and introduce testimony as to her residence since 1866, and as to that of her daughter, Mattie Merrill, since birth.

Respectfully,



Chairman.

-Copy-

DEPARTMENT OF THE INTERIOR,

LAND:
38934-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 26, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated May 17, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Sallie Humphreys for herself and her minor child, Ada Humphreys; and by Mattie Merrell for herself and her minor children, Willie, Sadie, Ethel, Cora and Charles Merrell.

February 24, 1905, the Commission decided favorably to the applicants.

The record shows that Sallie Humphreys was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during the war, returned thereto on or before February 11, 1867, and has since continuously resided in the Indian Territory. The applicants, Ada Humphreys and Mattie Merrell are children of Sallie Humphreys, born since 1866 and have continuously resided in the Indian Territory all their lives. The other applicants are children of Mattie Merrell and have continuously lived with their mother since birth.

In view of the record the approval of the Commission's decision favorable to all the applicants is recommended.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

M.M.M.
W.

-Copy-

J.F.Jr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

D.C. 20725.
I.T.D. 6350-1905.

May 22, 1906.

L. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

May 17, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of Ballie Humphreys and her minor child, Ada Humphreys, and of Mattie Merrell for the enrollment of herself and minor children, Willie, Sadie, Ethel, Cora, and Charles Merrell, as Cherokee freedmen.

Reporting May 26, 1905, the Indian Office recommended that the Commission's decision, favorable to the applicants, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and the decision of the Commission to the Five Civilized Tribes dated February 24, 1905, is hereby affirmed.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
1448, et al.

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

Muskogee, Indian Territory, June 7, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, granting the applications of Mattie Merrell, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior May 22, 1906.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Incl. S-52
LS

Cher. Fr. D. 971

Cher. Fr. D. 971

File with C.F. D-971, Jonas Daniels.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 25, 1901.

In the matter of the application of Ibbie Daniels for the enrollment of herself, one child, one grandchild and husband as Cherokee Freedmen; said Daniels being sworn and examined by Commissioner T. W. Keelias, testified as follows:

Appearances:

Messrs. Vellotte & Smith, for applicants.

Messrs. Hastings and Davenport for Cherokee Nation.

- Q What is your name? A Ibbie Daniels.
Q How old are you? A I don't know how old I am. (Hands paper to Commissioner.)
Q What is your post-office? A Dewey.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children.
Q How many children have you got under 21 years of age and not married? A I ain't but but three married.
Q Well, you haven't got any children under 21 years of age, have you? A No, sir.
Q Is Frankie your son? A Yes, sir.
Q What is Martha Ann? A That is my child.
Q Josephine? A That is my daughter.
Q You haven't got but one child here under 21; what is that one's name, Frankie? A Yes, sir. (17 years of age.)
Q You got a grand child here named Martha Ann? A Yes, sir.
Q Born in 1889; is your name on the roll of 1890? A It ought to be.
Q Well, is it? A I could not tell you whether it is or not.
Q What was your father's name? A Thomas Tatie.
Q Is he living? A No, sir.
Q What is your mother's name? A My mother's was Peggie Vann.
Q Is she living? A No, sir, she is dead.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Andy Daniels.
Q Is he a citizen? A Yes, sir.
Q Has he been enrolled? A Yes, sir.
Q Why didn't he enroll you when he enrolled himself? A He was enrolled.
Q Has he been enrolled by us? A No, sir, He can't come here to wheel him around on a chair.
Q Do you want to enroll him? A Yes, sir.
- BY MR. SMITH:
- Q Mrs. Daniels, how many children have you older than the child Frankie for whom you apply? A I have got two, Frankie is the baby, I got three that is older that is on the rolls.
Q How many children have you over 21 years of age? A I haven't got but three.
Q Who are they? A Charley, Nancy and Lucinda.
Q Is Nancy's name still Daniels? A Nancy Gloggett.
Q Is Lucinda Daniels yet? A Yes, sir, she is living with me.
Q Where do you live? A I live on Candy.
Q Cherokee Nation? A Yes, sir.
Q How long have you lived on the place you live on now? A 27 years or longer.
Q Have you got a farm there? A I have had it before, we haven't got there.
Q Where is Nancy living? A She is living over here on California Creek.
Q What is her husband's name? A John Gloggett.
Q Where does he live? A Right there near me at Dewey.
Q How old is Charley? A I don't know.
Q Was he born after the war? A Born long before the war.

Ibbie Daniels et al 2

- Q Where was Nancy born? A She was born down here at Gibson after the war.
- Q How old is youisa, where was she born? A On Caney.
- Q How many children did you have at the close of the war?
- A Didn't have but the three.
- Q What were their names? A Jim, Emiline and Charles.
- Q What has become of Jim and Emiline? A They are dead.
- Q What is your husband's name? A Andy Daniels.
- Q When were you and Andy married? A Married long before the war.
- Q Are these children whose names you have mentioned all his children and yours? A Yes, sir.
- Q Were you a slave before the war? A Yes, sir.
- Q What did you belong to? A Thomas Carty and his wife.
- Q Were they citizens of the Cherokee Nation? A Yes, sir.
- Q Where did they live before the war? A Lived right on Grand river.
- Q Where were you living at the time the war come up?
- A Living on Grand river.
- Q Were you taken out of the Cherokee Nation during the war?
- A Taken down to Fort Smith, my old boss took me down there and hired me out to work.
- Q When did you return to the Cherokee Nation after the war?
- A I come back after Abraham Lincoln got killed; come back to Gibson.
- Q How do you know that? A They all said so.
- Q Who did you come back with? A I come back with Government troops.
- Q Who was with you when you come back? A There was a whole lot of Cherokees and Creeks.
- Q Did you have any children at that time? A I had three.
- Q Did you bring them back with you? A Yes, sir.
- Q Where was your husband? A I could not tell you, he was in the army then.
- Q How long a time you got back before he got back? A It was about a year and he come back to see me, we was down at Gibson.
- Q How long were you about Fort Gibson at that time? A I stayed down there pretty near two year when I moved up to Caney.
- Q And where have you been living since you moved to Caney? A I ain't been living at no other place.
- Q This child, Frankie, you apply for is that a boy or girl? A Boy.
- Q Does Frankie live with you? A Yes, sir.
- Q Has he ever lived anywhere except the Cherokee Nation?
- A No, sir, never did.
- BY THE COURT:
- Q What is the reason your husband isn't here? A He is paralyzed and could not walk.
- Q Not able to come? A No, sir.
- BY THE COURT:
- Q You say the troops brought you back from Fort Smith up to Fort Gibson? A Yes, sir.
- Q How far below Fort Smith were you when you got with the troops?
- A Right in Fort Smith.
- Q Right in the town? A Yes, sir.
- Q And you come back up from the edge of Fort Gibson? A Yes, sir.
- Q Now, with whom did you live when you come up to Fort Gibson?
- A I lived with old Aunt Sallie Bacon, she is my grandmother's daughter.
- Q Now, where did Sallie Bacon live?
- A Lives right in the bottom.
- Q How far was that from Fort Gibson? A It is no very far from Fort Gibson, right on the edge of the lake.
- Q What family did Sallie Bacon have at that time? A No one out her daughter.

- Q What was her daughter's name? A Named Polly Nivens.
- Q They were living together at that time? A Yes, sir.
- Q Is she a witness in your case? A Yes, sir.
- Q Did you have her called up here a while ago? A No, sir.
- Q Was any of your children born there? A Had a little girl born there.
- Q What was her name? A Nancy Jane.
- Q Is Nancy alive? A Yes, sir, she is alive.
- Q How old is Nancy? A I could not tell you exactly how old she is.
- Q Have you got it down on your paper? (No response.)
- Q Well, now how long did you continue to reside there with Sallie Bacon? A I stayed there a year and a half.
- Q Now about what time of the year did you get there? A I got there in the fall.
- Q In the fall of '65? A Yes, sir.
- Q What time did you leave there? A I left there in the spring.
- Q Now, was that the spring of '66 or '67? A I could not tell you what time.
- Q You stayed there two winters? A Yes, sir.
- Q Now, where did you go from there? A I went to Caney where I am living now.
- Q Direct from there? A Yes, sir.
- Q Now, did you go with your husband out there to Caney? A Yes, sir.
- Q And by what you mean your husband, Andy Daniels? A Yes, sir.
- Q You and him continued to reside there ever since have you? A Yes, sir.
- Q Now let's get it right, you claim to have come there in the fall of '65, you stayed there a year and a half? A Yes, sir.
- Q And left there in the spring? A Yes, sir.
- Q And you stayed there two winters? A Yes, sir.
- Q And left there in the spring of '67? A Yes, sir.
- Q Now, how far from Bartlesville was it you went? A Three miles.
- Q Was there a town there at that time? A No, sir.
- Q Who were you neighbors at that time out there? A Nobody but the Osages.
- Q Any of the Delawares living out there at that time? A No, sir.
- Q Did you and your husband settle down at that time, you and Andy? A Yes, sir.
- Q And you continued to live together? A Yes, sir.
- Q He never went off and you never went off? A He went off to work.
- Q After you moved up there? A No, sir.
- Q He never left and you never? A No, sir.
- Q That was in the spring of '67? A Yes, sir.
- Q Now, about what direction from Bartlesville was that, on Caney? A North.
- Q And you continued to stay right there ever since? A Yes, sir.
- Q From that day to this? A Yes, sir.
- Q Well, what was your first child born on that place? A Thomas.
- Q Tom was the first one born there was he? A Yes, sir.
- Q Now, how old is Tom? A I could not tell you how old he is.
- Q How long had you been living up there when Tom was born? A About a year and a half.
- Q And you don't remember how many years old Tom is? A No, sir.
- Q You didn't bring Emeline back from Fort Smith, did you? A I did.
- Q Is she here? A She is dead.
- Q Well, then when you were living with Sallie Bacon and had three children? A Yes, sir.
- Q And another one was born there? A Yes, sir.
- BY CLAREN HILCO:
- Q You say you didn't see Andy for about a year after he went to Fort Gibson? A No, sir, he was in the service.

Ibbie Daniels et al 4

- Q Soldier? A Yes, sir.
Q He come there about a year after you did? A Yes, sir.
Q He been with you ever since? A Yes, sir.

BY MR. HASTINGS:

- Q How long did you and he live together at Fort Gibson, before you moved to Caney? A I told you he stayed down there a year.
Q I mean with Andy, how long did Andy stay down there with you at Fort Gibson before you and he moved to Caney? A A year and a half.
Q Was Andy there with you all the time? A Yes, sir.
Q And you and he lived together and you moved from there up to Caney? A Yes, sir.

BY MR. SMITH:

- Q Mr. Daniel, I asked you awhile ago the names of your children besides Frankie and you spoke of James, Henry and Charley, and of Nancy and of Emeline and stated that Emeline and James were dead?
A Yes, sir.
Q Now, these children whose names I have just called are not all of your children? A Yes, sir.
Q Did you have any other? A Yes, sir, of course I have got some other, there is Josephine and Thomas.
Q Is Josephine still Daniels? A Yes, sir.
Q Where is she? A She is at home.
Q Living with you? A Yes, sir.
Q Where was she born? A Living in Caney.
Q Was she always lived with you? A Yes, sir.
Q Well, now, you spoke of a Thomas awhile ago? A Well, he is with me too.
Q Is he married or single? A No, sir, single.
Q Is he your child? A Yes, sir.
Q Well, was there any others, how about Freeman? A He is dead.
Q How about Lucinda? A Lucinda is my daughter.
Q Is her name still Lucinda? A Yes, sir, she is married.
Q Is she living with you? A Yes, sir; Lewis; Jon's ain't married.
Q Where does Lewis live? A He lives with me.
Q Where was he born? A Caney, Cherokee Nation.
Q Was he lived anywhere else except the Cherokee Nation? A No, sir.
Q Where does Jon's live? A Cherokee Nation.
Q Now about Wartha Ann? A She ain't never lived n. wheres else either.
Q Who was the mother of Wartha Ann? A She was a Gaskin.
Q Who was the father? A My son Jim.
Q Is she living with you? A Yes, sir, I have had her ever since she was a baby.
Q How old is she? A 12 years old.
Q The father is dead? Yes, sir.
Q The mother is dead? A Yes, sir.
- BY COURT REPORTER:
- Q What is the father's name now of Wartha? A Jim.
Q Well, who is the mother? A The mother is dead, she is a Gaskin.
Q Is she a citizen? A No, sir.
Q Was James and the mother of this Wartha ever married?
A Yes, sir.
Q What was her name? A Ellen Gaskin.
Q She was a non-citizen was she? A Yes, sir.
Q Well, were they ever married? A No, sir.
Q How do you know that? A The preacher married them.
Q Did you see them married? A I didn't see them married.
Q You will have to prove that marriage? A Well I guess I can prove it.

BY MR. SMITH:
Q Do any of the witnesses that you called up here know about this

Ibbie Daniels et al 5

marriage of your son? A Lewis Daniels I guess know it.

Q Where were they married? A On Caney.

Q How long did they live together? A About eight or nine years.

Q Did they live together as man and wife? A Yes, sir.

Q In the house where you were living? A Yes, sir.

Q Did he ever have any other wife? A No, sir, not as I know of.

Q Did she ever have any other husband? A Not as I know of.

Q Did the people in the community call them husband and wife, regard them as husband and wife and receive them as husband and wife? A Yes, sir.

W. D. PASTINGS:

Q Did she have any children before she married him? A No, sir.

Q I believe you stated that you and your husband lived together down there at Fort Gibson for a year and a half before you moved up to Caney? A ~~Very~~ Well, we did.

Q Now, you lived down there with your husband, did you, Andy Daniels? A Yes, sir.

Q About how long had you been at Fort Gibson until your husband came, or did he come first? A He came after he was mustered out and I don't know when he was mustered out.

Q I want to know ~~how~~ how long that was after he came up there? A Little over a month.

L. D. DANIELS, being first duly sworn by Commissioner T. C. Needles, testified as follows: W. D. SMITH:

Q State your name? A L. D. Daniels.

Q Where do you live? A Clarendon.

Q How old are you? A 56.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Are you a Freedman of the Cherokee Nation? A Yes, sir.

Q Recognized citizen? A Yes, sir.

Q Do you know this applicant, Ibbie Daniels? A Yes, sir, I do.

Q How long have you known her? A I have known her ever since '65.

Q Did you see her in 1865? A I seen her sir.

Q Where? A Fort Gibson.

Q What time in '65? A It was in the fall.

Q State the circumstances of your seeing her? A Well, there was wagons come from Fort Smith and there was a good many people come up in the wagons; they were going on to Fort Scott and she stopped there and inquired for a certain family there and I told them where they were and then after that I seen her very frequently.

Q How long did she remain in that settlement, do you know?

A Well, she remained there I guess a year or such a matter.

Q You don't know exactly how long she stayed? A No, because sometimes I would see her sometimes twenty days and sometimes more than that, because I would see her every twenty days, every time they would come to draw rations I would see her there.

Q Do you know where she lives now? A Yes, sir.

Q Where? A Over on Caney four miles above Bartlesville, north.

Q Do you know how long she has been living there? A I have been living up here 25 years and when I moved up here they were living over there and living there now, when she is at home.

Q Do you know her children? A Well, she had three to Fort Gibson, two girls and a boy.

Q She had three you say? A Yes, sir, three.

Q Do you know how many she has had since that time? A She has got a house full now, I haven't been to her house since '85 I was over there then and there was five I know was down with the chills then in '85.

Q You don't know how many there was that didn't have the chills? A No, sir, there was a good many running around there.

Q Did you know Andy, her husband? A Andy Daniels, Yes sir.

Q Do you know whether Andy was out of the Cherokee Nation during

the war? A Yes, sir, he belonged to the Seabee Battalion.
 Q Do you know when he came back? A He came in to Gibson after that, he came there and got this woman down there, I don't know whether it was in '67 or the latter part of '67.
 Q Do you know when Andy was mustered out? A No.
 Q Do you know of your own personal knowledge when he came back to the Cherokee Nation? A No, because I was living in Gibson and he wasn't mustered out there and I could not tell you what time he hit the other part of the Cherokee Nation.
 Q Was Emmie a slave? A I didn't know the former owners at all.
 Q You didn't get acquainted with her until '65? A Yes, sir, not until to Gibson.

THE WITNESSES:
 Q When did you first see Andy Daniels if he was? A I think it was in '67 or either latter part of '66 when he came to Gibson.
 Q And that is the time you seen him in Gibson after the war? A Yes, sir, I seen him in the navy.
 Q With whom was this woman living down there when you know her first after the war? A She come there every time she would come to get rations she would come with Isaac Griggs's wife.
 Q What was her name? A I don't know, claimed to be her mother.
 Q Claimed to be whose mother? A This woman's mother.
 Q You don't know whose house she stayed? A She stayed at her own house on the old lake, about a mile from Houston Tenger's.
 Q You saw her three children at that time? A Yes, sir, and I seen any her children there too.
 Q What were the names of these children you saw at that time? A I don't know, it was strange to see a Cherokee with a little white child and she had a white child at that time.
 Q Well do you know that she continued to reside around there at that time? A She stayed around there four or five months to my knowledge.
 Q You could see her about when she come and get her feed under the table to get rations? A She come to the old house the people applied to get the rations.
 Q You are willing to swear that she was there from '65 until '67? A I am willing to swear that she was there in '65 and around there four or five months.

Q To be positive about that? A Yes, sir.
 Remainder of application taken by stenographer, Chas. von Weine.

 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 12th day of July, 1901.
 (Signed) T.J. Hedges,
 Commissioner.

Continued from Stenographer, J.O. Rosson.
 Nowata, I. T., June 25th, 1901.

In the matter of the application of Emmie Daniels et al.
 EAST W. HILLIS, called and sworn by Commissioner T. Hedges testified as follows:

By Mr. Smith, of counsel for applicant:
 Q What is your name? A Kester Hillis.
 Q Do you know this applicant, Emmie Daniels? A Yes, sir, slightly acquainted with her for 25 years.
 Q Do you know where she lived? A Yes, sir.

- Q Do you know her children? A No sir.
- Q What has she been living since you know her? A On Caney.
- Q Do you know who her owners were during the war? A Yes sir, Walker Terry, she said it was, I knowed some of them on Grand river.
- Q Did you know her before the war? A No sir.
- Q Did you know her during the war? A No sir.
- Q You dont know anything about her citizenship? A No sir not personally.

By Mr. Hastings, Cherokee representative:

- Q Did you see her in '86? A Just about 25 years ago.
- By Mr. Hastings of the applicant:
- Q How far do you live from Jobe Parker? A I dont know.
- Q Do you know him? A Yes sir.
- Q But you dont know how far you live from him? A No sir.
- Q When did you see W.T. Foreman first after the war? A At East Gibson.
- Q Where was that? A I dont know.
- Q Before you left there? A Yes sir.
- Q Was your husband there then? A No sir he was in the army.
- Q What time of the year was it? A Cold weather, I dont know the month.
- Q And you dont know the year? A No sir.
- Q At what place was it? A Right in town where I was hired out.
- Q At whose house? A I dont know, I dont remember the name.
- Q You remember seeing this man though? A Yes sir.

William Foreman, called and sworn as a witness for the

applicant-

By Mr. SMITH:-

- Q What is your name? A William Foreman.
- Q What is your post-office address? A Wagoner.
- Q What is your age? A 64 years.
- Q Are you an Indian? A Yes sir.
- Q A Cherokee Indian? A Yes sir.
- Q How long have you lived in the Cherokee Nation? A All my life.
- Q Do you know this applicant, Ethie Daniels? A Yes sir.
- Q Did you know her before the war? A Yes sir.
- Q Was she a slave? A Yes sir.
- Q Who did she belong to? A Thomas Carey.
- Q Was he a citizen of the Cherokee Nation? A Yes sir, by doption his first wife was a Cherokee, named Jane Duncan and then she died and he married another Cherokee, named Jane Muskrat.
- Q Both his wives were Cherokees? A Yes sir.
- Q Was he recognized as a Cherokee citizen by the Cherokee Nation? A Yes sir.
- Q How far did they live from you at the time of the war? A I was living 30 miles north of their place when the war commenced.
- Q He was here when the war commenced? A Yes sir in Delaware district Cherokee Nation at Carrey's Prairie.
- Q Do you know if this applicant was taken out of the Cherokee Nation during the war? A No sir I dont.
- Q When did you first see her after the war in the Cherokee Nation? A At Vinita before the Wallace court.
- Q Did you testify for her there? A I might have, I dont recollect, I think I did as to her owners.
- Q Did you know her husband? A Yes sir.
- Q Was his name Andy? A Yes sir.
- Q Was he a slave? A Yes sir.
- Q Who did he belong to? A Zeek Daniels.
- Q Was Zeek Daniels a Cherokee citizen? A Yes sir.
- Q Do you know if he was taken out of the Cherokee Nation during the Civil war? A I cant tell, of my own knowledge.

Q When did you first see Andy back here after the war? A At Vinita before the Wallace court.

POLLY NIVENS, called and sworn as a witness for the applicant-
By Mr. Smith:

Q What is your name? A Polly Nivens.

Q How old are you? A 56

Q Do you know this applicant here? A Yes sir.

Q When did you first get acquainted with her? A Just after peace was made I met her.

Q You didn't know her before the war? A No sir.

Q You don't know who she belonged to? A No sir.

Q Where did you first see her after the war? A At Fort Gibson.

Q How long after peace was declared? A In the fall, peace was declared in the summer and she came in the fall, the first fall after peace.

Q How long did she stay around there? A I guess she staid there a little over a year, I seed her around there about that long.

Q Did you know her after that when she went up on Caney to live?

A No sir.

Q Never have been at her house on Caney? A No sir.

By Hastings-

Q Who did she live with at Fort Gibson? A Her husband was a soldier when I saw her she lived in a little log house and a white girl, yellow girl, it was hers though.

Q How far from where you lived? A I was in town and my grandmother lived at the lake and she lived close to my grandmother, closer to town than my grandmother did.

Q What name did she go by then? A Carrye.

Q Was she married then? A I don't know; she said when she came there that her husband was in the army.

Q How long after that before you saw her husband? A I don't remember, didn't pay no attention to him, no I didn't.

Q You don't remember him? A Yes sir, but I don't know how long after that that I seed him.

Q How many children did she have there? A Only that white one.

~~that~~ Q Was that a girl or a boy? A Girl.

Q Do you know Sallie Bacon? A Yes sir that is my grandmother.

Q Did she live in town? A She lived at the lake, this side of Connan Vann's.

Q And this woman lived down there close? A Yes sir.

By Commission of applicant-

Q Did you ever draw money for wartha? A Yes sir.

Q Did you draw your strip money? A No sir.

Applicant not found on the authenticated roll of 1880.

Applicant not found on the Census roll of 1896.

Applicant not found on the Kern Clifton roll.

Wallace roll examined and the name of applicants found as follows-

Page 111 No. 2330 Andrew Daniels, Cherokee Nation.

Page 111 No. 2361 Ebbie Daniels

Kern Clifton roll examined and the name of applicants child found as follows-

Page 124 No. 3083, Frank Daniels, Delaware district.

Q Did you ever apply to the Cherokee authorities to have your name put on the 1880 roll? A Yes sir.

Q Where did you apply? A At Claremore.

Q That was when they was around taking the census? A Yes sir.

Q You never went to Tahlequah to have it done? A No sir.

Q Did your husband? A No sir.

Q You didn't get your strip money for yourself or husband? A No sir only for the children, me and the old man and Lewis was left out.

Q Is Martha living? A Yes sir.

Wern Clifton roll examined and the applicants child Martha identified as follows:

By T. B. Needles: Fbbie Daniels appears for herself, her husband Andy and son Frank and her grand daughter Martha, 12 years of age. Fbbie and Andy Daniels are not identified on any roll except the Waller roll; her son Frank is identified on the Wern Clifton roll and also her grand daughter Martha. She avers that she and her husband were slaves in the Cherokee Nation and went out of the Cherokee Nation during the war but returned here in 1865 or 1866. She has lived here ever since. She avers that James Daniels, her son, is the father of Martha, by his wife who was a non-citizen. Makes satisfactory proof between the said James Daniels and his wife Ellen, the father and mother of the said Martha. By reason of the fact that they are not found on the authenticated roll of 1880, and by reason of the protest of the Cherokee Nation the said Fbbie Daniels, her husband Andy, her son and grand daughter will be listed for enrollment as Cherokee Freedmen on a doubtful card and she will be notified by mail of the final decision of the Commission.

=====

Chas. vonWeise, being 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 9th of July, 1901.
(signed) Chas. vonWeise.
(signed) T. B. Needles,
Commissioner.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete transcript of the original transcript.

M. D. Green

Subscribed and sworn to before me this November 21, 1901.

[Handwritten Signature]

COMMISSIONER
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Jonas Daniels for enrollment as a Cherokee freedman, said Daniels being sworn and examined by Commissioner T. B. Newley, testified as follows:

- Q What is your name? A Jonas Daniels.
Q How old are you? A 34.
Q What is your post office address? A Dewey.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Who do you want to enroll besides yourself? A No one.
Q Are you married? A No, sir.
Q What is your father's name? A Andy Daniels.
Q What is your mother's name? A Ibbie Daniels.
Q Where were you born? A Caney.
Q Where is Caney? A About 20 miles northwest of here.
Q In Kansas or Texas? A Cherokee Nation.
Q Have you lived in the Cherokee Nation all your life?
A Yes, sir.
Q Never married? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A It ought to be on the Clifton and Wallace rolls.

The 1880 Authenticated roll and 1896 census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 124, #3281, Jonas Daniels, Delaware District.

T The Wallace Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 111, #2367, Jonas Daniels, residence, Cherokee Nation.

- Q Do you claim your citizenship through your mother, Ibbie?
A Yes, sir.
Q You are sure you have never lived outside of the Cherokee Nation?
A Yes, sir.

COM'R NEWLEY: Jonas Daniels applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or census roll of 1896, but is identified upon the Kern-Clifton and Wallace rolls as indicated in the testimony. He avers that he is a child of Andy and Ibbie Daniels, who are listed for enrollment upon doubtful card # 869, and that the testimony taken in the case of Andy and Ibbie Daniels will be made part of the record in the case at bar and copy thereof filed herewith. He makes satisfactory proof as to residence and will be listed for enrollment as a Cherokee Freedman upon a doubtful card. He will be notified at his post office address of the result of the Commission.

---00000000---

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 & hereof.

Subscribed and sworn to before me this July 17th, 1901.



Commissioner

File with Jonas Daniels C. F. N. 971

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October, 24, 1901.

SUPPLEMENTAL TESTIMONY in the case of Andrew Daniels, C. F. N. 971

W. W. Hastings attorney for the Cherokee Nation.
Wollette & Smith attorneys for the complainant.

JOE B. PARKER, being first duly sworn by Commissioner C. R. Breckinridge, testifies as follows on the part of the Cherokee Nation:

- Q What is your name? A Joe B. Parker.
Q How old are you? A I don't know exactly, between 53 and 4.
Q What is your post office? A Waldon.
(By Hastings)
Q How far do you live from the town of Dewey? A About 7 miles north
Q Do you know a colored man in the vicinity named Andrew Daniels? A
A Yes sir.
Q Do you know his wife? A No sir, I don't.
Q Do you know her name? A No sir, I don't.
Q Is this man an old like man, middle age or young man? A Old like.
Q Has he a family? A Yes sir.
Q Do you know any of the members of his family? A No sir, I don't, I
have never been to their house.
Q How long has he been living out in that vicinity? A Ever since the
Delawares came there.
Q What year did the Delawares come there? A In '68.
Q Do you belong to the Delawares tribe? A Yes sir.
Q Where did you first know this Andrew Daniels? A Up here in Kansas
where the Delawares had their reservation.
Q How long did you know him in Kansas? A About a year.
Q Did you come here with the Delawares? A No sir, there was a few
families come first, the first ones that started they stopped here
on Grand river, and I come with them, we stopped with the Wyandotts
first and then come on.
Q About what time did you leave Kansas? A Just through Lawrence
Kansas on the first day of January 1887.
Q Prior to that time you had known Andrew Daniels in Kansas about a
year? A Yes sir.
Q Did he come with you? A No sir.
Q When did you next see Andrew Daniels? A That was along in August
some time in '88.
Q Where? A Up there on Grand.
Q In the Cherokee Nation? A Yes sir.
Q State how you came to see him? A I and another boy got on our horse-
s and went visiting and we run on to the camp there on Grand and
saw him.
Q Where camp? A The Delawares camp.
Q How far was that from where this Andrew Daniels is now living? A
A About three miles below.
Q In the same neighborhood then? A Yes sir.
Q Have you known him since since? A Yes sir.
(By Smith)
Q How old were you when you came to the Cherokee Nation? A Just as I
said a while ago, I don't know age exactly.
Q Well, about how old were you? A Must have been about twenty
A No you grown? A Yes sir.
Q Married or single? A Single.

- Q Where did you come from the the Cherokee Nation? A Kansas.
- Q Near wat place in Kansas, now? A We used to live 2 or 3 miles north east of Lawrence.
- Q You didn't come here when the regular band of Delaware come? A Yes sir we come before and stopped at the Wyandotte reservation and staid all winter.
- Q You stated that you knew Andrew Daniels in Kansas? A Yes sir.
- Q Can you give th year that you know him in Kansas? A It must have been about '85 we was working in the hay field when I saw him first.
- Q Did you ever see him any more after '85? A Yes sir.
- Q Where? A He was working not far from where I lived, working for old man Sarcoxie.
- Q How long after that before you next saw him? A Must have been about a year.
- Q How long had it been since you saw him before you came here? A I don't know exactly.
- Q A year or two? A Yes sir, about a year or such a matter.
- Q You don't know where he was during that time? A No sir.
- Q All you know is that after you got here in the Cherokee Nation you say in '88 this same man? A Yes sir.
- Q Did he have a wife? A I don't know.
- Q If he had you don't know her name? A No sir.
- Q Don't know any of his children? A No sir.
- (By Hastings)
- Q Did you know this man in Kansas? A Yes sir.
- Q Where was he when you left up there about the first of '68? A I cant tell that I don't know where he was then.
- Q Had you seen him there before that? A Yes sir.
- Q Where had you seen him? A He was working for old man Sarcoxie.
- Q How long before you left there had you seen him? A I dont remember that
- Q Have you no knowledge as to about how long you saw him in Kansas before you left there and come down here? A No sir I dont know.
- Q You have no judgment as to whether it was a short time or a long time? A No sir.
- (By the Commission)
- Q Your first recollection of him in Kansas was in '65? A Yes sir in '65 or '68.
- Q Soon after the close of the war? A Yes sir.
- Q Was he living in your neighborhood at that time? A Yes sir, four miles from where we lived.
- Q Where did he live with reference to your home from that time until the first of January 1868? A I don't know.
- Q You don't know if he continued to live there in that neighborhood or not? A No sir.
- Q Have you any distinct recollection of meeting him from '65 until you left in 1868? A No sir I never paid any attention to the fellow the way I got acquainted with him '88 in the hay field in '65 or '6.
- Q Have you any recollection of seeing him from that time until '68? A No sir.
- Q If he was living in your neighborhood then you dont recollect it? A No sir.

(Continued by stenographer Bruce G. Jones)

Chas. von Weiss, being duly sworn, states that as stenographer to 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.

Subscribed and sworn to before me this ^(the witness) 7th of October, 1901.

[Handwritten Signature]

Commissioner.

- Continued from testimony taken by Chas. von Weise. -

JOHN YOUNG, being duly sworn and examined by Commissioner Breckinridge, testified as follows: through Joe B. Parker, interpreter

- Q Give me your full name please? A John Young.
- Q How old are you? A About 38.
- Q What is your postoffice? A Eldon.
- Q Are you a native of the Cherokee Nation? A Yes, sir.
- Q Are you a Cherokee Indian? A Yes, sir.
- Q What are you, a Delaware? A A Delaware.
- Mr. Hastings: How far do you live from the town of Dewey? A About six miles.
- Q What direction? A A little bit northwest.
- Q Do you know a colored man out in that vicinity by the name of Andrew Daniels? A Yes.
- Q Do you know his wife? A Yes, I have seen his wife.
- Q Do you know her name? A No, I don't know her name.
- Q How long have you known Andrew Daniels? A About a year before I left Kansas.
- Q When did you come from Kansas? A I don't know, it has been about 35 years ago.
- Q Did you come with the Delawares when they came to this country? A Yes.
- Q You don't remember the year that the Delawares came here? A No.
- Q Was it before or after the Delaware Treaty with the Cherokee Nation, the Delaware Agreement? A Yes, after the treaty.
- Q What were you doing up there in Kansas? A I was making some ties there on the railroad.
- Q How far was that from where you lived? A About half a mile from where I lived.
- Q Do you know what time of the year you left up there? A Left there in the spring.
- Q Do you know where Andrew Daniels was when you left, where Andrew was when you started to come down here? A No.
- Q Well, what became of Andy? A Well, when I started I don't know, I don't know where Andrew Daniels was, but after the Delawares came together at the camp, why Andrew was there.
- Q What camp? A A little west of Lawrence.
- Q Kansas? A Yes, sir.
- Q Then what became of Andrew Daniels? A He came down with them.
- Q Came down with the Delawares? A Yes, sir.
- Q Where did he come to? A Here on Casey, Cherokee Nation.
- Q Has Andy lived up there in that vicinity ever since? A He went back to Kansas after they came down here.
- Q That is Andrew Daniels? A Yes.
- Q How long did he stay up there, or stay away? A I don't know how long he was gone, but he went after his family up there in Kansas.
- Q When he came back did he have his family? A Yes, he had his family.
- Q Well, have you known him here then ever since? A Yes.
- Q Well, he has a wife and some children, has he? A Yes.
- Mr. Smith: How old were you when you came down to the Cherokee

Nation with the Delawares? A I don't know my exact age, but I was about 24.

Q Did the Delawares all come at one time, or did they come at different times? A Different times.

Q How many times that you recollect about? A Twice.

Q How many Delawares were in the party you speak of, the party you come with? A I don't know, but I know there was seventy wagons in the outfit.

Q Can't you state what year that was in? A No, I think it was about '67.

Q You don't know anything about the man Andrew Daniels up to about the year before you started to the Cherokee Nation, do you? A No.

Q You said something about his going after his wife, and about his returning; when he returned, how close did he come to you to live?

A Five or six miles.

Q Now can't you tell us what his wife's name was? A No.

Q Did you see his wife? A Yes, saw her often in her life time.

Q Well, what was her name? A She is dead now.

Q How long has she been dead? A I don't know, it was several years ago.

Q Has Andrew Daniels a wife at this time? A Yes.

Q What is her name? A I don't know.

Q Don't know her name? A No.

Q Would you know her name if you would hear it? A No, I never did know her name.

Q Do you know anything about the children of Andrew Daniels' present wife? A No.

Q Do you know the names of anyone of these children? A No, but I would know the children if I should see them.

Q Do you know the name of any one of them? A No.

Q Did that woman who is dead, about whom you spoke, have any children at all? A Yes.

Q Do you know the names of any of her children? A No.

Q Do you know anything about the woman who is Andrew Daniels' present wife? A No.

Q Do you know how long she has been the wife of Andrew Daniels, how long they have been living together? A No.

Q Is it a short while or a good many years? A I don't remember how long it has been, how long they have been living together, I don't remember, don't know.

Mr. Hastings: Do you know who Andrew came with in that crowd of Delawares? A Yes, he drove a team down here for a widow woman, her name was Widow Pacharoki, that is all I know.

Mr. Smith: Was the wife that you say that Andrew went back to Kansas after the woman that died? A Yes.

Q Do you know of your own knowledge whether Andrew was in the Cherokee Nation after the war closed and before this year that you speak of his coming here with the Delawares, or not? A No, I don't know anything about that.

Comd. Hiner: When did you first know Andrew Daniels? A It was about a year before the Delawares left the reservation up there in Kansas.

Q About a year before the Delawares came down to the Cherokee Nation? A Yes, sir.

Q Was that the first movement of the Delawares or the second time? A The second time.

Q What season of the year was it when you came down with the Delawares? A Sometimes along in June I think.

Q And you knew Andrew about a year before that? A Yes, sir.

Q Did he live near you? A No.

Q Did you see him often? A He worked pretty near all winter

right close to where I lived making ties.

Q That was the winter before you came down to the Cherokee Nation?

A The winter before.

Q The winter before that? A Yes.

Q Let's understand that: you came down here along in June?

A Yes, sir.

Q Now was it the winter right before that that Andrew was cutting ties, or the winter still before that? A No, still the winter before.

Q The second winter before you came? A Yes.

Q Well, what did you see of him between the time he was making ties the second winter before you came, and the time he came with you?

A Never saw nothing more of him till I saw him on the road with the Delawares.

Q How did he happen to fall in with you Delawares? A Well I don't know, I just supposed the old lady Pecharoki hired him to drive a team.

Q He was driving the old woman's team, was he? A Yes, sir.

Q He seemed then to be coming along as a hired man? A Yes, sir.

Q Do you know whether he had ever been down in the Cherokee Nation before that time? A No.

Q Does he live in your neighborhood now? A Yes, right close to Dewey.

Q Has he been living there ever since he went back up to Kansas and got his family? A Yes.

Edmund Duncan Carey, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your full name, please? A My full name, Edmund Duncan Carey.

Q How old are you, Mr. Carey? A Going on 70.

Q What is your postoffice? A Grove.

Mr. Hastings: Well, now what was your father's name? A Thomas Carey.

Q Where did your father live before the war? A He lived right on the east bank of Grand river at Carey's Ferry, it was known, about half a mile from the ferry.

Q Near where you live now? A Right near where I live now.

Q Was he a Cherokee citizen? A Yes, sir.

Q You are a recognized citizen of the Cherokee Nation by blood?

A Yes, sir.

Q What was your mother's name? A Jane Carey.

Q Was your mother living when the war came up? A No, sir.

Q Was your father? A Yes, sir.

Q Did your father have a colored woman as a slave by the name of Abbie? A Yes, sir.

Q When did you leave home: I mean with reference to the war? A I left in '62, July, sometime in July.

A Joined the army? A Yes, sir.

Q Was your father at home then? A No, he moved across into Missouri just about the time I left.

Q There was this slave, Abbie? A She was with my father.

Q In Missouri? A Yes, sir.

Q He took her off with him? A Yes, sir.

Q When did you next see your father? A '63, sometime in June.

Q Is your father living or dead at this time? A He is dead.

Q When did he die? A Well, I can't tell you just exactly, about 30 years ago, or 35.

Q Directly after the war? A Just after the war two or three years.

Q Now when you saw your father - I believe you said in June?

A Sometime in June.

Q In June of '63, did he have this colored woman, Abbie, with him?

A No, sir.

Q Where did you see your father? A Just with.

- Q Did he have any colored people with him? A No, sir.
- Q Did your father remain there in Fort Smith? A No, he went on back up to Butler Creek in Missouri.
- Q Fort Smith, Arkansas, to Missouri? A Yes, sir.
- Q Did he go as you went along? A Yes, sir.
- Q Along as you went? A Yes, sir.
- Q He didn't have any colored people with him? A None at all.
- Q What had become of this colored woman, Abbie? A Well, he said he sold her in Fort Smith.
- Q When did he tell you that? A Well, when I first met him in Fort Smith.
- Q In June of '63? A Yes, sir.
- Q And you saw her no more? A Never saw her any more, never saw her yet.
- Q You have never seen her since the war? A No; if I have I haven't knowed her.
- Q You don't know by what name she goes now? A Well now, her man was by the name of Daniels.
- Q Well, did you know Daniels first name before the war? A Andy.
- Q To whom did Andy Daniels belong before the war? A He belonged to one of the Daniels, I don't recollect his name now.
- Q Anyway, the man and the woman belonged to different people, didn't they? A Yes, sir.
- Q Your father had no control over Andy? A None at all.
- Q Was there any other Thomas Carey, who lived over there on Grand Giver, before the war? A No, sir.
- Mr. Smith: Mr. Carey, how old were you when the war commenced? A I don't know, somewheres about thirty.
- Q Married or single? A Married.
- Q Where were you living? A I was living right on the river bank at the ferry.
- Q How far from your father's? A About half a mile or more.
- Q What date did you leave there, you speak of going away? A I went away in July sometime.
- Q What year? A '62.
- Q Where was your father at the time you left? A Well he went, when I went to the army, went to Missouri.
- Q He go before or after you left? A He went just the same time, we both went across the line at the same time, I went to the army and he went to a place up there.
- Q Did you leave your home place and travel together until you crossed the Missouri line? A Yes, sir.
- Q That was in July, '62, was it? A Yes, sir.
- Q Then where did you separate from your father? A Separated right there in the edge of Missouri, I went in the army and he stayed there.
- Q Then how long from that time was it until you saw your father again? A Well it was along sometime in June, 1863.
- Q About a year? A Pretty near a year, it wasn't quite.
- Q Are you sure it was '63? A Yes, I am pretty sure it was '63.
- Q Are you quite certain about it? A Yes, sir.
- Q You couldn't be mistaken? A No, sir, don't think I could.
- Q Now what was your father doing in Fort Smith? A He moved down there he said.
- Q Had moved to Fort Smith; was he living there? A Well, he moved down there with some of his darkies, and he said he sold them there; I was in the army, I don't know what he was doing, I met him there.
- Q You see any other members of your father's family there? A No, sir.
- Q How long had your father been in Fort Smith at the time you saw him? A He has been there a week or two.
- Q That was June, 1863? A June, 1863, as well as I recollect.
- Q You know whether it was in the summer or not? A Well yes, sir, it was warm weather.

Q It was in the summer, was it? A Yes, sir.
 Q Was it on that trip, or during that time, that your father had
 sold this woman, as he related it to you? A Yes, sir.
 Q Did he say who he sold her to? A No, sir, I never asked him.
 Q He had sold her then somewhere within a week or two of the time
 you were talking to him? A Yes, sir.
 Q Did he take her out with him at that time, you and his father that
 left the station? A Yes, sir, his and my family went on, his wife
 and him and his daughter went together, and me, I went with them.
 Q Mr. Hastings, Mr. Carey, did you continue to see your father from
 June of '55, did he join the army or did he stay in the army? A I
 stayed in the army, and he stayed back up here.
 Q Did you see your father? A No, I didn't see him for a year
 afterwards pretty near, we went out on a boat and he went out to
 Texas with us.
 Q Did he have any slaves along when he went to Texas? A No, sir.

Mr. Hastings: I want to introduce, from the laws of the
 Cherokee Nation, 1833, the date of the Belaire Agreement, made
 with the Cherokee Nation, about which date I suppose there is
 no dispute, which shows on the 8th day of April, 1867. I
 don't care to put the whole agreement in there, it is not ne-
 cessary except for the purpose of the date when that agreement
 was entered into.

Commissioner: This testimony will be filed as supple-
 mental testimony in Cherokee Freedman cases D-839, Andrew
 Daniels et al; and also in Cherokee Freedman doubtful cases
 I-912, D-913, B-931, D-962, D-963, and D-971.

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 7th of October, 1901.



Commissioner.

Cher. Fr. D. 972

Cher. Fr. D. 972

To be filed with the case of John Beeson, C.F.D.#972.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 19th, 1901.

In the matter of the application of Mary Hudson for enrollment as a Cherokee Freedman; said Hudson being sworn and examined by Commissioner T. . Needles, testified as follows:

- Q What is your name? A Mary Eaton.
Q How old are you, Mary? A I don't know my age.
Q Well, about how old? A About 50 I guess.
Q What is your post office? A Centralia.
Q What district do you live in? A In Cooweescoowee.
Q Do you want to be enrolled as a Cherokee freedman? A Yes, sir.
Q Do you want to enroll besides yourself? A Three boys, children is all I have got.
Q Are they under age? A No, sir, they are of age.
Q All over age? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know, sir, whether it is or not.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir, it is on the Wallace roll and Clifton roll.
Q Are you married? A I ain't now, I have been.
Q What was your husband's name? A My last husband?
Q Yes. A His name was Peter Hudson.
Q Are you Peter Hudson's wife now? A Yes, No, sir.
Q Is Peter Hudson living? A Yes, sir, but we don't live together.
Q Did you draw this strip money while you were married to Peter Hudson? A Drawed money?
Q Did you draw strip money? A Yes, sir, drew the Wallace money.
Q That is all the money you ever drew? A Yes, sir.
Q Under what name did you draw it? A Hudson.

The 1880 Authenticated, the 1896 census and the Kern-Clifton rolls of freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Wallace roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 117, #2461, Mary Hudson, Cooweescoowee District.

- Q Well, you haven't been married to anybody since you left Hudson?
A No, sir.
Q Well, your name is Mary Hudson? A Yes, sir, by my husband; but I thought you was asking me about my owners.
Q Nor, Mary, were you a slave? A Yes, sir.
Q To whom did you belong? A Susie Eaton.
Q Was she a Cherokee citizen, Indian by blood? A Yes, sir.
Q Where were you born? A I was born back in the old Nation.
Q When did you come to the Cherokee Nation the first time?
A Why, it was, I was small when they come, I was a baby, but I have heard my old Mistress say that they come as old Settler.
Q You come along with your old Mistress when she come? A Yes, sir.
Q Now, then, did you go out of the Cherokee Nation during the war between the North and South? A Yes, sir.
Q Where did you go to? A I went South.
Q How far South? A I was taken down there.
Q Where to, Texas? A Yes, sir, down there about Boggy Depot.
Q In the Chickasaw Choctaw Nation? A Yes, sir.
Q Well, when did you come back? A I come back in '66.
Q Who did you come with? A I come with my Miss I had then but the man that we come out with I don't recollect his name there was a good many of them come out at that time, I don't recollect what their names was.
Q Where did you come to? A I come, when I come there; up in there I come to Fort Gibson.

Q You come when you come from Boggy depot down there in the Choctaw Nation you come to Fort Gibson? A Yes, sir.
 Q Well, have you been living in the Cherokee Nation ever since that time? A Yes, sir.
 Q Fort Gibson is in the Cherokee Nation is it? A Yes, sir.
 Q Well, did you marry after that? A Yes, sir.
 Q Whom to? A Peter Hudson.
 Q Was Hudson the only man you were ever married to? A No, sir, my first husband that I have got his name was John Beason.
 Q Where did you marry John? A I married him wadnw south.
 Q That was during the war? A No, sir, just after the war.
 Q you married him before you come back to the Cherokee Nation?
 A Yes, sir.
 Q Did he come with you? A Yes, sir.
 Q Is he living? A I don't know, sir.
 Q Well, who did you marry after that? A Peter Hudson.
 Q Have you married anybody since you married Peter? A No, sir.
 Q just had two husbands? A Yes, sir.
 Q Peter and you separated? A Yes, sir.
 Q He has married ag in? A Yes, sir.
 Q Have you got any witnesses here? A Yes, sir.
 Q Who? A I got Mr. Grimmett and Abe Hair.

BY MR. J. S. DAVENPORT, Cherokee Representative:

Q Mary, where were you living when you can first recollect?
 A I lived in Going Snake district.
 Q Whom were you living with at that time? A I was living with Subie Bean.
 Q Well, did you ever live with any of the Hilderbrands? A Yes, sr, I lived up there at Hilderbrand's Mill with one of her daughters.
 Q Now, Hilderbrands didn't go south with you when you went south?
 A No, sir, I was sent south.
 Q Did you ever know a man by the name of Aldridge that lived south down in Texas? (No response.)
 Q This was just before the war broke out, a short time before the war broke out; he lived somewheres about Grayson County, Texas?
 A I don't know.
 Q Well, did you know any Ezekiel Beck in the Cherokee Nation?
 A Yes, sir.
 Q Did you know that Ezekiel Beck had something to do with the winding up of the Hilderbrand estate? A No, sir.
 Q Don't you remember that Ezekiel Beck sold you to a man by the name of Aldridge and you were married off to the state of Texas before the war broke out? A No, sir.
 Q Did you know a man by the name of J. W. Ellis; he married Susan Eaton, a relative of the family here, Joshua Ellis? (No response.)
 Q Did you know that man Joshua Ellis? A I disremember.
 Q Well, did you ever live with a man or know anybody in Texas by the name of John Beason as your husband in the Cherokee Nation?
 A Yes, sir.
 Q Well, now, I will ask you if you and John Beason didn't come to this country and wasn't you brought here by J. W. Ellis? A No, sir.
 Q Didn't you come with J. W. Ellis when he came to this country?
 A I don't know his name, sir.
 Q Didn't you come with a man by the name of Ellis?
 A I don't know his name; I am telling you the truth.
 Q Did you come with a white man to the Cherokee Nation back from Texas when you and John Beason came? A Yes, sir.
 Q John Beason came with you? A Yes, sir.
 Q You had three children at the time? A Yes, sir.
 Q Do you know about how old they were? A No, sir, I don't.

Q Well, now, did you and John Beeson have any children born at the breaking out of the war? A I had one.

Q Well, now, you remember living in Texas, don't you; where was that child born that you had born at the breaking out of the war?

A He was born down there.

Q Down where, Texas? A Down South, I don't know whether it was Texas.

Q You know when you lived in Texas? A I recollect it.

Q You remember you lived in Texas, whether it was Grayson County or not? A I don't know what county it was.

Q You don't know what town you ~~lived~~ lived near? A No, sir.

Q Don't know where you got your mail? A No, sir.

Q You know that you and Beeson were living together as husband and wife when you came to the Cherokee nation? A Yes, sir.

Q And you were living with some white man when you came back to the Cherokee nation? A Yes, sir.

Q What was about the year 1871? A I don't know.

Q What was the first time you had been back to the Cherokee Nation, the time you came with Beeson and the white man? A I disremember, that has been a long time and I don't recollect; they told me it was '66, I don't know anything about it.

Q Have you ever made more than one trip from Texas up the Cherokee Nation since the war? (No response.)

Q Since you came up with that white man have you ever gone back after that? A No, sir.

BY COM'R NEEDLES: Now, Mary, you were married to John Beeson down there, down South? A Yes, sir.

Q Well, you were ~~xxxx~~ grown of course when you married him?

A Yes, sir.

Q Now, don't you recollect whether that was in Texas or not; recollect whether that was in the state or Texas? A Well, give me a little time, let me think back; I recollect I was to a place where Texas, but I don't recollect the County.

Q Was there where you were married to Beeson? A Yes, sir, I had him there.

Q Well, now, when you come up here to the Cherokee Nation the first time did you ever go back there? A No, sir.

Q You only come up once? A Yes, sir.

BY MR. DAVENPORT: Mary, did you know who the man's wife that came with you from Texas was before she was married? A No, sir.

Q You didn't know that she was Frankie Alberty before she was married? A No, sir.

Q And that she was a sister to Susie Eaton? A No, sir.

Q Didn't you know that the man's wife that came back with you from Texas was Frankie Alberty, a sister to Susie Eaton to whom you formerly belonged? A I don't know, no, sir.

BY COM'R NEEDLES: You did come back with a white man did you, Aunt Mary; you don't recollect what his name was? A No, sir.

Q Was he married? A Yes, sir.

Q Did he have a family? A Yes, sir, he was only coming out and I wanted to come and had wanted to come and I had no way to come, and this man was going, he said where he lived and said he was coming and John Beeson got him to bring me.

Q Did John come with you? A Yes, sir.

Q Is John dead? A I don't know.

ABRAHAM HAIR, being sworn and examined by Commissioner

T. W. Needles, testified as follows:

Q Mr. Hair, what is your name? A Abraham Hair.

Q Your post office? A Wimer.

Q How old are you, Mr. Hair? A About 77 years old.

Q Are you a Cherokee Freedman? A Claim to be, sir.

Q Is your name on the roll of 186? A I don't know, sir.

Q Do you know Mary Hudson, the applicant, here, or Mary Eaton?

A Yes, sir.

- Q How long have you known her? A Well, I guess about 20 years or more.
- Q Did you know her before the war between the North and South?
- A No, sir, I knowed her mother.
- Q What was her mother's name? A Rachel Eaton.
- Q Where did her mother live? A Lived on Big Creek.
- Q In the Cherokee Nation? A Yes, sir.
- Q Do you know whether Mary Eaton here was a slave or not?
- A Yes, sir.
- Q To whom did she belong? A Belonged to Susie Eaton.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q Well, did Mary go out of the Cherokee Nation during the war?
- A Yes, sir.
- Q Where did she go to? A Went to Texas.
- Q Where did you first see her after the war? A After the war.
- Q Yes, sir. First saw her on Lightning Creek.
- Q In the Cherokee Nation? A Yes, sir.
- Q What year was that, do you know? A Winter of '66.
- Q Winter of 1866? A Yes, sir.
- Q Whom was she with when you saw her? A She was living there with some of her acquaintances, her man had left her.
- Q Her husband had left her? A Yes, sir.
- Q Who was he? A John Beeson.
- Q Did you know John Beeson? A No, sir.
- Q Didn't know John Beeson? A No, sir.
- Q He left her there on Lightning Creek? A Yes, sir.
- Q How do you know that was '66? A Only the statement I see all I had.
- Q Who made the statement? A The folks there.
- Q Said it was '66? A Winter of '66.
- Q Did you go out of the Cherokee Nation during the war? A Yes, sir.
- Q Where did you go to? A Well, I went out with the soldiers, I went to Springfield, Missouri, and from Missouri to Kansas, and from Kansas back here and backwards and forwards up and down this road.
- Q What time did you land back here? A Well I was here the whole time.
- Q During the whole of the war? A Yes, sir.
- Q And you are confident you saw Mary Eaton here in 1866 on Lightning Creek? A Yes, sir.
- Q You knew her mother you say? A Yes, sir.
- Q What was her name? A Rachel.
- Q Was she a slave? A Yes, sir.
- Q To whom did she belong? A She belonged to Eaton.
- Q Was her mother taken out of the Cherokee Nation during the war, do you know? A That I don't know; I know she died here.
- Q How do you know that Mary was taken to Texas? A Well, she told me.
- Q Have you known her ever since that? A Yes, sir.
- Q Has she always lived in the Cherokee Nation ever since that time?
- A Yes, sir.
- Q Did you know of her going back to Texas after she come? A No, sir.
- BY MR. DAVENPORT: You didn't know her at all before the war, did you? A Not this woman.
- Q How did you know to whom she belonged to? A Her mother told me.
- Q I am not asking you what she told you, you don't know it of your own knowledge? A No, sir.
- BY COM' R NEEDLES: You say you didn't know Mary before the war? Knowed her mother.
- Q And you? didn't know her? A No, sir.
- BY MR. DAVENPORT: You don't know whether Mary was living with her mother at the breaking out of the war or not? A No, sir, she was living with her owner her mother said.
- Q I am not asking you about what her mother said; her mother isn't living now? A No, sir.

Q You never saw Mary on Lightning Creek in 1866? A I saw her in '66, winter of '66.

Q you knew when '66 come? A No, sir.

Q How on what part of Lightning creek did you know her? A Pansom Daniels'.

Q Don't you know that Pansom Daniels didn't live there in 1866? A No, sir.

Q Don't you know that Pansom Daniels didn't move from Grand river over there? A No, sir.

Q Now, when it was after Pansom Daniels moved from Grand river over there? A Yes, sir.

Q You knew who her husband was? A No, sir.

Q You know John Beeson? A No, sir.

Q When you first saw her how many children had she? A Well, she had all she has got now, I forget how many there is, she had four or five children.

MARY HUDSON, the applicant, recalled: BY COM'R NEEDLES:

Q How many children you got living now? A Three.

Q What are their names? A William and Jesse and the oldest two I got is Jonathan and Augustus.

Q They are all living? A Yes, sir.

BEN GRIMMETT, being sworn and examined by Commissioner P. C. Needles, testified as follows:

Q What is your name? A Ben Grinnett.

Q What is your age, Mr. Grinnett? A I am about 60 or 65.

Q What is your post office? A Nowata.

Q Are you a recognized Cherokee breedman? A Yes, sir.

Q Name on the roll of 1869? A Yes, sir.

Q Do you know the applicant here, Mary Hudson, or Mary Beeson? A Yes, sir.

Q How long have you known her? A Well, I have knowed her; I have been knowing her all the time.

Q Well, did you know her before the war between the North and South? A Yes, sir.

Q Was she a slave? A Yes, sir.

Q To whom did she belong? A Eaton.

Q Was he a Cherokee citizen? A Yes, sir.

Q Did you know her mother? A Yes, I have seen her.

Q Did you know her mother's name? A No, I didn't know her but I have seed her.

Q Where did Eaton live before the war? A Lived in Goingsnake.

Q Well, do you know whether Mary Beeson was taken out of the Cherokee nation before the war? A No, I don't know that, but she was taken out though.

Q You heard she was taken out? A Yes, sir.

Q You don't know where to? A Texas.

Q Do you know whether she was ever married or not?

Q Yes, she married Hudson.

Q Well, do you know whether she was ever married before she married Hudson? A Well I have heard of it.

Q Did you know a man by the name of John Beeson? A Yes, sir.

Q Reputed to be her husband? A That is what it was said.

Q Well, now, when was the first time you saw Mary after the war, between the North and South? A The first time I seen her I seen her to her daddy's, Jim Beck, at Fort Gibson.

Q When was that? A Well, it was in the summer somewhere in the spring of '66.

Q Was her father's name Jim Beck? A Yes, sir.

Q You saw her at Fort Gibson in the summer of '66? A Yes, sir.

Q You knew her before the war did you? A Yes, sir.

Q Well, now, when you saw her in '66 did you know her and recognize her? A Yes, sir.

Who was she with? A Well she was there to her daddy's, I don't know who she was with.

Q Was her daddy living there? A Yes, he was living there.

Q In a house? A Yes, sir.

Q Well, have you known Mary since that time? A Yes, sir.

Q Was she lived to your knowledge in the Cherokee Nation ever since '66? A Yes, sir.

Q How did you know that it was '66, Ben. A Well the reason I know it, when I see people just after I come I know what time I come and pretty soon I seen her.

Q You knew that you had come here in 1866? A Yes, sir.

Q You didn't know anything about her while she was in the state of Texas? A No, sir.

Q Don't know who took her to the state of Texas. A No, sir.

BY J. DAVENPORT: You don't know when she went to Texas either do you, Ben? A No, sir.

Q You don't know where she was living when the war broke out do you? A She was living on Goingsnake.

Q Did you know that of your own knowledge? A She was living there.

Q Well, I want you to say whether she was or was not positively or your own knowledge in Goingsnake district? A Well, she was there at the beginning of the war; must have been, I used to see her along, they was running the colored people so.

Q How far did you live from there before the war?

A I guess I lived about 15 miles I guess or maybe further.

Q Where were you living? A I lived in Flint.

Q At what place? A With Grinnett, Flint district.

Q What Grinnett? A Billy Grinnett.

Q Did you ever know a man by the name of Ezekiel Beck? A Yes, sir.

Q He lived up there in that country didn't he?

A Not as I know of, that Beck.

Q Well, did you ever know a man by the name of Hilderbradn, Avra or such a name? A Yes, sir, I have heard of them.

Q Now, this woman belonged to that estate at one time didn't she?

A I could not tell you that.

Q Tell who did she belong to when you first saw her? A Eaton.

Q What one of the Eatons? A I could not tell that, she went by the name of them.

Q One belonged to Susie Eaton didn't she? A I guess she did.

Q That was sometime before the war broke out wasn't it? A Yes, sir.

Q Now, you never knew anything of this woman from the time the war broke out until you saw her at Fort Gibson? A No, sir.

Q When you saw her at Fort Gibson did she have any children?

A I could not tell that so many colored people there?

A You had a talk with her there about where she had been?

A No, sir, I never asked her.

Q Did she have a husband at that time? A She must have.

Q I am asking you what you know about it. A I tell you the fact about it, I see a good many people coming in and we shake hands and didn't talk at all.

Q You could be mistaken that it was in 1866? A No, I know it come in the spring of '66, and I think that about when I see anybody in side of the spring of '66 that is what I go by.

Q Well, now did you ever know Joshua W. Ellis, before the war?

A No, sir.

Q And you don't know where this applicant went of your own knowledge? A No, sir.

Q When was the next time you saw her after you claim to have seen her at Fort Gibson? A Well I tell you after that when I seed her I seed her on Big Creek.

Q Well how long was it after you saw her at Fort Gibson until you saw her on Big Creek? A I could not say that for certain.

Q Well, was it five years, six years, about how long?

Q About a year I guess, or maybe longer.

Q The fact is you don't know much about this case do you, Ben?

A Not a great deal.

Q You just wanted to fix it as '66 you saw her down there at Fort Gibson? A Yes, sir.

Q All you were driving at was that you saw her down here in '66? A Yes, sir.

Q Now, you know that she was sold to a man by the name of Aldridge before the war didn't you? A No, sir.

Q You don't know who she belonged to before the war do you? A No, sir.

Q And you don't know whether she was in the Cherokee Nation at the breaking out of the war or not, did you? A I don't know.

Q Ben, you are the fellow that has had some trouble down here at Tahoequah about the courts? A I could not tell you that, that is a thing I won't answer.

BY COM'R NEEDLES: Now, Mr. Grimmett, you know the owner of Mary Hudson? A Yes, sir.

Q Did you know his slaves at that time? A She was a slave at the time.

Q Did she have other slaves? A Had a good many.

BY MR. DAVENPORT: Can you remember the names of any other slaves he owned but this woman? A No, I don't know anything about it.

Q How does it happen that you just remember this woman and don't remember any other ones of them? A I remember her, ut I don't know it was so long, I don't keep account, don't hardly know my own children.

MARY HUDSON, the applicant, r called:

BY MR. DAVENPORT: Mary, which is your oldest child? A Mariah.

Where was Mariah born? A She was born down south.

Q In Texas, Arkansas or where? A In Texas.

Q What was the next one? A These two children, do you want all of the children?

Q All of them I want to get their ages as near as I can?

A Well you can get thir ages if you will look on the Wallace roll.

Q I would rather take your work for it than the Wallace roll?

A I don't know their ages.

Q The next one after Mariah where was it born and its name?

A Well, now, I can't tell you, it was born south.

Q What is its name? A Jonathan Augustus.

Q He was born south? A Yes, sir.

Q Now, which is the next name to John? A Elizabeth.

Q Where was she born? A Down South.

Q Well where was William born? A I forget.

Q Is the next one to William Jess? A No I had one next to Jess namee Susan and she died and gusan come next.

Q Where were you living when Susan was born? A I was living on Big Creek.

Q Where was Jess born? A Jess was born in Goingsnake.

Q Before or after the war? A After the war, all of them was born since peace.

BY COM'R NEEDLES: You say, Auntie, all of your children were born since peace? A Yes, sir.

Q But three of the oldest ones were born when yo? lived down south that was in the state of Texas? A I don't know what state it was.

Q You never lived in but one place down south did you? A No, sir.

Q And they called it Texas? A Yes, sir.

Q And your three oldest children were born there? A Yes, sir, not far from Red river; you know there is an Indian Nation now, what do you cann th at?

Q Choctaw nation? A Born not far from that on the south side of the Red river.

- A Yes, sir.
- Q To whom did she belong? A She belonged to the Eatons.
- Q Did you and her belong to the same family? A No, sir, I belonged to the Becks.
- Q Did she go out of the Cherokee nation during the war or before that time? A Yes, sir.
- Q Where did she go? A I can't tell, but she went south.
- Q You don't know whether she went into the state of Texas or not?
- A No, sir, I don't know whether she did or not? A Did you ever hear? A I heard of her on Red River.
- Q On which side of Red River? This side of Red river.
- Q When did she return to the Cherokee Nation? A I can't tell just when she returned.
- Q When did you see her? A I seen her on Big Creek, about 25 years ago, I guess, or more.
- Q Is that the first time you saw her after the war? A Yes, sir, that was the first time I see her, but then I heard of her being here often.
- Q That was the first time you saw her after the war? A Yes, sr.
- Q About 25 years ago on Big Creek? A Yes, sir.
- R. DAVENPORT: You don't know what time she went out before the war, do you, or whether she was in the country when the war began? A Yes, sir, I saw her in the nation time of the war, her mother and mine went to Texas together.
- Q I am talking about this applicant; was she in the Cherokee Nation at the breaking out of the war? A Yes, sir, I think she was.
- Q I want you to be positive? A I most know she was.
- Q You don't really know where she was at the breaking of the war? A I saw her at home at the breaking out of the war, where my father was.
- Q At whose place was she at the breaking out of the war?
- A At the time we were getting ready to leave, I seen Mary at Becks old place, in 7 or 8 miles of Hilderbrands' Mill.
- Q She at one time belonged to the Hilderbrand estate? A I don't know whose she belonged to only just the estate.
- Q Did you ever know a man named Ezekiel Beck? A Yes, sir.
- Q Don't you know now like Beck sold her to a man named Aldridge who took her to Grayson County, Texas, long before the war broke out? A I don't know, sir, about that.
- Q You don't remember anything about that? A No, sir.
- Q Did you ever know a Joshua W. Ellis? A Yes, sir.
- Q In order that you can remember, he married a sister of Susan Eaton. A I have heard of her, but I don't know them.
- Q You don't remember anything about that? A No, 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.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this the 26th of June, 1901.

(Signed) T. B. Needles?

Commissioner.

---00000000---

J. O. Poston, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original.

Subscribed and sworn to before me this September 5th, 1901,

J. O. Poston
M. S. Green
M. S.
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of John Beeson for enrollment as a Cherokee freedmen said Beeson being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A John Beeson.
Q How old are you? A I am 32 years old.
Q What is your post office address? A Hudson.
Q What district do you live in? A Live in this district.
Q Doowesscoowee district? A Yes, sir.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A I guess it is.
Q What rolls? A Wallace Roll I guess.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q What is your father's name? A Father's name Beeson.
Q Is that the only name he ever had? A Yes, sir.
Q Is his name Bill, Jim, Dick or what? A Name is Bill.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Mother's name Mary.
Q Is she living? A Yes, sir.
Q Are they Cherokee freedmen? A Yes, sir; my mother is.
Q Do you claim your citizenship through your mother?
A Yes, sir.
Q Are you married? A No, sir, I have been married.
Q Is that your wife that was her a while ago? A Yes, sir.
Q You and her are not living ~~xxx~~ together? A No, sir.
Q Have you any children? A No, sir.
Q Where were you born? A I don't know, down about Fort Gibson somewhere.
Q Have you lived in the Cherokee Nation all your life? A Yes, sir.
Q Never lived out of it? A No, sir.
Q Never lived in Kansas? A No, sir.
Q Nor Arkansas? A No, sir.
Q What have you been doing what kind of work? A Farming.
Q Have you got a farm now? A No, sir, I haven't got one.

The 1880 Authenticated Roll and 1896 census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Wallace Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 117, #2462, Jonathan Beeson, Coowesscoowee District.

- Q Your mother's is Hudson now? A Yes, sir.
Q How does her name happen to be Hudson? (No response.)
BY MR. DAVENPORT: Cherokee Representative.
Q You have been living in Kansas a while haven't you?
A Yes, sir, I lived up where where I worked up there.
Q How long did you work up there? A Sometimes two or three months.
Q You lived sometimes about three years didn't you? A No, sir.
Q Have you ever lived anywhere excepting while you were working in Kansas? A I lived anywhere where I ever worked.
Q Where have you worked? A I have been here in the Cherokee Nation and when I wanted to I would go up on the line and work.
Q How often have you wanted to? A I want when I get out of money I go up on the line and work.
Q You lived up there quit a while before you married, how long was that? A Which do you mean, kept house; no, sir; sometimes I would be up there working and of course I was living there.
Q How long have you stayed up there all told? A I would work up there sometimes may a week and sometimes may be two or three days and come home on a sometimes a month.

John Beeson.--2.

- Q Never lived anywhere else? A No, sir.
Q When you come home where did you come to? A Come down here in the Nation.
Q To what place? A I lived up the Creek there.
Q Who lived up there? A I had my mother living up there.
Q How long did you stay in Texas that time you and your brother Will went down there? A I don't know anything about going to Texas.
Q Didn't go with Will that time? A What Will?
Q One that was over there about Ruby? A Yes, sir.
Q Didn't you and he go to Texas and live a while? A No, sir.

VOM'R EXHIBITS: John Beeson applies for the enrollment of himself. He cannot be identified upon any of the rolls of the Cherokee Nation except the Wallace roll. He avers that he has been married and is not now living with his wife.

Q You married in the Cherokee Nation when you married?
A Yes, sir.

He avers that he is the son of Mary Hudson, who is listed for enrollment as a Cherokee Freedman upon doubtful card #864, and that testimony taken in the matter of the enrollment of Mary Hudson will be made part of the record in the case at bar and a copy thereof filed herewith. Said John Beeson will be listed for enrollment as a Cherokee Freedman upon a doubtful card. He has made satisfactory proof as to residence. He will be notified by mail of the action of the Commission.

---000.00---

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 17th day of July, 1901.



Commissioner.

File with case of John Beeson, C.F.-D.#778.

Supl. C.F.-D.#764.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
WETA, N.Y., OCTOBER 23d, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARY HUDSON as a Cherokee Freedman, introduced on part of the Cherokee Nation:

APPEARANCES:

Mr. A. S. McRee, attorney for applicant;
Mr. Davenport, of counsel for Cherokee Nation.

ZEKKE BECK, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation:

- MR. DAVENPORT: What is your name? A Zekke Beck.
- Q Where do you live, Mr. Beck? A I live at Long Prairie, Delaware district.
- Q What is your post office? A Kansas, I. T.
- Q How old are you? A I am in my 66th year.
- Q How long have you lived in the Cherokee Nation, Mr. Beck? A All my life; that is, I was born in Georgia.
- Q And came here with the Cherokees, did you? A Yes, sir.
- Q Do you know Mary Hudson, or who was formerly Mary Beeson, or Mary Eaton, the applicant in this case? A I knew one Mary Eaton.
- Q When did you know her first? A Well, now, I could not say, I have known her ever since I known anybody nearly.
- Q Well, to whom did she belong at the time you knew her?
- A She once belonged to my grandfather.
- Q Who was she? A Susie Eaton.
- Q Well, who did she afterwards belong to? A Ary Helterbrand.
- Q Where did Ary Helterbrand live? A She lived in the Cherokee Nation.
- Q What became of the applicant, if you know, if she passed out of Ary Helterbrand's possession; just state what you know about it yourself? A Well, Ary Helterbrand died and I administered on the estate and sold her out.
- Q What did you say? A I said when Ary Helterbrand died in 1858 I sold her.
- Q To whom did you sell her? A I sold her to a man by the name of Aldred.
- Q Where did Aldred live, Mr. Beck? A He said he lived in Texas but what county I don't recollect.
- Q Do you know what his citizenship was, whether he was a citizen of the United States or Cherokee citizen? A Well, I guess he was a citizen of the United States, I never knew him to live here in the Cherokee Nation.
- Q Well, do you know whether or not he took the applicant here, Mary, away from the Helterbrand place? A Yes, he took her away from there.
- Q When did you next see her, if you have ever seen her?
- A I have never seen her since.
- MR. McREE: I understand you to say, Mr. Beck, that the woman you knew was named Mary Eaton? A Yes, sir.
- Q And she belonged to your aunt? A Yes.
- Q Now, when was it that you sold her as you claimed? A Well, it was in the spring of '58.
- Q For how much did you sell her? A I sold her for a thousand dollars.
- Q And you sold her to a man by the name of Aldred? A Yes, sir.
- Q And you don't know what his citizenship was? A -- He was a white man, I guess, he claimed he lived in Texas.

Q Now, did you know of your own knowledge he lived in Texas?

A No, I didn't, only what he told me.

Q Now, do you know of your own knowledge that the Mary Hudson that has applied for enrollment here before this commission is the same Mary that you sold in 1859? A I do not, I haven't seen her.

Q Would you know that same girl that you sold in 1859 if you would see her? A I don't know whether I would or not, it has been a long time.

Q Have you ever seen this Mary that you sold in 1859 in the Cherokee Nation since you sold her? A No, sir.

Q And you are positive that this Mary that you sold to Mr. Aldred, that he carried her to the state of Texas? A He carried her off of my place.

Q You don't know whether he carried her out of the Cherokee Nation or not? A No, sir.

Q Or do you know whether he sold her to any citizen of the Cherokee Nation? A No, sir.

COM'R NEEDLES: Did you know Susie Eaton? A Yes, sir.

Q Who was she? A She was my grandmother.

Q She was a Cherokee citizen? A Yes, sir.

Q Did she own this girl? A Yes, sir.

Q She was the woman whose estate you administered on? A No, sir, that was her daughter, Mary.

MR. DAVENPORT: Did she have more than one girl named Mary?

A No, sir.

COM'R NEEDLES: You say you don't know what he did with her after you sold her? A No, sir.

Q You don't know whether he resold her or not? A No, sir.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

MR. DAVENPORT: What is your name? A J. W. Alberty is the way I sign it.

Q Where do you live, Mr. Alberty? A I live in Goingsnake district.

Q How old are you? A 67 years old.

Q Did you ever know a colored woman, or girl, by the name of Mary Eaton? A Yes, sir.

Q Did you ever know her by any other name, or you just knew her by Mary Eaton? A Yes, she was in the division of the property, she went to Ary Helterbrand.

Q When was that, before or after the war? A Before the war.

Q Well, do you know where she was at the breaking out of the war, Mr. Alberty? A Well, no, I could not say where she was at the breaking out of the war; she was not in our country or anywhere near about that.

Q You spoke of a division of property what did you mean by division of property, division of what property is all I care for?

A Of the darky property.

Q Of whose property? A Susie Eaton.

Q And the daughter; she went to Mary Helterbrand? A Yes, sir.

Q Well, have you ever seen Mary Eaton, or whatever her name might be, since the war? A Yes, sir.

Q What was her name, if you know by that name she was known when you saw her after the war? A Mary Benson.

Q Do you know whether she had a husband after the war? A Yes, sir.

Q What was his name? A John Benson.

Q Where did you first see her after the war? A The first I see of her, I met Mr. Ellis--I had been to Texas and met him going and met him again coming back, and he hollered and asked me if I knew that woman and he says she knowen you very well, and I went to the place and saw her at that time.

Q Who was it? A Mary Eaton, or Mary Helterbrand we called her

before she was married to a man by the name of Beeson, and he brought her up to our neighborhood and lived there three or four years.

Q That is the Beeson family or Mr. Ellis? A No, the Beeson family.

Q Did they have any children? A I think they had one or two, I don't recollect.

Q Now, when was that as near as you can tell, that you met Mr. Ellis? A It was in '72.

Q What was Mr. Ellis' first name? A J. W. Ellis.

Q Do you know his given name? A Josh Ellis.

Q R. MORRIS: Mr. Alberty, when was it you say you first became acquainted with Mary Eaton? A Well, I don't know her by that name at all.

Q Mary Eaton? A Mary Eaton; well in, I first become acquainted with her, it must have been about 1847 or '8; '41 or '2, when I was just a boy, she was raised in the neighborhood right where I was and I was raised in the neighborhood right where she was.

Q Was she a grown woman in 1847? A No, sir, she wasn't near grown when I first knew her.

Q Did I understand you to say that you knew of her having been sold before the war? A No, sir.

Q What did you say became of her during the war? A Well, she was in the division of what I call the property, she went to Ary Helterbrand; she was willed from Susie Eaton to Ary Helterbrand.

Q Willed from Susie Eaton to Ary Helterbrand? A Yes, sir, Susie Eaton was Ary Helterbrand's daughter.

Q What was Susie Eaton's citizenship? A She was a Cherokee.

Q Was Ary Helterbrand a Cherokee? A Yes, sir.

Q Well, do you know what became of her after she went out of the hands of Ary Helterbrand? A No, sir, only what I heard.

Q When did the division of the estate? A Well, sir, it was in about '56.

Q How long after the division of the estate did Mrs. Sarah Helterbrand die? A Well, short time, it wasn't very long.

Q About the same year? A No, sir, only a short time, it was in '57 I guess.

Q Well, do you know who was the administrator of the estate after her death? A Yes, sir.

Q Who? A Zeke Beck.

Q Well, was Mary, the applicant, still the property of the estate of Mrs. Helterbrand then, when Mr. Beck became administrator of the estate? A Yes, sir, I saw the advertisement, he made an advertisement to make a division of the estate.

Q After Mr. Beck became administrator of the estate you don't know what became of Mary? A No, sir, I saw he had her advertised for sale.

Q You don't know whether any sale took place? A No, sir, I guess there did, I never saw her any more.

Q That is your knowledge of it? A Yes, sir.

Q Now, where was it you first saw her after that in 1872?

A Well, you want me to tell the particular place?

Q Yes, sir. A Well, I met them on the road, on what is called the Fort Gibson road, down below my house about six or eight miles and he was coming in from Texas and he was very familiar and he hollered to know if I knew those people.

Q Now, do you know where Mary Eaton was in 1866? A No.

Q Do you know where she was in 1877? A Yes.

Q Where? A She was right there in Goingsmake district in 1872.

Q Now, first ask you in 1867, do you know where she was?

A No, I don't know.

Q Did you know where she was in 1868? A No, sir.

Q Well, have you seen her in the Cherokee Nation since 1872?

A Yes, I saw her right there, she has lived right there about three, four or five years after I first saw her, lived right there neighbor to me.

Q Mr. Alberty, have you ever been arrested for anything? A No, sir.

J. W. ELLIS, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation:
IF. DAVENPORT: What is your name? A. J. W. Ellis.

- Q Where do you live, Mr. Ellis? A I live out here about ten miles on the Coffeville road.
- Q What is your post office? A Vinita.
- Q How old are you? A I am 77 years old.
- Q Where were you living at the breaking out of the Civil war, Mr. Ellis? A I was living in Missouri.
- Q Did you go south during the war? A Yes, sir.
- Q To what state did you go? A I went into Wood County.
- Q What state? A Texas.
- Q How long did you reside in Texas after the war, Mr. Ellis? A Well, let me see, I came back to Fayetteville, Arkansas, in '68, I think, sir, as well as I recollect.
- Q Did you ever return to Texas after that time? A Yes, sir, several times. Q while you were in Texas or back and forth to Arkansas and Texas did you get acquainted with a colored family by the name of Beeson? A I did, sir.
- Q Do you remember the husband's name? A John Beeson.
- Q What was his wife's name? A I think he called her Mary as well as I recollect.
- Q Where were they living when you first got acquainted with them, Mr. Ellis? A When I first got acquainted with John Beeson he was at the Salt works but his wife I never got acquainted with her until 1871 or '2, when I returned from Texas and I met John and he had this woman with him and he wanted me to bring her back to Arkansas.
- Q Where did you meet them? A That was there in Hunt County, or Wood county.
- Q Was his wife with him when you met him? A Yes, sir.
- Q Now, where was the Salt works that you speak of having known John prior to knowing his wife; what State or County? A It was in Texas.
- Q About when did you first know John? A That was the first I knowed of him was in about '62, I made salt with him, I employed him to make salt.
- Q When did you leave or move away from there, from where John was working? A I moved away from there in '68, about that time and went back with a load of fruit trees and found John on the road and he asked me to take him back, I knowed him very well and knowed his master.
- Q Who was his master? A His name was Beeson.
- Q Where did he live? A He lived in Missouri.
- Q Do you know whether or not he lived in Missouri at the breaking out of the war? A Yes, sir.
- Q Now, you met John and his wife down there, did they come back with you then? A They ~~came~~ came back with me then to Goingssake district.
- Q That was in what year? A I think it was in '71 or '2.
- Q Well, have you ever seen them since you brought them back? A I have seen John often but I never have seen her.
- Q Do you remember any of the children's names at that time, or his it been so long you have forgotten? A No, sir, I don't remember.

MR. MERRA: Now, Mr. Ellis, you know a man down in Texas by the name of John Beeson? A Yes, sir.

Q And he had a wife by the name of Mary? A She claimed to be by the name of Mary, I seen them.

Q Now, is this Mary Bates who makes application for enrollment before this commission the same Mary that this John was the husband of that you knew in Texas? A I could not tell you for I hadn't seen her since, I don't know that I would know her if I would see her.

Q And you don't know to whom this Mary belonged before the war, do you? A No, sir, I don't.

Q You don't know where she was during the war, do you? A No, sir.

Q You don't know of your own knowledge whether she ever went out of the Cherokee nation during the rebellion between the north and south, do you? A No, sir, I don't know anything about the applicant; I know that John Beeson-

Q I am not speaking about John Beeson; you don't know whether or not if she went out of the Cherokee Nation, whether or not she returned in the year 1865, do you? A No, sir, I don't know about that.

Q And that Mary that was the wife of this man, John Beeson, you don't know whether she is dead or alive do you? A No, sir.

MR. DAVIS: I wanted to ask you, Mr. Ellis, do you know Mr. Jack Albert? A Yes, sir.

Q I will ask you if you remember at any time along the trips you were making there going to Texas or from Texas about the time these people came with you, of meeting him anywhere? A Yes, sir, I met Mr. Albert as I was coming back from Texas and he asked me and I stopped to talk with him, and I asked him if he knew these negroes and he said he didn't know whether he did or not, and he went up to the wagon and said that was the negro woman that belonged to Eaton.

Q He recognized her as being the woman that belonged to Mary Eaton? A Yes, sir.

MR. McNEEL: That was the Mary that was with you? A Yes, sir.

Q You don't know whether that was the Mary or not that came back to the Cherokee nation and stopped down here about Boggy Depot? A No, sir, I don't know anything about the Boggy Depot.

Case Files: This testimony will be made part of the record in the original case, and also part of the record in doubtful cases #766, #763, and #972.

---00000000---

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 November 11th, 1901.

[Signature]

Commissioner.

COMMISSIONERS:
TAMM BERRY,
THOMAS E. WHEELER,
C. E. WELCHERIDGE,
WM. O. BEALL,
Secretary.

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

REFER IN REPLY TO THE FOLLOWING:

Cherokee Freedmen
D-672

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 25, 1904.

Bell, Hastings and Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the Commission's decision, dated March 5, 1904, rejecting the application for the enrollment of Jefferson Ross and children, Wilson, Emma, Gertie and Frank Ross as Cherokee freedmen, was approved by the Secretary of the Interior on October 6, 1904.

Respectfully,



Chairman.

O.F.D. 972

Proof of Service made
and original filed with the
DAVIS COMMISSION.

OCT 1 1901

Proof of Service made
and original filed with the
DAVIS COMMISSION.

NOTICE!

IN THE MATTER OF the application of John Beeson
for enrollment as Cherokee Freedmen:
Case No. F. D. 972

To John Beeson Hudson 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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 24th 1901 at 8 o'clock A. M. 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L. B. Bell

W. W. Hastings
J. D. Sampson
Attorneys for the Cherokee Nation.

Cher. Fr. D. 973

Cher. Fr. D. 973

DEPARTMENT OF THE INTERIOR, WASHINGTON, D. C.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In Re the application of John Sanders, a Freedman,
for citizenship in the Cherokee Nation, T. D. 973.

John Sanders et al, Claimants,	Notice by claimant for a re-opening, rehearing and re- view of his case and the trans- mittal of the record in his case to the Attorney General of the United States for review and his opinion as to the rights of applicant under the decision of the Court of Claims, rendered Feb. 3 rd 1896 in the case of Moses Whitire vs. The Cherokee Nation.
vs.	
The Cherokee Nation of Indians, Defendants.	

Comes now John Sanders, claimant and principal
applicant in the above entitled and numbered cause, and moves the
Commissioner, through the Honorable secretary of the Interior,
to reopen his said cause and grant him a rehearing therein, and
for reason states;

First, because the decision, judgment, and findings
of the Commissioner rejecting his said application and its
affirmance by the Honorable secretary of the Interior is contrary to
the law, decision, and findings of the court of claims, rendered
on the third day of February, 1896, in the case of Moses
Whitire vs. The Cherokee Nation.

Second, because the decision, judgment, and find-
ings of the Commissioner and its affirmance by the Honorable

secretary of the Interior against the evidence.

Third, because the decision, judgment, and findings are against the weight of the evidence.

Fourth, because the applicants and claimants herein have discovered new and additional evidence, which they ^{he} did not, at the time of making his ^{original} ~~general~~ application, know of, nor was he in a position, at that time, to ascertain.

Fifth, applicants and claimants herein can prove by the following named persons, now living and residing at the post-offices designated opposite their names, the following facts, which are material to the interests and to the rights of the applicant and claimants. Wiley McIntosh of Muskogee, Indian Territory will testify that the applicant herein was in the

Cherokee Nation, Indian Territory, in July, 1866 and continuously *And has not returned to Cherokee Nation prior to June* resided there until they ear 1883. *By Elias Dean of Muskogee,*

Indian Territory, a recognized Freedman of the Creek Nation, applicant can prove the same state of facts. By Tebe McIntosh of Muskogee, Indian Territory, applicant can prove the same state of facts above referred to.


WHEREFORE, applicant and claimants herein pray the Honorable Secretary of the Interior that the records in his case be transmitted to the Honorable Attorney General of the United States for his review and opinion as to the rights of applicant and claimants herein, under the decree of the Court of Claims, rendered on the third day of February, 1896, in the case of Moses Whitwire, trustee, vs. The Cherokee Nation.

Applicant further prays that an order issue from this Honorable Department, directed to the Indian Agent, Union Agency, at Muskogee, Indian Territory, staying all proceedings in the matter removing applicant from off the lands now held by him under the tentative filings made by him upon the lands of the Cherokee Nation, and that the applicant be permitted to remain

19th/1898

in the peaceful and quiet possession of the same until his rights under said modified decree shall have been passed upon by the Honorable Attorney General of the United States and his opinion handed down touching the matters herein made and set forth.

Respectfully submitted,



Att'y for Claimants.

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

In the matter of the motion for a rehearing of the application for the enrollment of JOHN SANDERS, et AL., as Cherokee freedmen.

Reply of the Cherokee Nation.

The only proposition raised by the brief on behalf of applicants in this case is that it is contended on behalf of applicants that the Commissioner to the Five Civilized Tribes is required to enroll all persons whose names are found upon what is known as the Kern-Clifton roll made in 1896. Quite a lengthy argument is submitted in an attempt to support that contention by counsel for applicants. In view of the fact that this question was exhaustively argued in the Mary Ann Riley case and was decided adverse to the contention of counsel for applicants in this case on August 31, 1905 (I.T.D. 2232, 3085, 3087, 5561-1905), by the Assistant Attorney General for the Department of the Interior, we desire to call the attention of the Department to the decision of the Assistant Attorney General in that case, and the approval of the same by the Department.

We desire to also call the attention of the Department to the case of Wallace versus Adams, decided at the December, 1905, term of the Circuit court of Appeals for the 8th Circuit, wherein the Court in an exhaustive opinion discusses the power of congress to create courts to revise rolls of the five civilized tribes and sustains every contention made by the Assistant Attorney General in the Mary Ann Riley case.

Respectfully submitted,

W. W. Hastings
Attorney for the Cherokee Nation.

8-5-06

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedman
of

BLUE & BULGER,
Attorneys for Applicants.

MCCOWAN & SERVER,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Lula Sanders, et al.

973

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1898.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

C.F.D. 973.

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

In the matter of the application of John Sanders, et al., to be enrolled as freedmen citizens of the Cherokee Nation.

Reply of Cherokee Nation to
Motion to Reopen.

The record in this case shows that John Sanders made application to be enrolled as a freedman citizen of the Cherokee Nation for himself and members of his family on July 1, 1901, and that on June 30, 1905, said application was denied by the Commission to the Five Civilized Tribes and on October 26, 1905, the decision of June 30, 1905, was affirmed by the Secretary of the Interior. The letter of the Secretary of the Interior (I.T.D. 9864-1905), dated October 26, 1905, states:

"The Department concurs in said recommendation and the Commission's decision is hereby affirmed in so far as it rejects said applicants."

Referring to the recommendation of the commissioner of Indian Affairs of date August 4, 1905 (LAnd 50921-1905), we quote as follows:

"The record shows that the principal applicant was the slave of a Cherokee citizen at the beginning of the War of the rebellion; that he removed from the Cherokee Nation during the war and although afforded ample opportunity does not establish by satisfactory evidence that he returned to the Cherokee Nation on or before February 11, 1867."

The record further shows that the applicant was represented by Mellette and Smith, eminent attorneys, Mr. Mellette being at present United States District Attorney for the western District of Indian Territory, and Mr. Smith being equally as prominent an attorney, and the record further shows that in addition the applicant was represented by L. T. Brown as agent, and the record further shows that the application was originally made by the applicant on July 1, 1901, and no decision was rendered until June 30, 1905, or four years thereafter and, as said by the Commissioner of Indian Affairs in reporting upon said case, ample opportunity was afforded the applicant to secure and introduce testimony in his case.

The applicants now file a motion to reopen upon five grounds, the first being that it is contrary to the decision of the Court of Claims in

the case of Moses Whitmire versus the Cherokee Nation. This we deem it unnecessary to argue inasmuch as that decision holds that freedmen applicants must return within the time prescribed by the 9th Article of the Treaty of July 19, 1866.

The second objection is that the decision of the Secretary of the Interior of date October 26, 1905, is against the evidence. There is no merit in this objection inasmuch as the Commission to the Five Civilized Tribes, the Commissioner of Indian Affairs and the Secretary of the Interior all passed upon the evidence in this case and all agree that the applicants should be rejected.

The fourth ground is that the applicant has newly discovered evidence and this we will consider in connection with the fifth ground, wherein he alleges the names of three persons by whom he expects to prove the facts set fourth in his motion. In other words, his motion is as to newly discovered evidence.

The Cherokee Nation objects to the motion to reopen:

First. Because said motion is not sworn to by the applicant.

Second. There is no evidence of any diligence on behalf of the applicant in the procurement of testimony and as held by the Commissioner of Indian Affairs ample opportunity was afforded this applicant to procure any testimony he might desire.

Third. There are no accompanying affidavits of the facts which the applicant claims that he can prove by the witnesses whose names are embodied in the motion.

Fourth. The testimony of these witnesses would be merely cumulative.

Fifth. There is no merit in the application of the applicant to be enrolled as a freedman citizen of the Cherokee Nation, and therefore none in the motion.

Sixth. All of the alleged witnesses are residents of the Creek Nation and not of the Cherokee Nation, and there is nothing to show that they are in position to know the facts set up in the motion.

In the Creek Allotment Case No. 49, Moore versus Larnay, it was held:

"The general rule is that a new trial or rehearing will not be granted on a mere showing that new evidence has been discovered. Doubtly

discovered evidence in order to be sufficient must possess the following requisites:

- (a) It must be such as would probably change the result if a new trial is granted.
- (b) It must be discovered since the trial.
- (c) It must be such as could not have been discovered before the trial by the exercise of due diligence.
- (d) It must be material to the issue.
- (e) It must not be merely cumulative to the former evidence.
- (f) It must not be merely impeaching or contradicting the former evidence."

And in support of the finding in this case there was cited: 6 L. D. 9; 7 L.D. 136; 10 L.D. 483; 18 L.D. 31; 19 L.D. 543.

The reasoning in this case of Moore versus Larney is equally applicable to the case at bar and we believe that no court in the United States has held otherwise than that the affidavit for a rehearing upon newly discovered testimony must show:

First, diligence, and not only alleged diligence, but must show in detail what was done in the attempt to procure testimony, so that the court may pass upon the question of whether or not due diligence was used.

Second, attached to the motion must be the affidavits of the witnesses so the court might pass upon the admissibility and materiality of the testimony.

Third, that the testimony must not be cumulative, because if cases are reopened upon cumulative testimony no case would ever be decided, but after a final decision if one of the litigants could find another witness to support the witnesses he had theretofore introduced he would have his case reopened and remanded as many times as he could get an additional witness to testify upon the point in dispute.

Sustaining this contention we desire to cite the following cases decided by the Supreme Court of Arkansas:

Burris v. Wise, 2 Ark. 33, wherein the question of granting a new trial upon newly discovered testimony is gone into at length and the decisions of various courts cited; 2 Ark. 45; 2 Ark. 344; 5 Ark. 256; 8 Ark. 406; 10 Ark. 669; 11 Ark. 671; 13 Ark. 360, wherein the Court held:

"After going into the detail of the evidence claimed to be newly discovered by its relevancy we may say in general terms that such applications are to be received with caution, and this in proportion to the magnitude of the stake involved."

And the Court further holds in said case:

"No excuse or accident is stated to show that he might not have ascertained it by the exercise of reasonable diligence."

On the question of the requisites of a motion for a new trial we desire to cite the following additional authorities:

17 Ark. 403; 25 Ark. 89; 25 Ark. 334; 25 Ark. 380; 28 Ark. 121;
30 Ark. 724; 38 Ark. 514; 52 Ark. 120; 55 Ark. 312; 60 Ark. 481; 84 S. W.
728.

For the reasons hereinabove stated, we submit that the motion to reopen in this case should be denied.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

7-9-06.

Received 7-9-06.

Copy.

DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

In the matter of John Sanders et al.
Cherokee Freedmen claimants.

BEFORE THE ATTORNEY GENERAL.

BRIEF ON BEHALF OF CLAIMANTS IN SUPPORT OF John Sanders
MOTION HERETOFORE FORWARDED TO THE DEPARTMENT FOR RE-OPENING AND RE-
HEARING AND REVIEW OF John Sanders CASE

~~XXXXXXXXXXXXXXXXXXXX~~

The question which we desire to present for the present is the effect in law of the claimants being on what is known as the Kerns-Clifton Roll. This roll, as is well known, arose in the case of Whitmire, Trustee, vs. Cherokee Nation, 30 Court of Claims, pages 138 and 180. This suit was instituted pursuant to an Act of Congress approved October 1, 1890, which is sufficiently set forth in the case referred to without lengthening this brief with a copy of it.

The Court of Claims decided the main contention in favor of the Freedmen, but there arose in the minds of the Court a great deal of difficulty as to how to arrive at the identity of the claimants; so the Court in a decree entered May 8, 1898, decided that course of the Freedmen known as the Wallace Roll should be adopted, and the payment made thereby, and that decree accordingly adopted that roll as the means of arriving at the identification of the Freedmen.

The argument of the Court in contending that that was a proper roll certainly has some force in our contention that the Cherokee

Nation is estopped from attacking the Kerns)Clifton Roll. The Court, in sustaining the validity of that roll and its binding effect on the Cherokee Nation, says:

It appearing that the defendant, the Cherokee Nation, did not participate in the preparation of said roll, but that ample opportunity was afforded to do so, it is therefore adjudged and decreed that its refusal to do so is as effective as if it had actually taken part in the preparation of said Wallace Roll, and it is concluded thereby."

In the meantime the Cherokee Nation had decided to take an appeal from the decision in the case and subsequently filed motions for a rehearing and new trial as well as an application for an appeal to the Supreme Court. While the Court was considering these motions a consent decree was entered on February 3, 1896. This decree may be found on page 70 of the Sixth Annual Report of the Commission to the Five Civilized Tribes to the Secretary of the Interior for the fiscal year ending June 30th, 1899.

Now, the only change of any material fact made in this new decree was the elimination of the Wallace Roll and the substitution of the Roll of 1880. Now, this decree stands in full force and effect. It has never been done away with, changed or modified. The Cherokee Nation and the United States were parties to the suit, in which it was made, and the claimants herein were parties and were put on a roll approved under the direction of that decree. The decree authorized the Court to find and adjudicate ^{the} rights of Cherokee Freedmen in law and in equity in and to all property of the Cherokee Nation, that is, their right to share in the distribution of the funds then in litigation and also as well in the future distribution of any land money or other property of the Nation. After deciding then what rights the Freedmen had, there follows this provision:

"And it is further adjudged and decreed that the claimants in this suit and those whom they represent, being the freedmen and free colored persons aforesaid and their descendants living and in being on the 3rd day of May, 1896, are entitled to participate hereafter in the common property of the Cherokee Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage

may be entitled, and that in the distribution of the proceeds and the avails of the public lands or common property of the Cherokee Nation among the citizens thereof, by distribution per capita, at any time hereafter, the defendant, the Cherokee Nation, and the defendant, the United States, as trustee of the Cherokee Nation, be enjoined and prohibited from making any discrimination between the Cherokee citizens of Cherokee blood and parentage and Cherokee citizens who are freedmen, who had been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents at the date of said treaty, or who returned within six months thereafter, and their descendants, to the prejudice of the latter."

It will be noticed that the persons protected there are "The complainants in this suit and those whom they represent, being freedmen and free colored persons, aforesaid."

A similar expression occurs in the paragraph below, which refers back, naturally, to "the complainants in this suit."

It was therefore necessary to determine who were the just claimants in that suit, and in determining this, a roll was to be made, which was to be part and parcel of the decree itself. Says the Court:

Such payments to be made upon a roll of said freedmen and free colored persons and their descendants, as prepared and approved by the Secretary of the Interior, in accordance with the provisions herein set forth in this decree.

And it is further ordered and adjudged that for the purpose of ascertaining and determining who are the individual freedmen of the Cherokee Nation now entitled to share in the distribution of said sum, etc."

Again, it says:

"The said Commission in ascertaining the identity of the freedmen entitled to share under this decree shall accept what is known as the authenticated Cherokee Roll, etc."

The Commissioners, being three in number, were composed of one person representing the freedmen, one representing the Cherokee Nation, and one representing the United States. They made this roll and it was approved by the Secretary of the Interior, and the payments made thereon. Our clients were on that roll. They were persons whom those Commissioners ascertained as freedmen entitled to share under the decree. They were judicially found to be complainants in this suit, and not only were they entitled to share in the distribution of the funds then in controversy, but they shared in the injunction mentioned in that decree, which enjoined the

Nation and the United States from making any discrimination between them, complainants in that suit and citizens of Cherokee blood. They are as much the sharers in that decree as their names had been mentioned with plaintiffs in that suit, and the injunction had said that the Nation and the United States were enjoined against discriminating against *John Sanders* and her descendants.

These people were judicially declared to be citizens of the Cherokee Nation and freedmen; they were, judicially declared to be entitled to all the rights which they got under the treaty of 1866. It was the valid judgment of the Court saying that they had brought themselves under the provisions of the treaty, and were entitled to all the rights and privileges of it, and therefore that the Cherokee Nation and the United States were forever enjoined from keeping them out of the provisions of such treaty. The only exception made was that the person who should make application to go on the roll should not have forfeited or abjured his citizenship at the date of the entering of the decree. Not only was this roll made and entered under the decree of the Court and approved by the Secretary of the Interior, but the Cherokee Nation was participant in its making. Its representative was present, cross-examined witnesses, with the amplest opportunity of presenting testimony, and contesting the rights of every person claiming to be entitled as a freedman to citizenship and rights of the Cherokee Nation. It is therefore estopped in contesting the rights of the claimants to share in the lands and moneys of the Cherokee Nation. It is true that in the latter part of the paragraph quoted, there is a definition of what class of freedmen became Cherokee citizens; but that goes back to the expression, "claimants in this suit and those whom they represent", and it was provided in the decree how the Commission should determine who came within that definition, and the placing of a man's name on that roll brought him within the jurisdiction, and his name being on that roll, approved by the Secretary of the Interior, he became, by virtue of the decree of the

Court, a citizen, within the terms of the decree, and within the terms of the law, and with his citizenship so adjudicated, no court or law could go behind it, until that ~~judgment~~ adjudication is in some way modified or set aside.

We do not believe therefore that Congress intended by the Cherokee treaty to go behind the roll, but even if it did, Congress could not disturb the judgment of that Court.

Wade on Retroactive Laws, Sec. 172, page 203, says: "The rights secured to either party of a suit by an adjudication of the matter in controversy between them or proprietary rights which the Constitution will protect.

"The rights secured by the judgment are such as the law gives to the prevailing party when it is rendered. To materially enhance or diminish these rights is to work a deprivation of the rights of one or the other of the parties. In *Atkinson vs. Dunlap*, 50 Me., 111, notwithstanding a previous conflicting decision by the same Court, it was held that a statute allowing previously adjudicated cases in which existing remedies had been exhausted and the judgments had become final by the expiration of the time limited for appeals or reviews, and was manifestly unconstitutional, citing 2 Me., 273 and 15 Pa. St. 187".

Contra, *Henderson & Nashville R Co. vs. Dickerson*, 17 B.

Mon. 177, the same author in the same section, 171, says, in discussing the case that it "was decided prior to the adoption of the 14th Amendment to the National Constitution/ otherwise the objection might have been noticed that the re-opening of a controversy in which final judgment had been rendered amounted to a law depriving the judgment-creditor of property without the due process of law..... The eye of the court seems to have been so firmly fixed upon the supposed hardships under which the failing party labored -- of having no opportunity which other litigants had, to correct any errors that may have been committed' -- that it overlooked the wise principle which gave the legislature plenary control over final judgments. The constitutional provisions referred to were insufficient to protect judgments, final and inclusive, under the law as it existed at the time of their rendition, because there was no appeal, then

they would be insufficient to secure the rights of judgment-creditors after affirmance by the Court of last resort.

"Litigation would have no end so long as the legislature maintained the power to re-open a case in which possible errors might have been committed. 'The law of the land' instead of being the law as it existed when the rights under it accrued, would mean nothing more permanent than the transient caprice of the legislature. These bodies ordinarily find sufficient occupation in correcting their own errors without undertaking to rectify those committed by the Courts and Juries. A judgment-creditor may by legislative tergiversation be kept out of his own for an indefinite period of time, and he will not be permitted to enforce his judgment until the ~~jurisdiction~~ legislature has grown tired of granting appeals to his adversary."

In Hill vs. Sutherland, 3 Vt., 370, "it was held that legislative act giving the right of appeal from the decision of road commissioners was void, as applied to an award already made, under a law as it existed at that time."

"Legislature cannot interfere. The power to open or vacate judgment is essentially judicial. Therefore, on the great constitutional principle of separating the powers, it cannot be exercised by the legislature. While a statute may indeed declare what judgment shall in future be subjected to be vacated, or when or how or for what cause, it cannot apply retrospectively to judgments already rendered, and which had become final and unalterable by the court before its passage. Such an act would be unconstitutional and void on two grounds; first, because it would unlawfully impair the fixed and vested right of the unsuccessful litigant; and, second, because it would be an unwarranted invasion of the province of the judicial department."

Black on Constitutional Prohibitions, Sec. 197, pages 250, 251, 252, says:
I

"If the legislature cannot invade the province of the courts by imposing upon them, by retroactive statute, the necessity of adopting a different interpretation of an existing law from that which they had already placed upon it, it follows, a fortiori, that the legislature cannot directly control the actions of the courts by setting aside their judgments or ordering a reconsideration of adjudications they have duly and formally reached. Hence, an act of the legislature awarding a new trial in an action which has been decided in a court of law is unconstitutional. Thus it was said by Chief Justice Gibson: 'If anything is self-evident in the construction of our Government, it is that the legislature has no power to order a new trial, or to direct the court to order it, either before or after judgment. The power to order new trials is judicial, but the power of the legislature is not judicial. The legislature has gone no farther than to order a rehearing on the merits; but it is not

more tolerable in principle to pronounce an arbitrary judgment against a suitor than it is injurious in practice to deprive him of a judgment, which is essentially his property, and to subject him to the vexations, risks and expense of another contest. Hence, it will appear that a statute of this character is not only a practical assumption of judicial power, but also is obnoxious to the provisions guard vested rights from invasion, and is therefore properly within our subject, and objectionable because of its retroactive effect upon past transactions'".

Section 198, pages 252 and 253: On the same principle it is held that the legislature has no constitutional power to grant a party litigant a right to appeal or writ of error, in a case where no such right extended judgment was pronounced, or where the right had been definitely forfeited."

Section 199, page 253: "In accordance with the principle already announced, it is well ruled that a statute authorizing the opening of judgments rendered since a certain anterior date, impairs vested rights and infringes in the judicial department of the Government."

Merrill vs. Sherburne, 8 Amer. Dec. 52 52.
Stanford vs. Berry, 15 Amer. Dec. 691.
Ratcliffe vs. Anderson, 31 Gratt, 105, 31 Amer. Rep. 716.
Willingly vs. George, 5 Colo. 80
Hewitt vs. Colorado Springs, 5 Colo. 184.
Burch vs. Hewberry, 10 N. Y. 374.
Snyder vs. Palmer, 32 Wis. 406.
Denny vs. Matton, 5 Allen, 479, 79 Amer. Dec? 784
Martin vs. So. Salem Land, No. 26, S.E. 591
Penn vs. Wheeling, etc., Bridge Co., 18 How. 421.
Story vs. Runkle, 32 Tex. 398
1 Freeman on Judgments, Sec. 90
Smith Stat. and Const? Law, Sec. 340
6 Amer. and Eng. of Law, p 1038, 2nd Ed.

In the case of McCullough vs. Commonwealth of Virginia, 172 U. S. 102, L Ed., 382, Mr. Justice Brewer, who delivered the opinion of the Court, makes this very clear statement of the law, which we think has equal application to the legislature of Congress:

"But there are more suitable reason than this for not entertaining this motion. At the time the judgment was rendered in the Circuit Court of the City of Norfolk, the Act of 1882 was in force, and the judgment was rightfully entered under the authority of the Act. The writ of error to the Court of Appeals of the state brought the validity of that judgment into review, and the question presented to the Court was whether at the time it was rendered it was rightful or not. If rightful, the plaintiff herein had a vested right which no state legislature could disturb. It is not within the power of the legislature to take away rights which have been once vested by a judgment. Legislation may act on subsequent proceedings, but when these actions have passed into judgments the power of the legislature to disturb the rights created thereby ceases."

Black's Constitutional Law, page 259, Sec. 99, goes even farther, and says:

"But a case which has been submitted for a decision to a Court of Records is not subject to any control of the legislature.

Lanier vs. Gallatus, 15 La. Ann. 175.

Sutherland on the Statutory Construction, p 628, Sec. 480 is strong and conclusive:

"When a right has been perfected by a judgment, the fruits of recovery cannot be diverted by a new legislation, nor subjected to new hazard by reviving a new right to appeal or some other mode of review."

Congress can no more pass laws which have the effect of diverting vested rights than can the state legislature.

This inhibition was imposed by the 5th Amendment to the Constitution, which declared that no person should be deprived of his property without due process of law.

Wade on Retroactive Laws, Secs. 156, 157, 264
Steamship Co. vs. Joliffe, 2 Wall., 480
Memphis vs. U. S. 7 Otto, 293.
7 Lawson's Rights and Remedies, Sec. 3850
Black on Const. Prohibitions, Secs. 176, 183, 207
Sutherland on Statutory Constitutions, Sec. 480
3 Amer. and Eng. Enc of Law, pp. 756--760, 2nd Ed.
The Society, etc., vs. New Haven, 8 Wheat, 493.
Wilkinson vs. Leland, 2 Peters, 657
Ferguson vs. Williams, 13 N. W. Rep. 49.

In the case of Watson vs. Mercer, 8 Pet. 88, and Settlelee vs. Matthewson, 2 Pet. 380, do not contravene this.

These cases arose under state laws, and at the time they were denied there was no clause in the Constitution of the United States prohibiting the states from passing laws that had no other effect than to divert vested ~~laws~~ rights. No such decision would now be rendered since the 14th Amendment to the Constitution. Nor would have any such been made had the act under consideration in these cases been passed by Congress, for it was forbidden, as we have & see them,

from passing laws diverting vested rights. In other words, there was nothing in the act involved in these cases in violation of the Constitution of the United States as it then stood, and that was the only error the Court could pass on.

Wade on Retroactive Laws, Sec. 159, 191, 261.

Claimants further contend in support of their cause that the Dawes Commission, the Cherokee Nation, and the Secretary of the Interior, was without authority or jurisdiction, as deduced from the language of Sec. 572 11(21) of the Curtis Bill, approved at the second session of the 55th Congress, June 28th, 1898, and styled, "An Act for the protection of the people of the Indian Territory and for other purposes," to make inquiry, by way of testimony or otherwise, beyond ascertaining the identity of claimants upon the Kerns-Clifton Roll, and of funds thereon to farther ascertain if their said names had been placed thereon by fraud, or without authority of law. Paragraph of said section provides that said Commission shall make a roll of Cherokee Freedmen in strict compliance with the decree of the Court of Claims, rendered on the 3rd day of February, 1896. As shown by the record in the case of claimants herein their names appear upon said roll, but no where in said record, as shown by the testimony, is the name of claimants herein, having been placed thereon by fraud or without authority of law.

Therefore, in conclusion, we submit that the rights of claimants arise upon a question of law, and not one of fact, except those heretofore mentioned under the provisions of the Curtis Bill; and that the Dawes Commission, the Cherokee Nation and the Secretary of the Interior would be now estopped from discriminating against the rights of these applicants, under the provisions of the law herein cited, and they are therefore entitled to be enrolled

-12-

as citizens of the Cherokee Nation, with all the vested rights of a
Cherokee citizen of Cherokee blood.

Respectfully submitted,

A. S. M. R.
Att'y for claimants.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of John Sanders for the enrollment of himself, his wife and seven children as Cherokee Freedmen; said Sanders being sworn and examined by Comm'r. T. H. Needles, testified as follows:

- Q What is your name? A John Sanders.
Q How old are you? A I guess I am about 55 or 60 years old.
Q What is your post office address? A Miles.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Judge it ought to be on.
Q On what roll? A On the Wallace roll and Kern-Clifton roll.
Q It was never on the roll of 1880? A No, sir.
Q Who do you want to enroll besides yourself? A Myself and family.
Q How many family have you got? A I have got seven children.
Q Wife? A Yes, sir.
Q You want to enroll your wife and seven children then?
A Yes.
Q What is your wife's name? A Lula Sanders.
Q How old is she? A I don't know, I got the paper here to tell
(36.)
Q Lee, is he the oldest? A Yes, sir.
Q Lee A.? A Yes, sir.
Q How old is he? A 13.
Q Next one Maud? A Yes, sir.
Q How old is Maud? A I don't know.
Q 12 isn't she? A Yes, sir.
Q The next one is neoma? A Yes, sir.
Q She is nine isn't she? A Yes, sir.
Q Next Ethel? A Yes, sir.
Q Eight years old; Viola? A Yes, sir.
Q Six years old? A Yes, sir.
Q Clarinda? A Yes, sir.
Q Two years old; is that right? A Yes, sir.
Q Milton? A That is mine bit isn't by this wife, I can't enroll
him.
Q Saphronia? A Yes, sir.
Q Saphronia is six months old? A Yes, sir.
Q Are these children all living at this time? A Yes, sir.
Q Born and raised in the Cherokee Nation? A Yes, sir.
BY MR. HOWE:
Q Were you a slave of a citizen of the Cherokee Nation at the beginning of the war? A Yes, sir.
Q To whom did you belong? A Thomas Pettit.
Q Was Thomas Pettit a Cherokee Indian by blood? A Yes, sir.
Q Did you leave this country during the war? A Yes, I did.
Q When did you return? A I returned back here in '65, Mr. Brown.
Q Where have you lived ever since? A Lived in the Cherokee
Nation.
Q Do you own a farm upon the public domain of the Cherokee Nation?
A Yes, sir.
Q Have you ever voted in the Cherokee Nation? A I have.
BY COM'R NEEDLES:
Q Why isn't your name on the roll of 1880? A I don't know, Judge, why I ain't, it ought to be; I have not every enrollment there has been here.
Q Did you draw money for any of these children? A No, sir.
Q Draw for yourself? A Yes, sir.
Q Draw for your wife? A No, sir.

The 1880 Anthoniest & Hall and 1880 Census & Roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.

John Sanders, et al:--2.

The Kern-Clifton Roll of freedmen of the Cherokee Nation examined and a name of applicant found thereon, page 172, #4241, John Sanders, Coowascoowee District.

Q Why didn't you draw for these children? A I could not draw for them, they wasn't upon the rolls; I went to enroll them and they would not enroll them by some means or another.

Q Is Lula the mother of all these children? A Yes, sir.

Q Is she a citizen? A Yes, No, sir.

Q What proof of marriage have you got? A Nothing but witnesses.

Q Who married you? A Uncle Frederick Martin.

Q Is he living? A No, sir, he is dead.

BY MR. DAVENPORT:

Q John, you say you were married in the Cherokee Nation?

A Yes, sir.

Q About what year were you married? A I could not tell you, Mr. Davenport.

Q When did you leave the Cherokee Nation do you remember?

A I left the Cherokee Nation.

Q During the war or before the war? A I left here when the war broke out.

Q Where did you go? A I went from here to Fort Smith.

Q How long did you stay at Fort Smith? A I stayed at Fort Smith; I don't know just exactly how long I did stay there, Mr. Davenport.

Q Well, about how long? A May be six or nine months.

Q Well, where did you go from Fort Smith? A I went to Van Buren.

Q How long did you stay at Van Buren? A Eight months.

Q Well, where did you go from there? A I went to Sculliville.

Q That is in the Cheataw nation? A Yes, sir.

Q How long did you stay there? A I don't remember, Mr. Davenport, how long I stayed there.

Q Well, did you stay one or more than one year? A I can't keep up with dates.

Q When you left Sculliville where did you go?

A Come back to Fort Smith.

Q Well, then how long did you stay at Fort Smith that time?

A I stayed there at Fort Smith often and on until the closing of the war.

Q And then what did you do? A That was, peace was made; no I went to Joplin, Missouri.

Q That was before Peace was made or after peace was made?

A That was after peace was made.

Q Well, how long did you stay at Joplin, Missouri?

A Some two or three weeks.

Q And then what did you do? A I went to Emporia.

Q Emporia, Kansas? A Yes, sir.

Q How long did you stay at Emporia? A About two weeks.

Q When you left Emporia what did you do?

A Went back home.

Q Whenever that you got back home? A I don't know just exactly what year it was.

Q It was after the war? A Yes, sir.

Q Well, now, about how old were you when you were at Emporia, Kansas, after the war? A I could not tell you that.

Q You are about 55 now? A Yes, sir.

Q Well, now, since the war where have you been living?

A In the Territory here, except in and out.

Q In the Territory, in the Cherokee Nation? A Yes, sir.

Q Well, now, what about that ten or 12 years you lived at Marshallville in the Creek Nation? A Never lived there.

Q Are you the same John Sanders who applied to the Kern-Clifton Commission? A Yes, sir.

Q Haven't you got children named Lee, Emma and Hand? A Yes, sir.

Q Didn't you make application before the Kern-Clifton Commission

John Sanders, et al.—3.

to have them enrolled besides yourself? A Yes, sir.
Q Didn't you state in your application that you went to Marshallville and lived ten or 12 years? A No, sir.
Q Well, now, did you live at Marshallville ten or 12 years in the Creek nation or Choctaw nation? A I used to go to here to Camp Meeting; I never lived over there.
Q Don't you know a man by the name of Buck Brady that lived over there? A No, sir; I know a man by the name of Buck Brady that lived at Fort Gibson.
Q You never lived over there? A No, sir, I might have gone over there and stayed two or three weeks at a time.
Q How far is Marshallville from Fort Gibson?
A As near as I can come at it, it must be between nine and ten miles.
Q Well, now where have you lived in the Cherokee Nation since the war, what places? A Why Fort Gibson and Vinita.
Q How long did you live in Vinita? A I have been in Vinita off and on.
Q Well, now, not off and on, how long have you lived any one time?
A I guess I have lived between 24 and 25 years.
Q Continuously? A Yes, sir.
Q What part of Vinita did you live in? A I don't live in Vinita now.
Q How long since you lived at Vinita? A About 14 years.
Q You lived there about 24 years prior to that time?
A As near as I can come at it, I won't be positive.
Q You lived there before the war? A No, sir; I will be/
Q Besides that? A Vinita wasn't there before the war.
Q You think you lived there about 20 or 24 years in Vinita?
Q Yes, sir.
Q Near whom did you live? A I lived right there in town.
Q Didn't you see anybody there you knew? A Yes, sir.
Q Well, who was it? A Mr. Trott.
Q Bill Trott? A Yes, sir.
Q Norma Daniels, was he living there? A Yes, sir.
Q And Jim Thompson? A Yes, sir.
Q Did you come there before Jim Thompson did?
A I guess I went there before; I don't know whether Jim Thompson was there, but a fellow was living there by the name of Giley Thompson, I ought to know him; he was a Cherokee Indian.
Q Now, where were you married? A I married up on Cabin Creek.
Q Near what place? A Near the old Jenkins place.
Q Where was Lee born? A On the Duncan place.
Q Where was Maud born? A She was born on the same place.
Q Where was Neoma born? A She was born on the same place.
Q Ethel? A She was born on the Bob Ironside place.
Q That is southwest of Vinita? A Yes, sir.
Q Are these children all living? A Yes, sir.
Q When was the first time you ever saw Rufus Miller?
A I was raised up with Rufus Miller.
Q Well, after the war? A In '66.
Q That was before you left Emporia, Kansas? A I didn't live in Emporia, Kansas; saw him in '66 at Fort Gibson.
Q You answered me you had gone to Fort Smith and from there to Van Buren and from Van Buren to Sculliffille? A I said that.
Q When you were at Emporia, Kansas, after having gone from Fort Smith, Arkansas, how long after the war was it?
A After I came back to Fort Gibson?
Q No, while you were at Emporia, Kansas? A I wasn't up there more than two or three months.
Q How long after the war was it? A I don't know, I can't keep dates or nothing of the kind.
Q How long after the war was it when you were at Neosho, Missouri?
A I never was at Neosho.
Q How long after the war was it when you were at Van Buren, Arkansas?
A That was before the war.

John Sanders, et al.--4.
Exhibit

Q RUFUS MILLER, being duly sworn by Commissioner T. B. Needles, testified as follows: BY MR. BROWN.

Q State your name? A Rufus Miller/
Q Age? A Between 53 and 55.

Q Post office address? A Centralia.

Q Do you know the applicant, John Sanders? A I know him, but I don't know him when he was a slave before the war of Sanders.

Q You know him during the war did you? A No, sir, I know him before the war.

Q To whom did he belong ~~before the war~~ at the beginning of the war? A Jim Pettit.

Q Jim Pettit a Cherokee citizen? A Yes, sir.

Q Do you know anything about his whereabouts in 1866? A Yes, sir, he was at Fort Gibson.

Q Where has he lived since then? A He lived around Gibson there a good while.

Q About how many years? A Seven or eight years.

Q Have you seen him occasionally since that time?

A The next time I seen him was here at Vinita and never seen him nowhere else only around home.

BY MR. DAVENPORT:

Q Now, Rufus, what year was it you saw him at Vinita?

A It has been a good long.

Q Well, what year? A I don't recollect what year it was; it was eight or ten years ago.

Q Was he living in Vinita at that time? A No, sir, I don't think he was, I think he was living up on Pawpaw.

Q You hadn't seen him since just after the war, until you saw him at Vinita? A It was along in '74 I think I seen him alone at Fort Gibson.

Q You think this man was at Fort Gibson from the close of the war up to '74? A No, he was here off and on.

Q How near did you live to him while you were about Fort Gibson? A He was around down there.

Q There was a great many people there? A Yes, sir.

Q Do you know what became of him during the war? A No, sir.

Q Have you ever been convicted of any offense?

A Yes, sir.

Q What offense? Larceny.

Q By the Cherokee Courts? A Yes, sir.

Q What district? A ~~Some~~ Going Snake

BY COM'R NEEDLES:

Q When was the first time you saw this man after the war?

A In '66, along about February.

Q Did you serve a sentence for that conviction of larceny?

A Yes, sir.

LEWIS WHITMIRE, being sworn by Commissioner Needles, testified as follows: BY MR. BROWN:

Q State your name. A Lewis Whitmire.

Q Age? A 42.

Q Post office address? A Hayden.

Q Are you a recognized citizen of the Cherokee Nation?

Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A Yes, sir.

Q Do you know the applicant, John Sanders? A Yes, sir, I have known him a long time.

Q Did you know him before the war? A Yes, sir.

Q To whom did he belong? A Belonged to Jim Pettit.

Q Was Jim Pettit a Cherokee citizen by blood?

A Yes, sir.

Q Do you know whether John Sanders went out of the country during the war or not? A I don't know whether he did or

John Sanders, et al.--3.

Q When did you see him for the first time after the close of the war? A It was in the summer of '66 when I seen him first after he went out.

Q Do you know anything about his whereabouts since then?

A Well, I see him every once in a while since that time in the Nation here.

Q In the Cherokee Nation? A Yes, sir.

BY MR. DAVENPORT:

Q Where was that you saw him in the summer of '66? A It was in Fort Gibson.

Q You had known him before the war had you?

A I knowed him in the war, when he was a bit of a boy.

Q About how old was he when you saw him in '66?

A I could not tell how old he was, I could not recollect, about from the first time I saw him I had forgot all that.

Q How old did he look to be? A He looked to be 17 or 18 years old in '66 when I saw him; he was a young man.

Q Well, now, about what time of the year was it you saw this boy there? A It was along in the summer.

Q About what month of the year? A It was in August, the last trip I drove a team for the Government.

Q That was after you had come down that trip with Sam Webber and located a place up here on Big Creek? A It was before I went right on back to Fort Scott and came again.

Q You came with Sam Webber that time? A Yes, sir.

Q Now, didn't you and Sam Webber come in July and located those places down there? A I never testified that I was with Sam Webber in July, but I didn't testify that I was with him in the fall.

Q Didn't you testify that you came with Sam Webber in July and went back and moved your family back in August? A I didn't testify I came with him in July, I testified that I came with him in the fall, latter part of the summer when he came.

Q Then you didn't testify that you came down with Sam Webber and located those places in '65? A I didn't tell him I came in July.

Q Well, what time of the year was it you came with Sam Webber and you located your places on Big Creek and went back?

A I told you it was in October or November, if I don't make any mistake.

BY COMMISSIONER NEEDLES:

Q That is the time you came first? A Yes, sir, that is the time I came down and located the places; had my father, me and Dennis and my brothers.

Q Don't you know anything about this man after you seen him in Fort Gibson? A I don't know anything about him until I seen him two or three years after ~~that~~ we came back and settled and I seen several times.

Q You were down to Fort Gibson frequently after you came to Big Creek? A Yes, sir, after I moved there I didn't go into that country every once in a while.

Q Well, when you moved your family down? A I didn't move my family down I married at Tablequah.

Q You didn't have any family until after you came down here?

A I didn't have any family, I was stopping with my people, with kinfolks.

POSSY GWYN, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Polly Gwynn.

Q How old are you? A About 60.

Q Do you know John Sanders, the applicant? A Yes, sir.

Q Do you know his wife? A Yes, sir.

Q What is her name? A Lou Sanders, she is my daughter.

Q Were they ever married? A Yes, sir.

John Sanders, et al.--6.

- Q How do you know? A I faced them.
Q Where were they married? A At my house.
Q Who married them? A Fred Martin, a preacher.
Q How long ago has that been? A About 15 years ago.
Q Have they been living together as man and wife ever since?
A Yes, sir.
Q How many children have they got? A Seven.
Q Were they all born since they were married? A Yes, sir.

JOHN SANDERS, the applicant, recalled:

- Q What is the reason your name is not on the roll of 1860? A I could not tell; neither can I tell the reason my children is not on the latter roll; I have had good show to have my name on there, I can't say what is the occasion for it.
Q You could not draw your Kern-Clifton money for your children?
A No, sir.
Q Your wife is not a citizen? A No, sir.
Q You apply for her as a citizen by intermarriage?
A Yes, sir.

COM'R MEMBERS: John Sanders applies for the enrollment of himself and seven children, to wit: Leo, Maud, Ora E., Ethel, Viola, Clarinda and ~~Sandra~~ Saphronia. He cannot be identified upon any of the rolls of the Cherokee Nation now in the possession of this commission except the Kern-Clifton roll. The names of his wife and children are not found upon any of the rolls. He is identified upon the Kern-Clifton roll according to the page and number of the roll as indicated in the testimony. He avers that he was married about 15 years ago to his present wife, a non-citizen. He avers that he was a slave belonging to one Thomas Pettie, a citizen of the Cherokee Nation, and that he returned to the Cherokee Nation in 1865 and has been a continuous residence of the Cherokee Nation ever since. His children were all born in the Cherokee Nation and are all now living. He said John Sanders and seven children, as enumerated herein, will now be listed for enrollment as Cherokee Freedmen upon a doubtful card.

His wife will be listed for enrollment as a Cherokee Freedman by Intermarriage upon a doubtful card. He makes satisfactory proof as to his marriage. He will be notified by mail of the action of the Commission when the same is arrived at.

MR. DAVENPORT: The Representatives of the Cherokee Nation offer a certified copy of a decision of the Supreme Court of June 28th, 1871, regarding colored citizens of the United States marrying colored citizens of the Cherokee Nation.

---00000---

J. O. Rowson, 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. Rowson

Subscribed and sworn to before me this 17th day of July, 1901.

[Signature]

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
JOHN SANDERS, ET AL., as Cherokee Freedmen, introduced on part of
the Cherokee Nation.

Appearances:

Mellette & Smith, Vinita, I.T., Attorneys for Appli-
cants;
Mr. W.W. Hastings, Cherokee Representative.

J. A. THOMPSON, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. HASTINGS:

- Q What is your name? A J. A. Thompson.
Q What is your age, Mr. Thompson? A 51.
Q Where do you live? A Vinita.
Q How long have you lived there? A I have lived there ever
since '71 or '8.
Q When was the town started? A At that time.
Q You have lived there ever since the town started? A Yes, sir;
my father and Mr. Boudinet built the first house that was built
there.
Q And then you have been there ever since? A Yes, sir.
Q Been in business there part of the time? A Yes, sir.
Q Do you know this applicant, John or Jack Sanders? A Yes, sir.
Q Did you ever know him to live in Vinita? A No, sir.
Q Where did you know him? A I knowed him there at Vinita, out
in the country; he never did live in Vinita.
Q When did you know him to live in the country? A I have been
knowing him al ong ever since 1873 or 4.
Q Well, ha he lived out there since 1873 or 4 in the country?
A He lived out about Timbered Hill.
Q You don't know where he continued to live? A No, sir.
Q He never lived in town? A No.

MR. MELLETTE:

- Q How far did John Sanders live from Vinita? A I don't know
exactly where he lived.
Q What was his post office? A No, I expect Bluejacket would have
been his post office, he lived near Timbered Hill.
Q Timbered Hill is ten or 12 miles from Vinita? A Yes, sir, and
Bluejacket is ten or 12 miles.
Q Well, you didn't know all the colored people that lived in that
country did you? A No, sir; not all of them.
Q You knew that this man never lived in the town of Vinita?
A I never saw him there to be living there.
Q You don't pretend to say though that you knew all the colored
people that li ved in Vinita? A I don't know; a long time ago
people was mighty scarce in that town that lived there.
Q Do you still live in Vinita, Mr. Thompson? A Yes, sir.
Q You don't know all the colored people that live there now, do
you? A No, sir

M. DANIELS, being duly sworn, testified as follows on part
of the Cherokee Nation.

MR. HASTINGS:

- Q What is your name? A M. Daniels.
Q What is your age? A 57 years old; Vinita post office.

Q How long have you been at Vinita? A I lived there part of the year 1873 and then I came back in 1877 and I have lived there continuously since; that has been my home.

Q Do you know an applicant by the name of John or Jack Sanders?

A I know Jack Sanders.

Q Did he ever live in the town of Vinita, that you knew of?

A No, sir.

Q Were there many people there when you went there in 1874?

A No, 1873, there were just a few people there.

Q Started in 1872? A Yes, sir, I think so; wasn't a great many people when I went there in 1877.

Q You never knew him to live in the town of Vinita? A No, sir;

Q You are acquainted with all the older settlers there? A Yes, sir, I was acquainted with all the old settlers at that time.

Q When did you learn to know this man Sanders? A About ten or 12 years ago.

Q Where was he then? A He came in there trading, I was working in a store.

Q You have worked in a store most all of that time?

A Yes, sir, up until 1896 I was probably out two or three years at different times.

MR. MCELLETTER:

Q Where did he live, Mr. Daniel, when you first knew him there?

A The first time I knew him having a home was at his present home, out on Papaw.

Q Where is that? A About ten miles from Vinita.

Q How long has that been? A I could not say as to that; it has been seven or eight years to my knowledge.

Q You don't know how much longer he has lived there? A No, sir.

BENJAMIN NAVE, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HASTINGS:

Q What is your name? A Benjamin Nave.

Q How old are you? A 40 years old the 12th day of next October.

Q Do you know John or Jack K Sanders, an applicant here for enrollment as a Cherokee Freedman? A Yes, sir.

Q Where does he live now? A Live up on Pawpaw up close to Vinita.

Q Did you ever ride as a marshall, or deputy marshall? A Yes, sir.

Q Did you ever have occasion to serve a subpoena or summons upon this man? A Yes, sir. I think we summoned him once from Scullyville to Fort Smith.

Q Who served it? A Me and Mr. Cobb.

Q Where did you serve him? A I guess he was living where they directed us to go and find him.

Q That was in Scullyville in the Choctaw Nation? A Yes, sir.

Q It is west and south? A Yes, sir; I believe they called it either 19 or 21 miles west and south of Fort Smith.

Q You remember when that was? A Yes, sir, it was the second year after the Wallace payment.

Q Well, that was about 1890, wasn't it; 1890 was the payment, do you remember? A Why I just don't exactly remember it, we went right on to Fort Smith from the payment.

MR. MCELLETTE:

Q Well, now, I isn't it a fact that he has been living up about Vinita since 1872? A Why, No, sir, not altogether I don't reckon

Q Has he been about there at all? A Yes, sir; living up there now

Q When did you first see him up about Vinita?

A Been about ten years ago.

Q That was before you subpoenaed him down in the Choctaw Nation?

- A No.
- Q Why you said so, you said first year after the Wallace payment you subpoenaed him? (No response.)
- Q Well, now, didn't you sit here and hear Mr. Thompson say he had been up there staying a good many years? A H, sir, I ain't saying what Mr. Thompson said, I am telling you what I know.
- Q Did you subpoena him at Scullyville? A The man I was riding under.
- Q How do you know? A I was with him.
- Q How far is Scullyville from the line of the Cherokee Nation? A It is quite a little distance.
- Q Not exceeding five miles? A There may be one place it is about five miles.
- Q The Arkansas river is the line between the Cherokee Nation and Choctaw Nation? A Yes, sir.
- Q And Scullyville isn't to exceed five miles from the line of the Cherokee Nation? A Yes, sir, I think the nearest you can get to the river from Scullyville could not be under eight miles.
- Q Where did you find him when the Deputy summoned him at Scullyville? A At Scullyville, if you know about the place.
- Q I do, I know it well? A It was right west and south.
- Q On the road? A No, sir, he was at the house, little log hut after the summons was read to him he come over to Fort Smith and he found out I was from the Territory and he asked me then about some relatives he claimed he had up here; man by the name of John Sanders he said and a woman on Four Mile Branch.
- Q You have been a witness in a great many cases before the Commission for the Cherokee Nation? A Not more than ten.
- Q Are you in the employ of the Cherokee Nation? A I am to-day.
- Q Have you been before this in the employ of the Cherokee Nation in its work before this Commission? A Yes, several times.
- Q What have you been doing? A Witness.
- Q Anything else? A No, sir; yes, served notice on some people.
- Q Did you make a trip for them up in Kansas and hunt some witnesses? A Not altogether.
- Q Well, did you partly? A Yes, sir.
- Q You assisted the Cherokee Nation in hunting up testimony in the State of Kansas? A Yes, sir.
- Q Did you get pay for it? A I ain't yet; I am before I die.

---000000000---

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

J. Kessen
Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 19, 1902.

In the matter of the application of John Sanders and others for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-973.

Applicants appear by Mellotte & Smith.
Cherokee Nation represented by W. W. Hastings.

W. W. HASTINGS, being first duly sworn, testified as follows:

My name is W. W. Hastings; postoffice Tahlequah; I am one of the representatives of the Cherokee Nation. I take the stand for the purpose of showing that this case comes within the injunction recently made by Judge Gill, Judge of the Northern District of the Indian Territory, and for the purpose of showing that this John Sanders' name does not appear upon what is known as the Kerns-Clifton Roll.

MR. SMITH: Applicant objects to the statement of the witness because the same is incompetent, irrelevant and immaterial, the purpose of the witness not being the subject of inquiry.

COMMISSION: Objection will be noted; proceed, Mr. Hastings. In 1898, when the Kerns-Clifton roll was made I then, as now, was one of the representatives of the Cherokee Nation in the making of that roll. At that time there were two John Sanderses who appeared before the Commission, as the records which I now have in my possession and which were made then by and under my direction, show.

MR. SMITH: The applicant objects to the reference made to records because no records have been offered and because it does not appear that the matters referred to by the witness are in any sense records.

This applicant, John Sanders, applied before the Commission, and his number was 60. At the time he applied he applied for four children as well. He applied under the name of Jack Sanders and the four children that he applied for at that time were given by him as Leander, Maud, Naomi and Esthel. This Jack Sanders was rejected by the Commission at that time. He was also rejected by the Commission as the mark upon my record indicates when the Commission met for the purpose of making the roll.

MR. SMITH: The applicant at this time objects to all of the foregoing statement and moves to strike the same because it appears to be given from private memoranda of counsel for one of the parties hereto who was counsel at the making of the Kerns-Clifton Roll, and because the said memoranda are in no sense records and cannot be used for the purpose of proving or attempting to prove any issue in this case.

MR. HASTINGS: I know that those records or memoranda are correct. I know from them, and am able to swear positively, that this same Jack Sanders was rejected for the reason that I had it marked rejected, and the word is written in my own handwriting. It was starred, which was an indication given by the Commission at that time that the case was rejected. On the top of the page is a star and an "R" for rejection, which was used by the Commission when it made up the roll itself to show that that family was rejected. From these same records it appears that John Sanders, another applicant, applied in case No. 352. My records show that this second John Sanders was admitted by the Commission. My records further show that this second John Sanders' mother was Fannie Sanders or Fannie Caro-

id, and while it does not show from my record, I understand that that name appears upon the roll of 1880. The first John Sanders that was rejected gave the name of his mother in 1896 as Amy Pettit, and from the name of his mother and the names of his children I am able to absolutely identify this man who was rejected as the applicant John Sanders who now applies and is placed upon D. card 973. As I stated in the outset, the Cherokee Nation contends that this case comes within the injunction granted by Judge Gill; that this John Sanders has taken the enrollment of another John Sanders, and he is not entitled to this enrollment, and for this reason this testimony is given.

MR. SMITH: The applicant objects to all of the above testimony and to the statement with regard to the contention of the Cherokee Nation, and moves to strike the same because it is incompetent, irrelevant, immaterial, does not tend to prove any issue in this case, and because the same is not the best evidence.

MR. HASTINGS: I desire to state in addition, to show the admissibility of the above testimony, that through this commission I have endeavored to get a copy of the original testimony taken by the Kerns-Clifton Commission, and I have been advised that the Commission was unable to secure it from the Department and it is not there, and therefore we contend that the secondary testimony, refreshed from the records which I have now indicated, is admissible in this case.

MR. SMITH: Without waiving any of the objections heretofore made, counsel for the applicant cross-examines.

Q Mr. Hastings, these books which you have referred to here are not records are they? A Well I don't know what - I don't know whether you would define them as records or not. They are perhaps local records made under the direction of the Commission.

Q Well they are more nearly your books as attorneys than they are records? A Well they were as complete records as we could keep, and after we got through we turned them over to the Cherokee Nation, have been kept there in the Executive Department along with the rest up to this time.

Q At the time you made or caused to be made those books which you have mentioned in your testimony what was your relation to the Cherokee Nation? A I was one of its attorneys.

Q You were counsel, employed? A Yes, sir.

Q The Cherokee Nation was a party - one of the parties - and the Freedmen as a class the other parties to the enrollment that was made by the Clifton Commission was it not? A Yes, sir, the colored people as individuals in their separate individual cases.

Q Then any notes or memoranda which you kept for your information at that time was not in any sense a record was it? A Well I have explained to you, and the Commission will clearly understand my testimony that's already in there and the value they have, and I don't know that it would make any difference as to what you would call them technically, a record or not. I will say that these were made at that time and that when the witnesses come in and appeared why we didn't have a stenographer; Judge Keys took down as rapidly as he could as much of the testimony of the witnesses as he could, and this shows it.

Q Will you take the book which you have at page 78 and No. 60; who wrote that? A J. K. Keys, he was associate counsel of mine, and right at the end of it is a star, which indicates that the Commission told us that they would reject that case right there, and it is marked rejected at the bottom of that page 78. It is also marked rejected on the top of page 72.

Q What's your handwriting? A The star and "R" above is written by one of the members of the Kerns-Clifton Commission; the word rejected and star on that page is written by myself.

Q None of these books from which you have testified were books made

by the Commission? A None by the Commission; they were kept by the attorneys for the Cherokee Nation.

Q For the Cherokee Nation? A Yes, sir.

Q Now you say that the star and "R" at the top of page 72 on your docket was made by some member of the Commission? A Yes, sir.

Q You can't state that it was made by the Commission or that it was the action of the Commission? A It must have been the action of the Commission.

Q Well, was it? A I think it was; I think it must have been, yes, sir.

Q Well now when a star was made hadn't you examined the roll which was made by the Kerns-Clifton Commission afterwards, and hadn't you found a number of cases where stars were placed where the same people were enrolled? A Yes, sir, I have found them, and they were clearly fraudulently enrolled by them, and after they had told us that they rejected a person we never put any witnesses in that case and supposed that the Commission went on and rejected those people; but in this case they didn't enroll them because this star and "R" above shows that the Commission rejected them.

Q Well that star and "R" above, you don't know when nor where it was put upon that book? A Well I know that it was put upon there by a member of that Commission when they were in St. Louis making up that roll.

Q The testimony, Mr. Hastings, was taken, all of it, in the Cherokee Nation, was it? A Yes, sir.

Q Now where were the rolls actually made up? A St. Louis.

Q Where were you when the rolls were made up? A I was in St. Louis one day and a half.

Q Were you present while they were making them up? A Yes, sir.

Q Did you see them place any John Sanders on the roll? A No, sir.

Q Then your testimony is from your records? A Yes, sir.

Q Or from your memoranda that you kept? A Yes, sir.

Q Where were these books at the time the Commission was making up this roll? A They had them in St. Louis. And this here star and "R" that they put there wasn't there when it went off and it was when it came back, and that is why I testify that they put it there, while it was in St. Louis.

Q Well can you testify who made that R? A Well it looks very much as if it had been made by Will Thompson, but I couldn't state that it was; but it was in the custody of the Commission, and in its custody and possession for their information.

Q But the fact that a star went down as an indication you had, as you suggested, that that case could be rejected by the Commission, wasn't valid; in other words people with stars indicating rejection would not enroll? A Sometimes they did, but in this case, Mr. Smith, it is absolutely conclusive that this man was rejected for the reason that none of the names of his children, Leander, Klud, Macie and Esthel, appear upon this enrollment, and only the name of John or Jack Sanders appears upon the Clifton Roll. Well now in the other case, which I have just now referred to, John Sanders's mother's name was on the 1880 roll and he didn't have any family, and this name here appears on the roll by itself, and all the records here show that they admitted that fellow. Now if there wasn't but the one - one John Sanders enrolled, and they admitted the other and they starred this man, and the record down here shows that they rejected him up in St. Louis, then I contend unquestionably, unless you prove it; that this man ain't on the rolls, and that's the reason why I think he got the enrollment of that man.

MR. SMITH: The counsel for the applicant objects to the last remarks of the witness, and moves to strike the same because it is not in response to any question that was asked, and the same is more of an argument.

Q Now Mr. Hastings, did you know of any persons applying who had any children left off, who were thus admitted? A Well I have

heard of it, but I don't remember the individual cases.

Q Wasn't it true that there were many instances where children who were alive and in being at the time of the application of the father or mother, and whom the law right to be enrolled with the father or mother, were left off? A I don't believe that it was true that they were all left off; I don't know of any case where they were all left off.

Q You don't know what clerical force made up the roll, who actually did the work of transcribing the names of a man and his family and children? A No.

Q Were you present at any time during the time the roll was made under the Kerne-Clifton roll? A No, sir, I don't believe I was present when a single man was paid; I went through St. Louis, I was present when this roll was made up there in St. Louis, went through the city, I went to Washington, and happened to be there a day and a half.

Q Do you remember James Sanders? A Yes, I know James Sanders. Q Do you know whether his children or any of his were left off? A No, sir.

Q Was he on '80 roll and wasn't he? A Think he is.

Q Do you know Eli Vashi, do you remember him? A Well I think I do.

Q Well do you remember whether Eli's children or any of his were left off? A No, sir.

Q Was he on '80 roll man? A I think he is; the records will show I was well-acquainted with him.

Q Don't remember that? A I think he is.

Q Well now Mr. Hastings, do you remember an independent fact that the John Sanders who applied in this particular case applied as Jack Sanders, or do you testify to that from the records? A I testify from the records which I absolutely stake my right arm on.

Q Well now in other words you don't remember all the persons as they came before the Commission? A No, not all of them.

Q Well you don't remember this one? A No, sir.

Q Don't remember when he applied or where? A No, sir.

Q Now take this page 78. A Yes, sir.

Q Who wrote that rejected? A I don't know.

Q Now take your memoranda or docket at page 72, who wrote the word rejected and the star under each the 11? A I did.

Q When did you do that? A Well I don't remember the exact date, but it was during the time of making that roll.

Q While the Commission was in the field? A Yes, sir.

Q Was it at the time the application was made? A Well it must have been, may have been not that day, but it was during the time of making the roll, I don't know just exactly when it was, but it was perhaps that night, we tried to keep up our books as rapid as we could; I don't know just the hour.

Q Now then did the Commission keep any records of who it rejected and who it admitted? A We had a stenographer that took down everything that transpired just like we have a stenographer here.

Q Well now take the star and "R" at the top of page 72, what was the necessity of putting that there after the case had already been rejected? A I don't know the necessity of it; I guess that that shows that they ran over those pages, for you will notice on every page now, they rejected that there fellow, and turn over to this page 72, which is James Hill, find they put Ad. for admission.

Q Who put that admission? A The Commission did.

Q Who wrote it? A I don't know.

Q When was it written? A Must have been written in while they was up there with the Commission because they wasn't there when these records went there, and it was there when they come back.

Q Now what is this? A Rest.

Q Do you have any idea, Mr. Hastings, how many of these numbers of cases that were rejected or starred, as is found in No. 66 on this docket, were afterwards enrolled upon that Kerns-Clifton Roll? A No, sir, I never counted them up.

Q Were there many or few? A I don't know about that; I wasn't at the payment and I don't know that I could say that I have much idea about who all were enrolled; I don't know who drew money except what I have heard until this enrollment business.

Q Now Mr. Hastings, the Cherokee Nation made payment under the Kerns-Clifton Roll didn't they? A Kerns-Clifton roll, yes, sir.

Q Do you know whether or not they paid this John Sanders, the applicant in this case? A I know they ought not to have paid him because I know he wasn't enrolled.

Q You don't know what they did do? A No, I don't know what they did, I know he was never enrolled.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the commission to the five Civilized Tribes he 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 21st day of May, 1902.

[Signature]
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mallette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

John Sanders, D 973;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

10
12
in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cherokee Freedman-D-973.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskegee, Indian Territory, April 6, 1908.

In the matter of the application for the enrollment of
John Sanders et al. as Cherokee Freedmen.

Applicants represented by W. J. Sullivan.

Cherokee Nation represented by W. W. Hastings.

COMMISSION.

On March 21, 1908 the applicants and the attorneys for the Cherokee Nation were notified, by registered mail, that the matter of this application would be taken up for final consideration by the Commission, at its offices in Muskegee, Indian Territory, on Thursday, April 6, 1908.

Now on this day comes the principal applicant, represented by his attorney, W. J. Sullivan, of Muskegee, Indian Territory, and the Cherokee Nation represented by its attorney, W. W. Hastings.

John Sanders, being duly sworn, testified as follows:

MR. HASTINGS:

- Q. What is your name? A. John Sanders. That is what they call me.
- Q. Don't you know your name? A. Yes sir.
- Q. What was your father's name? A. Mike Tuckaire.
- Q. How old are you? A. I don't know just how old I am, I can't keep any dates.
- Q. What is your best judgment as to your age? A. Well, somewhere along about 50 I reckon.
- Q. Were you born before the war? A. Yes sir.
- Q. Where did you live during the war? A. I was out of here with the soldiers two years and nine months during the war.
- Q. You gave your age at 50 or 60 when you were before the Commission before. Were you that old? A. I expect so.
- Q. How old were you when the war come up? A. I couldn't tell you.
- Q. Do you think you were as much as 15 years old? A. I couldn't tell you, Mr. Hastings. I don't want to say anything unless I knew it. I couldn't keep any dates, for I didn't have no education at all.

- Q. What is your best judgment as to how old you were when the war come up? A. I don't know, Mr. Hastings.
- Q. Now look here John, how old do you think you were when the war come up? A. Mr. Hastings, I couldn't tell you for I don't know.
- Q. I don't want you to tell me just exactly, but what is your best judgment about your age? A. I was about, I expect, 12 or 14 years old. I might have been older-- I don't know.
- Q. Where were you living before the war? A. At Fort Gibson.
- Q. Who owned you at the time the war come up? A. Tom Pettit was my master.
- Q. Where did he live? A. Right there by the bayou.
- Q. What direction from Fort Gibson? A. Don't you know where the bayou is? It is over that way.
- Q. What direction is "that way"? A. I would judge it to be a little southeast.
- Q. About how many miles from Fort Gibson? A. Well, it is not many miles-- about a mile or a mile and three quarters I guess.
- Q. What was Tom Pettit's wife's name? A. Aloy Pettit, my old mistress.
- Q. Are they living? A. No sir.
- Q. Did they have any children? A. I declare I don't know whether they did or not. It seems to me that there was one on the place there.
- Q. You do not know as to that do you? A. No sir, I couldn't speak that.
- Q. You couldn't speak that? A. No sir.
- Q. Was there mote than one on the place? A. Do you mean colored children?
- Q. No, I mean Cherokees, that belonged to your master and his wife? A. No sir, not that I remember of at that time.
- Q. What was your mother's name? A. Liza.
- Q. Did Tom Pettit own your mother when the war come up? A. Yes sir.
- Q. What became of your mother? A. She went to Texas.
- Q. Who did she go with? A. I tell you I don't know. I went off with the soldiers before she left.
- Q. Were you there with Tom Pettit when the war came up? A. Yes sir.
- Q. But you claim that you run off to the war? A. I run off when the soldiers left there.
- Q. Was that at the beginning of the war? A. Tes sir.
- Q. Where did you go? A. North.
- Q. Where to? A. To Kansas.
- Q. Near what place in Kansas? A. Columbus-- near where Columbus is now. Up about Baxter Springs.
- Q. Did you stay in the army until the war was over? A. Yes sir.
- Q. Where were you disbanded? A. Between Little Rock and Fort Smith.
- Q. You were not married at that time? A. No sir.
- Q. Near what town were you disbanded? A. I believe it was called Roseville. I believe that is it, but I wouldn't say for certain, Mr. Hastings.
- Q. How long did you stay there? A. That was in the fall, or winter rather--- I don't know just exactly how long I did stay there, but I got home before Christmas.
- Q. Where did you call home then? A. Fort Gibson. I got in there about three weeks before Christmas.
- Q. Did you find your mother at Fort Gibson when you got there? A. No sir.
- Q. Who did you go to live with? A. I went there and went to work for the government.

- Q. Didn't you have no place that you stayed over night at? A. Yes sir, I had a place.
- Q. Who did you live with? A. A blacksmith by the name of John Bean.
- Q. Where did John Bean live? A. On this side of Fort Gibson. I worked there for him.
- Q. Was he a colored man? A. I guess he was. He passed for a black man.
- Q. You know don't you? A. Yes sir, but some people called him a nigger.
- Q. Did he have a wife? A. Yes sir.
- Q. What was her name? A. I believe her name was Cosby. As near as I can recollect, Mr. Hastings, that was her name.
- Q. And they were living there when you first came back? A. I don't know whether they were living there when I come back.
- Q. And you worked for him before you went to work for the government? A. Did I say that?
- Q. Yes? A. Well, that is the way of it then.
- Q. How long did you work for the government? A. About 7 or 8 years.
- Q. Continuously, all the time? A. Yes sir.
- Q. Where did you stay at at night? A. I had a little shack of my own.
- Q. You don't mean to say that when you were just a young man you stayed out in a house by yourself? A. Yes sir.
- Q. Where was this house? A. Right over from the fort. Kinder south of the fort.
- Q. Who lived right near you? A. At that time there wasn't any one living right close to me.
- Q. What was the nearest neighbors to you? A. The nearest one was George Washington.
- Q. He is dead, is he not? A. I believe he is.
- Q. How near did he live to you? A. Between two and three hundred yards.
- Q. Where did you eat? A. In my little shack.
- Q. You cooked and ate your own cooking? A. Yes sir.
- Q. You were just a young man, 18 or 19 years old? A. I could not tell you just my age.
- Q. On which side of the ravine south of the garrison did your shanty stand? A. Right down on the edge of the ravine.
- Q. On which side of the road-- to the east or west -- did your shanty stand-- on that road going down from the garrison? A. It set off to the left there.
- Q. Is that on the east or west side? A. I would call it east. It was more towards the east than it was south.
- Q. And you claim that you stayed there by yourself, slept, cooked and ate there for 7 or 8 years? A. I didn't say that I stayed right in there.
- Q. You were working for the government weren't you? A. Yes sir.
- Q. Under whose command did you work? A. Col. Hill I believe was his name.
- Q. What position did he occupy? A. I said Col. Hill.
- Q. What kind of work did you do? A. I transferred, hauled hay, etc.
- Q. Did George Washington, that colored man, have any family? A. There were some women there but I don't know whethof they were his family. I knew him very well, for I come to Gibson with him, but I didn't know the women folks.
- Q. You knew him so well that you came there with him and never got acquainted with the names of the members of his family? A. No sir.
- Q. Who else lived around there that would know that you lived in Fort Gibson-- who knew that you lived there the first few years

- after the war --- who can identify you? A. Let me see if I can think of any now. One man was name Rufus.
- Q. Yes, that is the man you had here before. He has been convicted of larceny.

(Objected to because the record shows all that).

- Q. Give us somebody who knows that you lived there? A. Convicted of larceny-- Mr. Hastings, what is that?
- Q. Stealing. Give us somebody else that knew you? A. Dennis Vann.
- Q. Was he living in Fort Gibson at that time? A. Yes sir.
- Q. Don't you know that Dennis Vann never lived in Fort Gibson? A. He was living on Spring Creek. I saw him there.
- Q. Did he live in Fort Gibson? A. I saw him there.
- Q. Did you ever see Dennis Vann before the war? A. No sir.
- Q. How long after the war was it till you saw him? A. I saw Dennis, it was in the spring after peace was made in the fall.
- Q. Peace was made in the fall was it? A. To the best of my recollection.
- Q. What year is this? A. I don't know.
- Q. Do you know one year from another? A. I knows it when I hears somebody say it, and I don't know only what they say.
- Q. Don't you know anybody that lived at Fort Gibson that knows that you lived there directly after the war. Can you mention any other one Cherokee? A. There was old Col. Lewis.
- Q. Lewis who? A. Just Col. Lewis. He was a white man. He lived there.
- Q. Was he in the army? A. I don't know that.
- Q. Do you know whether he was an officer in the army or just a man living there? A. I don't know.
- Q. Who was keeping stores in Fort Gibson after the war. A. I believe Mr. Flinch had a store there, and there was an old settlers store.
- Q. Was anybody selling goods down there? A. Yes sir.
- Q. Who? A. I believe his name was --- I am honest, I have forgot his name.
- Q. You lived there 7 or 8 years you claim and you don't know any man that sold goods there? A. No sir, just like I am living at Vinita and I don't know any man that keeps a store up there.
- Q. Where did you get what you ate? A. It was issued out to us.
- Q. Was it issued out to you all the time you lived there? A. No sir, not all the time.
- Q. How long was it issued out to you? A. I don't remember.
- Q. Was it one or five or six years? A. I don't know.

(We object to that because it is argumentative and calls for a conclusion of counsel:)

- Q. How long? A. It might have been one or six years.
- Q. Do you know any one single solitary person who lived in Fort Gibson that knows that you lived there the first few years after the war? A. Yes sir.
- Q. Who? A. Mrs. Brady.
- Q. What Mrs. Brady? A. Tom Brady's mother. Tom Flinch.
- Q. Yes, they are both dead. And you lived in the ravine-- away off from everybody? A. Yes sir.
- Q. What kind of a house did you have? A. A little shackly shack.
- Q. Was it a frame house or what? A. It was made of planks.
- Q. Where did you get the planks? A. I picked them up around there.
- Q. You had a bed in there? A. Yes sir.
- Q. Where were you married? A. I was married in the northern

- district.
- Q. What District? A. Cooweescoowee District.
- Q. What was your wife's name? A. Lula Guinn.
- Q. Who married you? A. Uncle Fred Martin.
- Q. Where were you married --- in what town? A. Close to the town of Vinita.
- Q. What direction from the town of Vinita? A. A little northwest.
- Q. How far? A. Well, about ten miles, I guess, Mr. Hastings. I couldn't say positive.
- Q. At whose place? A. I believe the man's name was Jenkins.
- Q. White man or colored? A. Neither one I don't think.
- Q. When were you married? A. I don't know.
- Q. About how long after the war was it till you were married? A. I couldn't tell you that. I have been married -- I believe it will be 20 years this coming Christmas.
- Q. Just after your marriage where did you go to live? A. I lived right there on that place.
- Q. How long did you live there? A. I believe I made one or two crops there.
- Q. That was about ten miles northwest of Vinita? A. Yes sir.
- Q. Then where did you go? A. I went up the creek about a mile and a half.
- Q. What creek? A. Cabin.
- Q. In whose place did you live there? A. Mrs. Bly's.
- Q. How long did you stay there? A. One year.
- Q. Then where did you go? A. To Galena, Kansas.
- Q. What did you do there? A. Worked in the lead mines.
- Q. Who did you work for there? A. I worked for Jim Abby.
- Q. Where did you live while you were there? A. I stayed at Mrs. Pemberton's son-in-law's.
- Q. Who was Mrs. Pemberton? A. I don't know.
- Q. Did you ever see them in this country? A. No sir.
- Q. How long did you work in the mines? A. I worked in the mines there, off and on, for about two years, maybe three, Mr. Hastings.
- Q. Then where did you go from Galena? A. I come back here.
- Q. Where? A. About twelve and a half miles northwest of Vinita.
- Q. You come directly back to that place? A. Yes sir, well, I made one crop on the Ironside place, and then moved right where I am.
- Q. When you left Fort Gibson where did you go? A. To Vinita.
- Q. Did you go to the town? A. No sir.
- Q. How did you go? A. Horse back.
- Q. Was there any town at Vinita then? A. I believe there was.
- Q. Had you ever been to Vinita before? A. Yes sir.
- Q. Before you went up there that time? A. Yes sir.
- Q. When was the first time you were ever in Vinita? A. The first time I was ever in Vinita there was no Vinita. There was just a little old house there.
- Q. Was that while you were staying at Fort Gibson? A. Yes sir.
- Q. Did you stay at Vinita after you left Fort Gibson? A. I stayed west of Vinita.
- Q. Where did you go to when you left Fort Gibson? A. To where Hayden post office is.
- Q. To whose place did you go? A. I went out there to --- I went into the Wright settlement. I didn't go to nobody's house.
- Q. You just stayed around on the prairie? A. No, I didn't graze around there.
- Q. Whose house did you go to? A. To the Wright settlement.
- Q. To whose house? A. Aaron Wright's.

- Q. Did you know Aaron Wright before the war? A. No sir. I knowed Lewis Whitmire.
- Q. Why didn't you know Aaron? A. I was with Lewis more than Aaron. I hardly know Aaron now when I see him.
- Q. You said you went to his house? A. Yes sir, I did.
- Q. How long did you stay? A. All night.
- Q. How long did you stay around Aaron Wright's? A. I never stayed there but one night.
- Q. Then where did you go? A. Down in the settlement.
- Q. Down to whose place? A. I went to my daddy's house.
- Q. Who was your daddy? A. Mike Whitmire.
- Q. How long after the war was it that you saw him? A. I believe it was a year--- it might have been two years.
- Q. Did you ever see your mother after the war? A. Yes sir.
- Q. Where did you see her? A. On Four Mile Branch.
- Q. At whose place? A. She was on her own place.
- Q. What name did she go by after the war? A. Thompson I believe.
- Q. What was her husband's name? A. Arthur Thompson.
- Q. When did your mother die? A. I don't know, sir.
- Q. How long did she live after the war? A. I couldn't tell you that.
- Q. Are you positive that you saw her after the war? A. Yes sir.
- Q. Where did you see her after the war? A. Out there at a man's place by the name of Wilson, living on Four Mile Branch.
- Q. What was Wilson's name? A. I don't know his other name. I always called him Mr. Wilson.
- Q. Is he living there now? A. I don't know.
- Q. If you were living at Fort Gibson and you lived within a few miles of her don't you know what became of her? A. No sir.
- Q. Did you ever hear she was dead? A. No sir.
- Q. You never made any inquiries about her? A. No sir.
- Q. She may be living now? A. She may be.
- Q. And yet you don't know? A. No sir.
- Q. And she was living with a man by the name of Arthur Thompson? A. Yes sir.
- Q. After you went up into the Big Creek country, and stayed all night with Aaron Wright, and went on to some other place, how long did you stay there? A. I stayed a right smart while.
- Q. How long? A. About 6 or 8 months.
- Q. Where? A. At my daddy's.
- Q. Why didn't you hunt up your mother? A. I expect I was like a good many others --- couldn't get back in there to hunt her up.
- Q. How far did she live from Fort Gibson? A. About four miles.
- Q. And you lived in the town? A. I didn't say my mother was living there when I lived in the town.
- Q. When did you see your mother out there---? A. I never saw my mother out there till --- I couldn't tell you what year it was, Mr. Hastings.
- Q. Was it after you had gone up above and come back or was it before you went up there? A. It was after I come back.
- Q. You are positive though that you saw her out there after the war? A. Yes sir.
- Q. And she was then living with Arthur Thompson? A. Yes sir.
- Q. Where did you go after you stayed with your father 6 or 8 months? A. I come down to Tobe Bean's.
- Q. Had you ever seen him before? A. Yes sir.
- Q. Where did Tobe live? A. Down on Grand River, close to Grand River.
- Q. On which side of Grand River did he live? A. I believe on the north side of Grand River.
- Q. What was Tobe's wife's name? A. Jane.

- Q. Are you certain about that? A. I always called her Aunt Jane.
- Q. How long did you stay there? A. I made a crew with Uncle Tebe.
- Q. How many years after the war? A. I don't know.
- Q. How many years ago has it been? A. 20 years ago.
- Q. Where did you go from Tebe's? A. I married there. I made a crew and married.
- Q. What did you do with all the rest of this time? A. Well, I was a young man and used to cook around. I worked for Mr. Hawk, and for Mrs. Ely.
- Q. Were you ever in Joplin, Missouri? A. Yes sir.
- Q. Before or since you married? A. Since.
- Q. You are sometimes known as Jack Sanders aren't you? A. Yes sir.
- Q. You slipped in and drew another John Sanders' Kerns-Clifton money didn't you?

(Objected to for it calls for a conclusion.)

- Q. You never drew any K.C. money for your children? A. No sir.
- Q. You enrolled them? A. Yes sir.
- Q. There was just one John Sanseda on the roll and you drew the money? A. Yes sir, I drew the money under the name that I enrolled under.
- Q. Your children do not appear on any roll? A. None but one.
- Q. What was its name? A. Ethel.
- Q. Did you draw for it? A. No sir.
- Q. None of the others were on the roll? A. No sir.
- Q. And you can't give me the name of any person, white or black, that knows that you lived in and about Fort Gibson during these years right after the war? A. No sir.
- Q. Not one? A. Not unless Mr. Boudinot is living.
- Q. Was he living at Fort Gibson then? A. Yes sir, he lived in a double log house in Fort Gibson.
- Q. Don't you know that he never lived there in his life? A. Yes sir he did, and Ann Thurman lived there.
- Q. You know that none of them are living now? A. No sir, I didn't know that.
- Q. You don't know whether your mother is dead or living do you? A. No sir.
- Q. How do you come to be called Jack Sanders? A. I must tell you now that you have asked the question, and it went matter now, but being as you are so well acquainted with Mr. French and the rest of them. Mr. French and Grabe Lewis was keeping a little store, and one day there come a man in there from Texas. Mr. French was drunk. The man from Texas wanted some tobacco, and Mr. French called up yellow boy, and said "Yellow boy go around there and get him some tobacco". And this man said he nigger could go behind a counter and wait on him. I said "Don't cuss me, mister", and he said where he lived they killed niggers for breakfast. And I told him he might kill me but he couldn't eat me. Mr. French told him to take the door or he would put a hole through him that a rabbit could jump through. That man said "Meet me out on the west side of this house", and I went out to meet him. Mr. French had a gun and he shot this man. I left home and stayed off to keep any one from knowing where I was, and Mr. French written to me under the name of Jack Sanders.
- Q. Where did you go? A. I went to Wyoming Territory and stayed 3 or 4 months.
- Q. How did he know where to write to you? A. I told him where I was going. We fixed it up together.
- Q. That year was that? A. A man's name.

- Q. Then you didn't go from Fort Gibson up to Aaron Wright's? A. Yes sir.
- Q. Then this was after that? A. Yes sir.
- Q. Some eight or ten years after that? A. Yes sir.
- Q. And that is how you changed your name? A. Yes sir, he done it.
- Q. What had you always gone by before that? A. John Pettit. I have had lots of names. Yellow Boy, Jack Sanders, John Sanders, and some called me Soace.
- Q. Why didn't you take your proper name after you come back? A. I did. I told them I was John Sanders.
- Q. That wasn't your proper name, was it? A. No sir, but it was the name I was known by best. My right name would be John Whitmire. When I makes out any papers I makes them out as John Sanders.
- Q. Did that man die that French shot? A. No sir.

COMMISSION:

- Q. You applied under the name of John Sanders? A. Yes sir.
- Q. You applied for your wife, your children, and yourself? A. Yes sir.
- Q. What are the names of your children? A. One is named Lee A. Sanders, one is Maude, and Ethel, and Naomi,----
- Q. Has that child ever been called Ora? A. Yes sir Ora Naomi but we nickname her, Fiola, Clerinda and Mary Saffronia.
- Q. Are those children all living today? A. Yes sir.
- Q. These children claim their right through you, only? A. Yes sir.
- Q. They do not claim any right through their mother? A. No sir.
- Q. She is a state woman? A. Yes sir, from Tennessee.
- Q. She claimed by intermarriage? A. Yes sir.
- Q. Did you know a Cherokee citizen by the name of Jim Pettit? A. It seems like I ought to know him.
- Q. Do you know Lewis Whitmire? A. Yes sir.
- Q. Is he any relation to you? A. I suppose he is some distant relation. We are all related some way to my father. I never heard anybody say, but they all belonged to one man?
- Q. Whose slave were you? A. Tom Pettit's.
- Q. Lewis Whitmire says that you were the slave of Jim Pettit. How about that? A. I don't know, sir.
- Q. Who is your attorney now --- have you got a lawyer? A. Yes sir I have got one.
- Q. Mr. Smith? A. Yes sir.
- Q. Is Lewis T. Brown your lawyer? A. I never did employ him.
- Q. Were Mallette & Smith your attorneys? A. Yes sir.
- Q. Do you want Mr. Sullivan's name entered as one of your attorneys? A. Yes sir, if it is agreeable to him.
- Q. What was your mother's name? A. Lina.

WITNESS RECUSED.

This case will be continued, by consent and agreement, to April 20, 1905, at 9:00 o'clock A.M.

Eula Jeanes Dranson, 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 6th. day of April, 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 Dranson

Subscribed and sworn to before me this the 12th. day of April, 1905.

Myron White
Notary Public.

Cherokee Freedman-D-973.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 20, 1905.

In the matter of the application for the enrollment of
John Sanders et al. as Cherokee Freedmen.

This case coming on for hearing on this day, April 20, 1905
the applicants represented by attorney, W. J. Sullivan, of Muskogee,
and the Cherokee Nation represented by Bell, Hastings & Davenport.

Witnesses for the applicant.

John Sanders, being duly sworn, testified as follows:

MR. SULLIVAN:

- Q. State your name? A. John Sanders.
Q. Are you the same John Sanders that applied at Nowata in July,
1901? A. Yes sir.
Q. You are the same John Sanders that testified in this office on
the 6th. of April? A. Yes sir.
Q. Do you know Benjamin Have? A. No sir.
Q. On March 4, 1902, at Muskogee, I.T., a witness by the name of
Benjamin Have was sworn, and testified that he served a subpoena
on you in Skullyville, Choctaw Nation, and brought you to Fort
Smith. Is that true? A. No sir.
Q. Were you ever served with a subpoena in the Choctaw Nation? A.
Yes sir, I was served with a subpoena, but I was arrested in
Cooweescoowee District.
Q. I said were you ever served with a subpoena in the Choctaw
Nation? A. No sir.
Q. Then when this man Have says he served you with a subpoena of
summons in Skullyville and took you to Fort Smith, he swore
something that wasn't true? A. Yes sir, he did.
Q. Did you ever draw any money from the Cherokee Nation? A.
None only the Strip money.
Q. Did you draw the Strip money? A. Yes sir.
Q. How much was it? A. \$184.74 I believe-- somewhere along
there.
Q. Did you draw any money when they made the payment at Hayden?
A. No sir, I didn't get it when they had the payment, but I
got it afterwards.
Q. That is what is known as the Strip money? A. Yes sir.

MR. HASTINGS:

- Q. What is your mother's present name? A. Alberty, I believe.
Q. Don't you know what your mother's name is? A. Do you mean
what you might call her maiden name?
Q. What is your mother's name today? A. Her name is Lina.

- Q. What else? A. Alberty I think is her husband's name.
Q. What Alberty? A. I don't know. I don't know whether they call her Alberty or Thompson.
Q. Where do they live? A. Over there on Four Mile Branch.
Q. I thought you said the other day that she was dead? A. No sir, Mr. Hastings, you said that.
Q. When did you see her last? A. About two weeks ago.
Q. When had you seen her before that? A. When had I seen her before that?
Q. Don't ask me the question over. I see that we are setting in for a weeks conversation. When had you seen her before you saw her two weeks ago? A. I saw her about two years ago. If you would give me a little time I would answer your questions.
Q. What became of you during the war? A. I was around considerable during the war.
Q. Where did you go? A. I guess I must have went off with the soldiers.
Q. Where did you join the soldiers, and when? A. I didn't join them at all. I went off with a pretty good squad.
Q. Who did you go off with? A. I went off with my mother.
Q. I thought you said the other day that you didn't go off with your mother? A. I didn't say that.
Q. Didn't you say that you were not out of the Cherokee Nation at all? A. No sir. If I told you that, Mr. Hastings, I told you a lie.
Q. Where were you during the war? A. I was at several places.
Q. Here we go on our weeks conversation. Who did you go off with? A. I went south with the emigrants, I guess.
Q. Didn't Blue Alberty take you to Texas? A. I don't recollect.
Q. You were too small to remember? A. I don't know.
Q. Where did your mother go? A. She told me that she went south.
Q. Didn't she go to Texas? A. Yes sir.
Q. Did you go with her? A. Yes sir, she took me with her.
Q. You remained there all during the war? A. I don't know. I come back here.
Q. When did you leave Texas? A. I couldn't tell you.
Q. How long did you stay in Texas? A. I couldn't tell.
Q. Did you stay a year? A. I couldn't tell.
Q. Did you stay six days? A. I couldn't tell.
Q. Who did you come back with? A. By myself.
Q. Though you were too small to remember who you went down there with? How could you come back by yourself? A. I remember that all right.
Q. Near what town were you in Texas? A. I don't know.
Q. How did you come back -- on the railroad? A. No sir, there were no railroads then.
Q. When you went to Texas you were too small to remember who you went with, and then you came back by yourself. Did you come back in 1886? A. I don't know what year it was.
Q. You said you were arrested awhile ago. Where was that? A. It was in Delaware District.
Q. What were you arrested for? A. For disturbing public worship.
Q. Do you know Roland Hove of Vinita? A. Yes sir.
Q. You saw him down at Skullyville, in the Cheotaw Nation? A. No sir, I never did.
Q. When you came back from Texas where did you come to? A. When I come back from Texas, I believe the first place I come to was Fort Gibson.
Q. Right straight to Fort Gibson? What did you do at Fort Gibson when you got there? A. I loafed around there, and did a little work when I could get it to do.

- Q. You are the fellow that claimed that you stayed there eight or nine years in a little cabin down in the ravine? A. Yes sir.
- Q. Do you know George Pettit? A. Yes sir I know him.
- Q. Did you ever see him at Fort Gibson? A. Yes sir.
- Q. When did you see him there? A. I don't remember now when it was.
- Q. Why didn't you bring him here as a witness?

(We object to that. You don't know but what we have got him.)

- Q. Why didn't you bring him? A. I didn't know what witnesses I needed.
- Q. If he saw you there and knew that you were there why didn't you bring him? A. I didn't know what witnesses to bring.
- Q. I asked you who saw you there, and to bring somebody who had seen you there? A. I didn't know what kind of witnesses I had to have.
- Q. Do you know Alex Pettit? A. Yes sir.
- Q. Did you belong to his father? A. I didn't know Alex Pettit's father.
- Q. Do you know Alex Pettit? A. Yes sir.---Is he a black man?
- Q. Yes. Did he belong to the same family? A. No sir.
- Q. Have you seen him since the war? A. Yes sir.
- Q. Did you see him at Fort Gibson? A. I don't remember.
- Q. When did you first see your mother up around Fort Gibson after the war? A. I couldn't tell you that, Mr. Hastings. I don't like to tell you anything unless I knows it is the truth. I can't keep no dates, not having no education.
- Q. How many years after the war was it that you saw your mother? A. I couldn't tell you, Mr. Hastings.
- Q. Was it 40 years after the war? A. No sir.
- Q. Was it as much as 20 years after the war? A. I couldn't say that, either.
- Q. How long after you came back was it till you saw George Pettit? Were you ever at his house? A. I don't know whether I was ever at his house or not. I saw him, I don't know when it was. He was hauling freight.
- Q. Was that directly after you came back? A. I couldn't tell exactly how long.
- Q. Was it while you were living at Gibson? A. Yes sir.
- Q. How long had you been there? A. I don't know.
- Q. Was he any kin to you? A. He is my first cousin.
- Q. If he was your first cousin why didn't you go to see him? A. I think he was living away up northwest somewhere and not in Fort Gibson. He was hauling freight there.
- Q. You never was at his house there? Did they ever call you Henderson? A. Yes sir.
- Q. That was the name you went by before the war? A. I suppose so, that is what they said.
- Q. Did your mother have any other children? A. Yes sir.
- Q. What were their names? A. She had another girl-- named Liza.
- Q. Did she go south too? A. Yes sir.
- Q. Did she come back with you? A. Who?
- Q. Your sister, Liza? A. No sir, I left her there.
- Q. Hear what town in what County and State? A. I don't know.
- Q. Whose horse did you ride back? A. I rid my own horse that I have got now, and have always had--- my feet and hands.
- Q. You were too small to remember when you were taken down there, but you came back by yourself? A. Yes sir.
- Q. What towns did you come back through? A. I don't know.
- Q. Who came back with you? A. I told you awhile ago that I come

- by myself.
- Q. You never came through no towns? A. Yes sir, but I couldn't say what towns they were.
- Q. You came right to Fort Gibson? A. Yes sir.

COMMISSION:

- Q. When did you go to Kansas? A. I couldn't tell you that.
- Q. Was it before or after you went to Texas? A. After I went to Texas.
- Q. How long after you returned from Texas was it till you went to Kansas? A. I don't know how long it was.
- Q. Was it before the war ended? A. It was after I come from Texas, and I don't think I come from Texas till after the war ended.
- Q. Didn't you run off with the soldiers? A. I was around with the soldiers a good deal.
- Q. Didn't you go with the soldiers to Kansas? A. I went to Columbus.
- Q. When did you go to Kansas? A. After I come back from Texas.
- Q. Before the war ended? A. I think the war was ended, as well as I remember.
- Q. About the beginning of the war you went with your mother south somewhere? A. Yes sir.
- Q. And you came back to Fort Gibson before the war closed? A. I didn't say that. I think the war was closed when I come back.
- Q. How long did you stay there before you went up to Kansas? A. I guess six or seven years, maybe eight. I didn't keep no dates and don't know how long it was.
- Q. You stayed there six, or seven, or eight years, and then went north to Kansas with the soldiers? A. No, it don't seem like it was with the soldiers that time, but anyhow, I did go up there with the soldiers.
- Q. You testified two weeks ago today, didn't you? A. Sir?
- Q. You gave some testimony here two weeks ago today, didn't you? A. Yes sir, I reckon it is about two weeks ago.
- Q. Do you remember when the soldiers left Fort Gibson? A. Yes sir.
- Q. Was that after the war was over, or before? A. The soldiers were there after the war.
- Q. Did you go along when they went away? A. No sir, I think they stayed right there at the Fort all the time.
- Q. Two weeks ago today you testified in substance as follows: that you ran off when the soldiers left at the beginning of the war; and that you went north to Kansas, to Columbus and stayed with the army until the war was over; that you disbanded between Little Rock and Fort Smith, but that your mother had gone south and that you didn't go with her-- do you remember stating that two weeks ago? A. I don't remember saying that I didn't go with my maw.
- Q. Was it correct if you did say it? A. I might have said it, but if I did I don't know it.
- Q. You remember stating that you ran off with the soldiers and went north to Kansas? A. Yes sir, I remember that.
- Q. You stated at that time that your mother went south, and that you did not go with her-- that you went north. Didn't you state that? A. I don't remember that I did.

MR. SULLIVAN:

- Q. Did you know Mr. Hastings, the attorney for the Cherokee Nation?

WITNESS EXCUSED.

Liza Williard, being duly sworn, testified as follows:

MR. SULLIVAN:

- Q. What is your name? A. Liza Williard.
Q. How old are you? A. I am about 44 I reckon-- 44 or 45. I don't know just exactly.
Q. Do you know John Sanders-- the man that has just left the room? Yes sir.
Q. Is he kin to you? A. Yes sir.
Q. What kin? A. He is my brother.
Q. Were you a slave of a Cherokee citizen when the war came up? A. Yes sir.
Q. Who owned you? A. Tom Pettit.
Q. Was John Sanders a slave? A. Yes sir.
Q. Do you know who owned him? A. Tom Pettit.
Q. Do you and John Sanders have the same father and mother? A. Yes sir.
Q. You were owned by the same man? A. Yes sir.
Q. And his name was Pettit? A. Yes sir, Tom Pettit.
Q. And he was a Cherokee citizen? A. Yes sir.

MR. HASTINGS:

- Q. How old are you? A. Alone in 40 somewhere.
Q. What year is this? A. I don't know what year it is.
Q. What month is it? A. This is April.
Q. Did you go with your mother to Texas? A. Yes sir.
Q. When did your mother come back from Texas? A. I don't know anything about it.
Q. Did you come back with her? A. No sir.
Q. That place in Texas did you go? A. To Ruak County, Texas.
Q. Near what town? A. Henderson.
Q. What direction from Henderson? A. I couldn't tell you that.
Q. Did John go with you? A. Yes sir.
Q. Did he stay there during the war? A. Yes sir.
Q. You don't know when he left there? A. No sir, I don't know nothing about the boy.
Q. When was he married down there? A. I don't know nothing about that, even.

MR. SULLIVAN:

- Q. Do you recollect when he left Texas? A. Yes sir I recollect it.
Q. Was he a boy, or was he a grown man? A. He was a boy.
Q. Was he a big boy or a little boy? A. Quite a small boy.
Q. You didn't come with him? A. No sir, I didn't come.
Q. You didn't come until you were a grown woman, yourself? A. No sir.

MR. HASTINGS:

- Q. About how old were you when you last saw John down in Texas--- were you about 15? A. Yes sir.
Q. Is that your best judgment? A. Yes sir.

COMMISSIONER:

- Q. How much older are you than John? A. I couldn't tell you that, either.

MR. HASTINGS:

- Q. Which is the older-- you or John? A. I am the oldest.
Q. How old is John? A. I couldn't tell you for I don't have any idea. I don't suppose, though, that I am more than two years older than John.

Applicant closes case.

Witnesses for the Nation.

George Pettit, being duly sworn, testified as follows:

MR. HASTINGS:

- Q. What is your name? A. George Pettit.
Q. What is your age? A. I am 57, I guess.
Q. Were you a slave before the war? A. Yes sir.
Q. To whom did you belong? A. Tom Pettit.
Q. What District did you live in? A. Flint.
Q. Do you know this applicant, who now called himself John Sanders?
A. Yes sir.
Q. How long have you known him? A. Why, I have knowed him ever since he was a little boy.
Q. Did he belong to the same man that you did before the war? A. Yes sir.
Q. What was his mother's name? A. Liza.
Q. Where did they go during the war? A. To Texas.
Q. What part of Texas? A. Rusk County.
Q. Near what town? A. Henderson.
Q. About how big was this applicant? A. I don't know just how big he was. I guess he must have been 3-4, or 5 years old-- somewhere along there. He was large enough to ride behind his mother when they left home.
Q. That was when the war came up? A. Yes sir.
Q. Who took you all to Texas then? A. Elias Alberty.
Q. Did you leave him down there? A. Yes sir.
Q. Did he stay there all during the war? A. Yes sir. I left in '66 and left him there with his mother when I come away.
Q. Did you know his sister, who went out of here awhile ago? A. A. Yes sir.
Q. What was this applicant known as at that time? A. For a short name we called him Friday. His given name was Hense.
Q. You always knew him by that, did you? A. Yes sir.
Q. When did you first know that he went by the name of John Sanders?
A. It must have been here a while before the Strip payment.
Q. When did you first see him after the war, after you left him in Texas? A. Just a while before the Strip payment.
Q. That was in 1867, wasn't it? A. I couldn't tell you. I can't read nor write.
Q. Do you live at Fort Gibson? A. Four miles east of Fort Gibson.
Q. When you first came back from Texas where did you come to? A. I stopped up here on Grand River at what was called the Joel Fryant place.
Q. Above Choteau? A. Yes sir, on the west side of Grand River.
Q. How long did you stay there? A. About a year.
Q. Then where did you go? A. To Fort Gibson.
Q. Been there ever since? A. Ever since.
Q. Have you ever lived in the town of Fort Gibson? A. No sir, I always lived in the country.
Q. Have you ever lived any nearer town than you do now? A. No sir.
Q. Was Fort Gibson your trading point? A. Yes sir.

- Q. Do you visit the town frequently? A. Yes sir. I used to be there every day-- in the winter when I am hauling wood.
- Q. Did you ever see this applicant at Fort Gibson after the war until about a year before the Strip payment? A. No sir.
- Q. You never saw him? A. No sir.
- Q. Could he have lived there eight or ten years after the war without your seeing him? A. It don't look reasonable.
- Q. What relation is he to you? A. He is my first cousin. My father and his mother were brother and sister.
- Q. Was Fort Gibson your only trading point? A. Yes sir, the only place.
- Q. You say you were there every day? A. Yes sir, hauled wood there every day.
- Q. Did you know that he claimed to have lived there after the war? A. No sir.
- Q. Did you ever see him there after the war? A. No sir.
- Q. Did you ever hear of his living there after the war? A. No sir.
- Q. Were you well acquainted with the colored people that lived around there after the war? A. Yes sir.
- Q. Where does his mother now live? A. She lives out there south of Melvin.
- Q. How long has she been back there? A. I don't know whether it was two or three years before the Wallace census.
- Q. She is your aunt? A. Yes sir.
- Q. Did you go to see her after she came back? A. Yes sir.
- Q. That was the first time you had seen her after the war? A. Yes sir.
- Q. Did she say where she was from? A. She said she was from Texas.

MR. SULLIVAN:

- Q. Are you positive that it was before the Strip payment-- the Hayden payment, or the Wallace payment? A. It was the Strip payment-- the Hayden payment.
- Q. You never knew of his living in Fort Gibson, did you? A. No sir.
- Q. Consequently, you did not inquire for him? A. No sir.
- Q. He might have been living there and you not know it? A. I don't know. I am not testifying to nothing that I don't know. That that I know I will testify to. I don't want to tell no false. I hate to be up here testifying anyhow for that boy is kin to me, but I am just telling what I know.
- Q. You have been subpoenaed by the Cherokee Nation as a witness for them in this case? A. Yes sir.

COMMISSION:

- Q. Fort Gibson has a large colored population hasn't it? A. The There are a good many colored people there.
- Q. There always has been? A. Yes sir.
- Q. There have possibly been several colored families living there for years and you not know that? A. Yes sir, probably for years.

MR. HASTINGS:

- Q. But your first cousin, and the man that had belonged to the same owner that you did couldn't have lived there for 8 or 10 years and you not know it, could he? A. It don't look so.

D. M. Harris, being duly sworn, testified as follows:

MR. HASTINGS:

- Q. Your name is D. M. Harris? A. Yes sir.
Q. Your home is Vinita? A. Yes sir.
Q. Do you know this applicant that now goes by the name of John Sanders? A. Yes sir.
Q. How long ago did you first know him? A. About 16 years ago.
Q. Where did you first know him? A. 10 or 12 miles west of Vinita.
Q. Did you know where he came from? A. No sir, I didn't.
Q. Did you have a farm up there then? A. Not at that time. I did afterwards.
Q. Did he have a family? A. When I first knew him I don't know whether he did or not.
Q. Do you know where he went at that time? A. Jack Sanders.
Q. Do you know when he changed his name to John Sanders? A. 5 or 6 years ago he commenced calling himself John Sanders.
Q. He always went by the name of Jack before then? A. Yes sir.
Q. Do you know whether or not he claimed citizenship when you first knew him? A. I knew his father-in-law better than I did him, and they all claimed that he had a right.
Q. He claimed through his wife at that time? A. Yes, that was the way I understood it.
Q. You did not understand that he claimed through his own right? A. No sir.
Q. Then did you first know that he was claiming through his own right? A. 10 or 11 years ago.
Q. You don't know where he came from to that country? A. Not for certain-- just from hearing.

MR. SHERIDAN:

- Q. What is your business? A. Publisher of a news paper in Vinita.
Q. Do you know that Jack is a nickname used sometimes for John? A. Yes sir.
Q. Do, or do you not, know that some people will call a man John and those who are more familiar with him will call him Jack? A. Yes sir, I know that.

WITNESSES EXCUSED.

Exhibit "A" is filed in evidence.

In consent and agreement, the case of John Sanders et al, C.F.D. 973, is continued to May 11, 1905, at 9:00 o'clock A.M.

Paul Sears, Beaman, 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 20th. of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes.

Paul Sears Beaman

Subscribed and sworn to before me this 22nd. day of April, 1905.

Myron White
Notary Public.

EXHIBIT "A".

Indian Division.)
Form 436-- Ed. 3 20 95 10,000)

All official letters to this office must be addressed to the O
"Auditor for the Interior Department", and in replying to Letters
from this office the initials on the upper left hand corner should
be referred to.

TREASURY DEPARTMENT,

W.A.R. Room No. 41.
Settlement No. 23100.

Office of the

AUDITOR FOR THE INTERIOR DEPARTMENT.

WASHINGTON, D.C., Jun. 29, 1899.

John Sanders,

Virita,

Indian Territory.

Sir:

Your claim for \$150.74 against the Indian Department was
allowed by this office Jun 27, 1899. When a warrant issues for the
above-named amount, the Treasurer will mail it to your address.

Respectfully yours,

Wm. Youngblood.
J.P.

Auditor.

Cherokee-Freedman-D-973.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1906.

In the matter of the application for the enrollment of
John Sanders et al. as Cherokee Freedman.

Cherokee Nation represented by W. W. Hastings.
Applicants represented by W. J. Sullivan.

C O M M I S S I O N .

Tobe Starr, being duly sworn, testified as follows, on behalf
of the applicants:

MR. SULLIVAN:

- Q. What is your name? A. Tobe Bean.
Q. What is your age? A. 67 or 68.
Q. What is your post office address? A. Ketchum.
Q. Are you a Cherokee Freedman? A. Yes sir.
Q. Do you know the applicant, John Sanders? A. Yes sir, I have
been knowing him about 23 years, I guess.
Q. Where did you first know him? A. At Vinita.
Q. Cherokee Nation? Yes sir.
Q. When you first met him under what name did you know him? Jack
or John? A. Under both names. Some called him John and
some called him Jack.

MR. HASTINGS:

- Q. You never saw him until about 23 years ago? A. No sir.
Q. You never knew him before the war? A. No sir.
Q. Were you around Fort Gibson any in '66 and '67? A. No sir.
Q. Where were you living immediately after the war? A. Down on
Grand River, below Vinita.
Q. And you never saw this man until about 23 years ago? A. No
sir.
Q. That was in 1882 or 1883? A. Yes sir.

WITNESS RECROSS.

Wiley Haynes, being duly sworn, testified as follows on
behalf of the applicants:

MR. SULLIVAN:

- Q. What is your name? A. Wiley Haynes.
Q. What is your age? A. 58.
Q. What is your post office? A. Muskogee.
Q. Do you know the applicant, John Sanders? A. Yes sir.
Q. How long have you known him? A. Ever since 1885.
Q. That is 22 years? A. Yes sir.
Q. When you first knew him what name did you know him by? A. sometimes he was called John and sometimes Jack.
Q. Where did you first meet him? -- in the Cherokee Nation? A. Yes sir.

MR. HASTINGS:

- Q. Where did you live then? A. Right over there close to Fort Gibson, on this side of the river.
Q. I guess Fort Gibson was your trading point before Muskogee was established? A. I wasn't here before Muskogee was established.
Q. Where were you from? A. Texas.
Q. Did you know Jack down there? A. No sir.
Q. What part of Texas were you from? A. Rusk County, about 25 miles from Paris.
Q. You didn't know the applicant until about 22 years ago? A. No sir.
Q. That was in about 1883. A. Yes sir.

WITNESS EXCUSED.

Columbus Lassley, being duly sworn, testified as follows, on behalf of the Nation:

MR. HASTINGS:

- Q. What is your name? A. Columbus Lassley.
Q. What is your post office address? A. Tahlequah.
Q. How old are you? A. I am about between 55 and 56.
Q. Were you a slave before the war? A. Yes sir.
Q. To whom did you belong? A. Bill Lassley.
Q. What District did he live in? A. Flint.
Q. Did you know a Cherokee family, the head of which was Tom Pettit? A. Yes sir.
Q. How far did you live from them? A. Four or five miles.
Q. Were you living there when the war came up? A. Yes sir.
Q. Where did you go when the war came up? A. To Cincinnati and around, and to Fort Gibson.
Q. Where were you when the war closed? A. At Fort Gibson.
Q. How long did you live in Fort Gibson? A. From '62 up to '70 something I think.
Q. Do you know this applicant, who now goes by the name of John Sanders? A. Yes sir.
Q. How long have you known him? A. Not very long -- since the war several years.
Q. How many years now have you known him? A. Not over 8 or 10 years.
Q. Do you know his alleged mother, Lila Thompson, or Alberty? A. I know a Lila Thompson on 14 Mile Creek or 4 Mile Branch.
Q. Do you know her sister, Amy? A. Yes sir, Amy Smith.
Q. During the time you were at Fort Gibson did you ever see this applicant about Fort Gibson? A. If I did I don't know it.
Q. And you lived within 4 or 5 miles of the Pettits before the war? A. Yes sir.

- Q. How big a place was Fort Gibson at the close of the war? A. It wasn't very big. What they call the new town, wasn't there then.
- Q. About what was the population? A. I couldn't say, but it was small.
- Q. Do you think that this boy, who claims to have been a neighbor of yours, could have lived there for several years after the war and you not know it? A. I don't think he could.

MR. SULLIVAN:

- Q. He might have been there and you not know it? A. He might have been, but I don't think he was.
- Q. Are you willing to swear that he didn't live there? A. I am willing to swear that I didn't see him there.

MR. HASTINGS:

- Q. You were well acquainted with the colored people there at that time? A. Yes sir.
- Q. And you were acquainted with the Pettits before the war? A. Yes sir.

MR. SULLIVAN:

- Q. Did you know every colored man in Fort Gibson? A. No sir.

COMMISSION:

- Q. Did you know the mother of John Sanders? A. I knowed the mother of one John Sanders.
- Q. What was her name? A. Fannie Cornish.
- Q. Did you know a slave called Amy Pettit? A. Yes sir.
- Q. Did she have any children at the close of the war? A. I think she did.
- Q. Isn't this applicant her child? A. I don't know -- she had a son by the name of George, and another by the name of Joe, and Amy also has a son by the name of Clark.

WITNESS FIGUERA.

Charley Kenney, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

- Q. What is your name? A. Charley Kenney.
- Q. What is your age? A. I am about 50 years old.
- Q. Are you a citizen of the Cherokee Nation? A. Yes sir.
- Q. By blood? A. Yes sir.
- Q. Did you live here in the Cherokee Nation before the war? A. Yes sir, we lived right there by Fort Smith, and I reckon it was in the Nation.
- Q. Where did you go during the war? A. To Rusk County, Texas.
- Q. While you were there did you know the slaves of Blue Liberty? the ones he brought down there? A. Yes sir.
- Q. Did you know one by the name of Lila? A. Yes sir.
- Q. Do you know to whom she had belonged before the war? A. No sir, I don't, but it was the general supposition that she belonged to Pettit.
- Q. Did you know Lila's sister, Amy? A. Yes sir.

- Q. Was Amy down there with Lila? A. Yes sir.
Q. Who were they in the charge of? A. They were with the Albertys.
Q. What Alberty? A. Blue.
Q. Did you live near Blue Alberty? A. Right with him.
Q. Were you related to him or his wife? A. Yes sir.
Q. What relation was it? A. I think that his wife was my great aunt.
Q. Did this colored woman, Lila, have any children? A. Yes sir.
Q. Do you remember any of their names? A. Yes sir.
Q. Give them? A. One was named Henderson, usually called Hense, and one was named Sandy, and a little one that I didn't know the name of.
Q. How old do you say you are? A. About 50 years old.
Q. You were born about 1855? A. Yes sir.
Q. When the war closed you were about 10 years of age? A. Yes sir.
Q. Compared with your age, how old was this boy of Lila's, that you called Henderson or Hense? A. He was a right smart smaller than I was. I know I could always handle him, and pack him on my back. We were raised up together.
Q. Do you know whether he was very dark, or was he a mulatto? A. He was about the color of that man there (indicating Aaron Whitmire.)
Q. Have you ever seen this man, John Sanders, before? A. Yes sir, I saw him the other day in Vinita.
Q. When did you leave Texas? A. In '65.
Q. What became of this Lila and Hense? A. We left them in Rusk County, Texas.
Q. Did you ever see them after that time? A. No sir, never have seen them that I know of.
Q. You say you saw this applicant the other day in Vinita? A. Yes sir.
Q. If he is the same person, that is the first time you have ever seen him? A. Yes sir.
Q. You are something near the same age? A. Supposed to be, yes sir.

WITNESS EXCUSED.

(Mr. Hastings -- I desire to offer in evidence the testimony in the case of Lila Alberty et al. C.P.R. 163, who, from the testimony, is the reputed mother of the applicant in this case: and in this connection, I desire to call special attention to her own age given in her own testimony.)

(Mr. Sullivan -- We object to the introduction of the testimony, for the reason that it is irrelevant, immaterial, and incompetent.)

Roland Nave, being duly sworn, testified as follows, on behalf of the Cherokee Nation:

MR. HASTINGS:

- Q. What is your name? A. Roland Nave.
Q. Your age? A. 45.
Q. Do you know this applicant, John Sanders? A. Yes sir.
Q. What is your post office address? A. Vinita.
Q. When was the first time you ever saw the applicant, John Sanders?

- A. It was along about '89 or '90.
- Q. Where did you see him? A. At Skullyville, Choctaw Nation.
- Q. What was the occasion of your seeing him? A. I was a deputy marshal for the Fort Smith court, and I summoned him as a witness.
- Q. Are you positive that he is the man? A. Yes sir.
- Q. What was he doing? A. I found him there at a little store.
- Q. They gave me the subpoena at Fort Smith, and the directions on the back of it said that his post office was Skullyville, and that is how I found him.
- Q. After that did you have any conversation with him, as to where his relatives were? A. Not till we got to Fort Smith. I saw him there afterwards, and had a talk with him.
- Q. What was said? A. After he found out where I lived, he asked me about some people on Four Mile Branch. He asked about a man named Clark Grimmatt, and a woman by the name of Fannie Cornish and a woman by the name of Mary Mayes. He said Fannie Cornish was his mother, and Mary Mayes was his aunt.
- Q. Did he say he had ever lived in the Cherokee Nation? A. No sir, he was asking me what kind of a country it was -- said he wanted to come up here to live.
- Q. That conversation you had with him in Fort Smith, Arkansas? A. Yes sir.
- Q. You are certain that this is the same man? A. Yes sir. He fooled around Fort Smith there for a long time, and I saw him every day for some time.
- Q. You have seen him frequently since that time? A. Yes sir, he lives up there just the other side of Vinita.

MR. SULLIVAN:

- Q. Did you ever go back to Fort Smith after you took him there? A. Yes sir.
- Q. Did you ever see him there? A. No sir.
- Q. Did he go back to Skullyville? A. No sir.
- Q. Are you just as positive of that as you are of these other things you have been telling? A. No sir.
- Q. You are positive that he asked you about Clark Grimmatt? A. Yes sir.
- Q. And Fannie Cornish? A. Yes sir.
- Q. And Mary Mayes? A. Yes sir.
- Q. You are just as positive of that as of anything to which you have sworn? A. Yes sir.
- Q. You swore that you took him to Fort Smith? A. I swore that I summoned him -- I didn't swear that I took him.

COMMISSION:

- Q. Were you a marshal? A. Yes sir.
- Q. Were you a marshal in the Fort Smith Court? A. Yes sir.
- Q. Were you a marshal in the Nation? A. No sir, that was before there were any courts in the Nation.
- Q. Are you a freedman? A. No sir.

WITNESS EXCUSED.

John Sanders, being duly sworn, testified as follows, on his own behalf:

MR. SULLIVAN:

- Q. What is your name? A. John Sanders.

- Q. You are the applicant in this case? A. Yes sir.
Q. You heard the testimony of the witness, Hove, who just left the stand? A. I did.
Q. You heard him say that he summoned you, to go to Fort Smith, at Skullyville. Is that true? A. No sir.
Q. You heard him say that you asked him about Clark Grinnett, Fannie Cornish, and Mary Mayes? A. Yes sir.
Q. Do you know Fannie Cornish? A. No sir.
Q. Do you know Mary Mayes? A. No sir.
Q. Do you know Clark Grinnett? A. Yes sir.

WITNESS EXCUSED.

(The attorneys for the Cherokee Nation state that they have no further evidence to submit, and that they submit the case upon the record.

A decision will be rendered upon the record as now made up.

Eula Jeanne 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 15th day of May, 1906, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanne Branson

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

J. H. Humphreys
Notary Public.

W.M.

Cherokee Freedman D 973

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

In the matter of the application for the enrollment
of John Sanders et al., as Cherokee Freedmen.

--:--

D E C I S I O N .

THE RECORD IN THIS CASE SHOWS: That, on July 1, 1901, John Sanders appeared before this Commission at Nowata, Indian Territory, and made application for the enrollment of himself and his minor children, Lee A., Maud, Neoma, Ethel, Viola, Clarinda and Saphronia Sanders, as Cherokee Freedmen; the application also included his wife, Lula Sanders, who claimed the right to enrollment as a Cherokee Freedman by intermarriage, but as the application for her enrollment has been heretofore disposed of, her rights will not be considered in this decision. Further proceedings in the matter of said application were had on March 4, and May 19 and 31, 1902, and April 6, and 20, and May 11, 1905, at Muskogee, Indian Territory. A copy of the testimony taken on September 13, 1901, at Fort Gibson, Indian Territory, in re application of Lila Alberty for enrollment as a Cherokee freedman, case No. R 163, is filed herewith and made a part of the record herein.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, John Sanders, claims the right to enrollment as a Cherokee freedman by virtue of his compliance with the treaty stipulations of 1866,

and that the minor applicants herein claim the same right as descendants of the said John Sanders.

The following points in this case are admitted, no attempt having been made to dispute them:

(1) That the principal applicant, John Sanders, was the slave of a Cherokee citizen at the commencement of the rebellion; that he removed from the Cherokee Nation during said rebellion, but returned thereto and established a residence therein, prior to September 1, 1902; and that since his return to said Nation he has not forfeited any Cherokee freedman citizenship rights acquired thereby; and,

(2) That the other applicants herein are children of the principal applicant, John Sanders, and one Lula Sanders, a non-citizen of the Cherokee Nation, were born since 1866, and possess no rights to enrollment as Cherokee freedmen other than as descendants of their said father.

In view of the foregoing, it is considered by the Commission that but one question is presented to it for examination in order to properly adjudicate the applicants' rights to enrollment as Cherokee Freedmen on September 1, 1902, viz:

Did the principal applicant, John Sanders, return to the Cherokee Nation after the rebellion, within the time specified in the Whitmire decree?

JOHN SANDERS, applicant, appeared before the Commission on July 1, 1901, at Nowata, Indian Territory, and in support of his application for enrollment as a Cherokee freedman, testified as follows: I am about 55 or 60 years old, and my postoffice is Miles, Cherokee Nation. I returned to the Cherokee Nation after the rebellion, in 1865. My name should be on the Wallace and Kern-Clifton rolls, but don't believe it is on any other roll of the Cherokee Nation. I own a farm and have voted in the Cherokee Nation, and drew money for myself under the Kern-Clifton payment, but did not draw any for my children. Don't know why they were denied. When the war broke out I left the Cherokee Nation, and went to Fort Smith, and stayed probably six or eight months, from there I went to Van Buren and remained eight months, and from there I went to Scullyville, Choctaw Nation, but do not remember how long I lived there, and from Scullyville I went back to Fort Smith, and was there off and on until the close of the war. After peace was declared I went to Joplin, Missouri, and stayed some two or three weeks and then went to Emporia, Kansas, where I remained about two weeks and from there I returned to the Cherokee Nation, but don't know what year it was. I made application to the Kern-Clifton Commission for the enrollment of myself and children, Lee, Neoma and Maud. Prior to fourteen years ago I lived at Vinita continuously for twenty-four or twenty-five years.

RUFUS MILLER, witness for applicant, at same time and place, testified as follows: I am between 55 and 55 years old, and my postoffice is Centralia (Cherokee Nation), I have known the applicant since before the war, and saw him at Fort Gibson in February, '66. He was in and around down there for seven or eight years after that. I think it was in 1874 I last saw him there. I have been convicted in the Cherokee Courts of larceny, and served my sentence.

LEWIS WILKINS, witness for applicants, at same time and place, testified as follows: I am 62 years old. My postoffice is Hagden, and I am a recognized citizen of the Cherokee Nation. I have known the applicant, John Sanders, a long time. Saw him at Fort Gibson in August, 1833, when I was making my last trip for the Government. On my return to Fort Scott from this trip, my father, brothers and myself, among others, came to the Cherokee Nation the following October or November, and located our claim on Big Creek. I again saw the applicant, John Sanders, two or three years after we came to the Cherokee Nation and settled, and have seen him several times since.

J. A. THOMPSON, witness for Cherokee Nation, on March 4, 1902, at Muskogee, Indian Territory, testified as follows: I am 51 years old and have lived at Vinita ever since the town was started in 1871 or 1872. I have known the applicant, Jack Sanders, since about 1873 or 1874, but never knew of him living at Vinita. He lived out in the country about ten or twelve miles from Vinita when I first knew him, but do not know where he has since continued to live.

J. DANIELS, witness for Cherokee Nation, at same time and place, testified as follows: I am 67 years old and live at Vinita, Indian Territory. I first lived there during a part of the year 1873, but moved away and returned in 1877, and have since continuously lived there. I have known the applicant, John Sanders, ten or twelve years, but I never knew of his living at Vinita; when I first knew him he was living out on Pawpaw creek, about ten miles from Vinita.

BENJAMIN HAYB, witness for Cherokee Nation, at same time and place, testified as follows: I am 40 years old. I know the applicant, John Sanders, he lives on Pawpaw Creek, close to Vinita. I at one time rode as Deputy United States Marshal, and during that time I had occasion to serve a subpoena on the applicant, this was about 1890, and he was then living at Scullyville, Choctaw Nation, Indian Territory. Scullyville is about eight miles from the Cherokee-Choctaw Nation line.

W. W. HASTINGS, witness for Cherokee Nation, on May 19, 1902, at Muskogee, Indian Territory, testified as follows: I live at Tahlequah, Indian Territory, and was one of the representatives of the Cherokee Nation--"In 1896, when the Kern-Clifton roll was made, I then as now, was one of the representatives of the Cherokee Nation in the making of that roll. At that time there were two John Sanders's who appeared before the Commission, as the records which I now have in my possession, and which were made by and under my direction, show.

"This applicant, John Sanders, applied before that Commission and his number was 60. At the time he applied he applied for four children as well. He applied under the name of Jack Sanders, and the four children that he applied for at that time were given by him as Leander, Haud, Nac'ie and Kethel. This Jack Sanders was rejected by the Commission at that time. He was also rejected by the Commission, as a mark upon my record indicates, when the Commission met for the purpose of making the roll. I know that these records or memoranda are correct, I know and am able to swear positively that this same Jack Sanders was rejected, for the reason that I have it marked rejected, and the word is written in my own hand-writing. It was starred, which was an indication given by the Commission at that time that the case was rejected. At the top of the page is a star and an "R" for rejected which was used by the Commission when it made up the roll itself, to show that that family was rejected. From these same records it appears that John Sanders, another applicant, applied in case No. 352. My records show that this second John Sanders was admitted by the Commission. My records further show that this second John Sanders' mother was Fannie Sanders, or Fannie Cornish, and while it is not shown by my record, I understand that that name appears upon the roll of 1880. The first John Sanders, that was rejected, gave the name of his mother in 1896, as Amy Pettit, and from the name of his mother and the names of his children, I am able to absolutely identify this man who was rejected, as the applicant, John Sanders, who now applies, and is placed upon D card 973."

(Cherokee Freedman enrollment card No. D 973 shows principal applicant's mother's name to be Amy Pettitt.)

JOHN SANDERS, applicant, appeared before the Commission on April 6, 1905, at Muskogee, Indian Territory, and further testified as follows: I guess I am about 80 years old. I was out of the Cherokee Nation two years and nine months during the war. I guess I was about ten or twelve years old when the war came up, although I may have been older. My mother's name was Liza. She was taken to Texas during the war and I run off to the war when the soldiers left Fort Gibson. I first went to Columbus, Kansas. I stayed in the army until the close of the rebellion, when we were disbanded near a town called Roseville, between Little Rock and Fort Smith. That was in the fall or winter, and I got to Fort Gibson about three weeks before Christmas. Upon my return to the Cherokee Nation I went to work for John Bean, a blacksmith who lived near Fort Gibson, and later went to work for the Government and worked for it seven or eight years. During the time I worked for the Government I cooked, ate and slept in a little shack of my own. No one lived within two or three hundred yards of me. I went from Fort Gibson to a place about ten miles northwest from Vinita, where I married and lived one or two years. From there I moved over on Cabin Creek, and lived one year and then went to Galena, Kansas, where I worked in the mines about two or three years. From Galena I returned to the Cherokee Nation, located about twelve and one-half miles northwest from Vinita, and have since continuously lived there.

In explanation of how he adopted the name of John Sanders, principal applicant testified as follows: I at one time, by reason of some trouble, left the Cherokee Nation, and lived eight or nine months in Wyoming Territory. Before leaving I arranged with a certain party to address letters to me under the name of John Sanders, and I have ever since been known by that name. The party knew where to address my letters as I told him where I was going. I do not know what year that was.

JOHN SANDERS, applicant, appeared before the Commission on April 20, 1905, and testified as follows: I do not know Benjamin Nave, and he never served a subpoena on me at Soulllyville, Choctaw Nation. I drew Strip money; it amounted, I believe to \$184.74. I was around considerable during the war. I guess I went out of the Cherokee Nation with the soldiers, I went off with a pretty good squad. During the war I went out of the Cherokee Nation with my mother; Blue Alberty took my mother and me to Texas during the war. I don't know how long I stayed in Texas; I came back to the Cherokee Nation by myself. I don't know what year it was, I believe I first came to Fort Gibson; I loafed around there and did what little work I could get to do. Before the war I was known as Henderson. My sister Liza went south with my mother and I, but I returned to the Cherokee Nation before either of them. I was too young to remember when we left the Cherokee Nation. I remember when I returned. I came alone and walked all the way. I went to Kansas after I returned from Texas, but don't know how long after, think maybe it was seven or eight years. I do not remember that I stated two weeks ago that I did not leave the Cherokee Nation with my mother, or that she went south and I went north, --"I may have said it, but if I did I don't now it."

LIZA WILLARD, witness for applicant, same time and place, testified as follows: I guess I am about 44 or 45 years old. I knew the applicant, John Sanders, he is my full brother, and we, with our mother, were taken to Texas during the rebellion. John is probably two years younger than I am. I don't know when he returned to the Cherokee Nation. He left Texas before my mother and I did, and my best judgment is that I was about fifteen years old when he left down there.

GEORGE BENTON, witness for Cherokee Nation, at same time and place, testified as follows: I am 57 years old I guess. I was a slave before the war, and am a cousin of the applicant, John Sanders, and have known him since he was a little boy. We belonged to the same man, and during the war we, together with the applicant's mother and sister, were taken to Texas by Blue Alberty. The applicant was probably three, four, or five years old at that time. I left Texas for the Cherokee Nation in 1865 and the applicant was still there, living with his mother. His

given name at that time was Hense. Upon my return to the Cherokee Nation, after the rebellion, I went to the Joel Bryant place near Chouteau, on the west side of Grand River, and remained a year and then moved to a place about four miles from Fort Gibson, where I have since continuously resided. Fort Gibson has been my trading point since moving near there, and I visit the town frequently. I used to go there every day during the winter, when I was hauling wood. I never saw the applicant in the Cherokee Nation until about one year before the Strip payment (1887) and I don't believe he could have lived at Fort Gibson for seven or eight years after the war without me knowing it. The applicant's mother is my aunt, she lives near Melvin. She returned to the Cherokee Nation two or three years before the Wallace roll was made and said she had just come from Texas.

D. H. HARRIS, witness for Cherokee Nation, at same time and place, testified as follows: I live at Vinita, Cherokee Nation, Indian Territory, and have known the applicant about sixteen years; he was then living about ten or twelve miles west of Vinita. I do not know where he came from there. When I first knew him he went by the name of Jack Sanders, but about five or six years ago he began calling himself John Sanders. It is my understanding that until ten or twelve years ago he claimed his citizenship through his wife. I am aware that the name Jack is a nickname for John.

TOBE STARR, witness for applicants, appeared before the Commission on May 11, 1905, at Muskogee, Indian Territory, and testified as follows: I am sixty-seven or sixty-eight years old, and my postoffice is Petchum (Cherokee Nation), I have known the applicant, John Sanders about twenty-two years, first became acquainted with him at Vinita, Cherokee Nation, he at that time went by the name of John and Jack Sanders.

WILEY HAYNES, witness for the applicants, same time and place, testified as follows: I am 55 years old; my postoffice is Muskogee, I have known the applicant since about 1883, and have known him by the names of John and Jack Sanders.

COLUMBUS CASLEY, witness for Cherokee Nation, same time and place, testified as follows: I am about 55 years old and my postoffice is Tahlequah. I lived at Fort Gibson from '62 until sometime during the '70's. I have known the applicant, John Sanders, about eight or ten years. Never knew of him living at Fort Gibson after the war, and am sure that he never lived in my neighborhood.

CHARLEY HORNBY, witness for Cherokee Nation, same time and place, testified as follows: I am about 50 years old, am a Cherokee by blood, and, except during the war, have lived in the Cherokee Nation all my life. During the war I lived in Musk

County, Texas, with Blue Alberty, a relative, and was well acquainted with the slaves he brought from the Cherokee Nation to Texas. Three of them were named Lila, Amy and Hense. Lila was the mother of Hense. I was about ten years old when the war closed, and this boy Hense was younger and smaller than me. These slaves were living in Texas when I left there in 1865. I saw this applicant a few days ago at Vinita, and if he is the same person I knew in Texas, that is the first time I have seen him since my return to the Cherokee Nation.

The Cherokee Nation calls attention to the age, (60 years), of applicant's mother, as given by her on September 12, 1901, in Cherokee Freedman Rejected Case No. 163.

C A S E C L O S E D.

--1--

None of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of the Commission.

The testimony in this case strongly indicates that the principal applicant, John Sanders, was not more than ten years old at the close of the rebellion, and if, upon his return from Texas to the Cherokee Nation, he came alone and walked all the way, as he says he did, it is not unreasonable to presume that he was at least fifteen years old.

The many and various statements made by the principal applicant as to his employment and whereabouts during and after the war, are, of themselves, sufficient to arouse grave doubts as to the merit of his claim.

The testimony of the two witnesses, Rufus Miller and Lewis Whitmire, who, on behalf of the applicants, testify that they saw the principal applicant at Fort Gibson in 1866, is, if not contradicted, at least counteracted by the testimony of those witnesses (among others a cousin of the principal applicant), who, on behalf of the Cherokee Nation, testify that they lived at and around Fort Gibson during and immediately after the close of the war, but failed to see or hear of the principal applicant during the seven or eight years he claims to have lived there. Further, the first named of the two witnesses, shows by his own testimony that he is disqualified under the law, and for that reason no weight should be given his testimony; and the second one of the two has been so often contradicted and successfully impeached, in Cherokee Freedman cases, that the Commission feels warranted in refusing to give his testimony any credit whatever.

FINDINGS OF FACT AND CONCLUSIONS: It is considered by the Commission, that, for the reasons above set out, the evidence in this case does not satisfactorily establish that the principal

applicant returned to the Cherokee Nation after the rebellion, within the time specified in the Whitaire decree, consequently, the application for the enrollment of these parties, comes within the rulings of the Department in the cases of Eliza Bryant et al. (I.T.D. 844-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4350-04) and Moses Ross (I.T.D. 6086-04).

It is further considered that the Kern-Clifton enrollment claimed by the principal applicant to have been intended for him, and under which he drew money, as evidenced by Exhibit "A", is not his, but is that of John Sanders, (son of Fannie Cornish), who is listed by the Commission for enrollment as a Cherokee freedman on Doubtful card No. 118.

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That the application for the enrollment of John Sanders, Lee A. Sanders, Maud Sanders, Neema Sanders, Ethel Sanders, Viola Sanders, Clarinda Sanders, and Saphronia Sanders, as Cherokee Freedmen, 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.

Tame Dixby.

Chairman

T. B. Needles.

Commissioner

C. E. Breckinridge.

Commissioner

Dated at Muskogee, Indian Territory,

this _____ 1905

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

In the matter of the application for the enrollment of
John Sanders, Lee A. Sanders, Maud Sanders, Neoma Sanders, Ethel
Sanders, Viola Sanders, Clarinda Sanders and Saphronia Sanders, as
Cherokee Freedmen.

Cherokee Freedmen 7-973.

ATTORNEYS:

L. E. 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. 973

Muskogee, I. T., Feb. 26, 1902.

J. W. Blair, Esq.,

Centralia, I. T.

Dear Sir:

Enclosed herewith find a notice, which please serve on John Sanders, a colored man who lives or gets his mail at Miles, I. T., and swear to Your return and return to us at the earliest possible date.

Your s truly,

F. D.

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, } S. S.
NORTHERN DISTRICT. }

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.

NOTICE!

IN THE MATTER OF the application of John Sanders, Miles, I. T.,
for enrollment as Cherokee Freedmen:

Case No. F. D. 973

To John Sanders,

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on March 3rd, 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Feb. 28, 1902.

L. B. Bell

W. W. Hastings

Jess. D. [unclear]
Attorneys for the Cherokee Nation.

COMMISSIONERS:

JAMES BIXBY,
THOMAS B. NEEDLES,
C. R. BRACKENRIDGE,

WM O. BEALL,

Secretary
ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

864
FORM TO BE FILLED BY THE FOLLOWING
Cherokee Freedmen

D-973.

Muskogee, Indian Territory, March 21, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

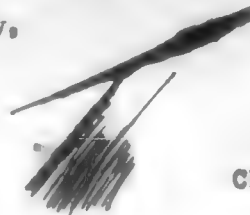
Muskogee, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of John Sanders, et al. as Cherokee freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 6, 1905.

The principal applicant has been advised that he will be permitted to appear on that date and introduce such testimony as he may desire in support of said application. You are 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.

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

WM. O. BEALL,
Secretary.

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

J. B. L.

NOTED IN REPLY TO THE FOLLOWING: <u>Cherokee Freedmen</u> 9-973.
--

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 10, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 30, 1906, rejecting the application for the enrollment of John Sanders, et al., as Cherokee freedmen.

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,

Incl. 8-7


Chairman.

(C O P Y)

Land
50921-1905

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. August 4, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 30, 1905, transmitting the record of the application for enrollment as Cherokee Freedmen by John Sanders for himself and his minor children/ Lee A., Maud, Neoma, Ethel, Viola, Clarinda and Saphronia Sanders.

Under no date the Commission decided adversely to all the applicants.

The record shows that the principal applicant was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that he removed from the Cherokee Nation during the war, and although afforded ample opportunity it is not established by satisfactory evidence that he returned to the Cherokee Nation on or before February 11, 1867. The other applicants are children of John Sanders and one Lula Sanders, a non-citizen of the Cherokee Nation, were born since 1866, and possess no rights to enrollment other than as descendants of their father. None of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner

N.M.M.

W.

(C O P Y)

D. C. 49370-1905
I.T.D. 9864-1905

W C F
LLB

L R S

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

October 26, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 30, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of John Sanders et al. as Cherokee freedmen.

Reporting August 4, 1905, the Indian Office recommended that the Commission's decision, adverse to the applicants, be approved.

A copy of its letter is inclosed.

The Department concurs in said recommendation and the Commission's decision is hereby affirmed in so far as it rejects said applicants.

Respectfully

(Signed)

E. A. HITCHCOCK

Secretary

1 inclosure

PLEASE IN REPLY TO THE FOLLOWING:
Cherokee Freedman
D 973

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

BJP

Muskogee, Indian Territory, December 2, 1905

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated June 20, 1905, rejecting the application for the enrollment of John Sanders and his children, Lee A., Maude, Keena, Wanda, Elsie, Clarissa and Gaphronia Sanders as Cherokee Freedmen, was returned by the secretary of the interior on October 20, 1905.

For your information there is inclosed you herewith a copy of the decision of the Department above referred to.

Respectfully,
[Signature]

[Handwritten initials]

[Handwritten initials]

(C O P Y)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
86137-1906
74168-1906.

October 3, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

Referring to Department letter of October 26, 1905, I.T.D. 98064, there is enclosed a report from the Commissioner to the Five Civilized Tribes, dated August 23, 1906, transmitting a motion "for a re-opening and rehearing of the Cherokee freedman case of John Sanders, et al., and for" the transmittal of the records in his case to the Attorney General of the United States for his review and opinion as to the rights of the applicant under the decision of the Court of Claims rendered on the third day of February, 1896, in the case of Moses Whitwire, trustee, vs. the Cherokee Nation.

The attorney for the Cherokee Nation filed reply to the motion on July 17, 1906, and Mr. Bixby says that the records of his office show that the decision of the Commission of June 30, 1905, readjudicating the application of John A. Sanders for the enrollment of himself and his children as Cherokee freedmen was affirmed by the Department on the date to which the Office refers. He invites attention to the provisions of the Act of April 28, 1906, relative to the re-opening of the cases, and says that the motion was not filed in his

office within sixty days from the approval of the Act.

There is also enclosed a separate reply of the Cherokee Nation which seems to be a reply to a brief on behalf of the applicants in the case of John Sanders, et al, and the Commissioner says that the records of his office do not show that a brief in connection with the motion was filed by A. S. McRea, attorney for the applicants.

The motion referred to by Mr. Bixby was filed with the Department on June 25, 1906, and was referred to him by Departmental reference of July 7, 1906. It is the opinion of this Office that if a motion was filed with the Department or this Office within the time required by law and the Office or the Department was unable on account of other work or the shortness of the time to transmit it to the Commissioner within the sixty days fixed by the Act of April 26, 1906, it should be considered. The motion was filed with the Department on the last day of the time limit, and the Office is clearly of the opinion that jurisdiction thereof should be assumed not only by the Commissioner to the Five Civilized Tribes but by the Office and the Department also.

The Office has given the motion careful consideration and it does not seem that it contains grounds of importance sufficient to warrant the Department in re-opening the case. It is recommended that it be denied.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

GAW-GH

(C O P Y)

G.R.

D.C.56622-1906.

DEPARTMENT OF THE INTERIOR,

LLB

WASHINGTON.

I.T.D. 9864-1906.
19406-1906.

December 27, 1906.

L.R.S.
Special.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 23, 1906, you transmitted a motion for a reopening and rehearing in the Cherokee freedman case of John Sanders, alias Jack Sanders, et al., wherein the Department on October 26, 1906 (I.T.D.9864), affirmed the decision of the Commission to the Five Civilized Tribes, without date, denying said application, on the ground that the applicant failed to establish by satisfactory evidence that he actually returned and established a personal bona fide residence in the Cherokee Nation on or before February 11, 1867.

Said petition is unverified, nor are any affidavits filed in support of said petition, which allege newly discovered evidence, not shown to have been unobtainable at the trial by the exercise of due diligence.

In view of the contradictory statements made by principal applicant, John Sanders, alias Jack Sanders, at the several hearings had, the Department sees no reason to disturb its decision heretofore rendered in the case, and denies said motion for a

reopening and rehearing filed on behalf of applicant by A. S. McRea, attorney for moving party.

The Office of Indian Affairs reporting thereon October 3, 1906 (Land 86137-1905), recommends the above action. A copy of its letter is inclosed.

You will advise applicant and his attorney of this action.

The record and papers filed on motion for reopening and rehearing have been returned for the files of the Indian Office.

Respectfully,

Thos. Ryan,
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 7 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
F R 466.

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

Muskogee, Indian Territory, January 4, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed by
A. S. McRea, Muskogee, Indian Territory, for a rehearing in the
Cherokee freedmen enrollment case of John Sanders, et al.,
was denied by the Secretary of the Interior, December 27, 1906.

For your information there is enclosed herewith a copy
of Departmental decision referred to.

Respectfully,

Encl. H. J. - 116.
H. J. C.

Commissioner.

J.Y. Jr.

DEPARTMENT OF THE INTERIOR, LEB
WASHINGTON.

January 29, 1907.

D.C. 6297-1907
I.T.D. 2904-1906.
8463- "
LRS.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

In your report dated December 27, 1906, you returned the record in the Cherokee freedman case of Luella Snaden et al. With said record was a motion for review filed in the case of Lula Sanders et al., which you return for the further action of the Department.

The records of the Department show that one Lula Sanders is an applicant in the enrollment case of William Davis et al., applicants for enrollment by reason of their intermarriage with Cherokee freedmen.

Said motion is without merit and is hereby denied.

Respectfully,

(Signed) Thos. Ryan,

Through the Commissioner
of Indian Affairs.

First Assistant Secretary.

REFER IN REPLY TO THE FOLLOWING:

Cherokee F
R 468

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

Muskogee, Indian Territory, February 16, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing filed in the Cherokee freedmen enrollment case of John Sanders, et al., was denied by the Secretary of the Interior, January 29, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. HJ-63.
HJC

Commissioner.

D.C. 13302-1907

(C O P Y)

Y P
FHE

DEPARTMENT OF THE INTERIOR

WASHINGTON.

I.T.D. 8036-1907
L R S
DIRECT.

March 4, 1907

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 23, 1906, you submitted a motion for rehearing
in the Cherokee freedman case of John Sanders (D 973), et al.

For the reasons stated in your letter the motion is denied.
The papers in the case, with the motion, were received this day
informally from the Indian Office, and have been returned to that
office, with a copy hereof.

Respectfully,

(Signed) JESSE E. WILSON
Acting Secretary

7 inc. to Ind. Of.
with copy hereof.

McM 3-4-07

OTB

CHEROKEE F E 468.

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

Muskogee, Indian Territory, April 2, 1907.


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

Dear Sir:

You are hereby advised that the motion filed for a rehearing of the Cherokee freedman enrollment case of John Sanders, et al., was denied by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,



Asting Commissioner.

Encl.C-10
LHC

Cher. Fr. D. 974

Cher. Fr. D. 974

To be filed with case of Austin Whitwire, C.F.D. #274.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29, 1901.

In the matter of the application of Frank Whitwire for the enrollment of himself and five children.

APPEARANCES:

Mallette & Smith, Attorneys for applicants;
W. W. Hastings and J. S. Davenport, Cherokee Attorneys

FRANK WHITWIRE, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Frank Whitwire.
Q What is your age? A About 56 I guess.
Q What is your post office? A Wimer.
Q What district do you live in? A Going Snake.
Q You apply to be enrolled as a Cherokee freedman A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself and ten children.
Q Give me the names of your children? A I can't recollect them (hands Commissioner paper.)
Q Four of these children are over 21; they will have to apply for themselves. A Yes, sir.
Q I find Jesse under 21; is that one of your children? A Yes, sir.
Q 14 years of age? A Yes, sir.
Q Ada another one? A Yes, sir.
Q How old is Ada; got her down as 16, is that right? A Yes, sir.
Q She is older than Jesse A Yes, sir.
Q The next one Ella? A Yes, sir.
Q How old is Ella? A 22 I believe; 20.
Q You have got her down here as 15? A Well that is the age.
Q His is right, is it? A Yes, sir.
Q Got another one named George? A Yes, sir.
Q He 12? A 10 years old.
Q Well, how old is Bessie? A Bessie is 10; George is 12.
Q Bessie is 10? A Yes, sir.
Q That makes five; now Rachel is 29, is that right? A 28.
Q How old then is Lizzie? A Rachel is 29 and Lizzie 24
Q Austin 27, and Anna 26 and Nelson 21? A Yes, sir.
Q You apply for yourself then and five children? A Yes, sir.
Q These children all alive, these younger children? A Yes, sir.
Q Living with you at this time? A Yes, sir.
Q All unmarried; Jesse isn't married? A No, sir.
Q Ada? A No, sir.
Q They are all living with you? A Yes, sir.
Q Born enfranchised in the Cherokee Nation? A Yes, sir.
Q Who are your witnesses A Dave French and Mose Hiley and Gray Lynch.
Q MR. SMITH: How old are you, Mr. Whitwire? A About 66 I guess.
Q Were you born a slave? A Yes, sir.
Q Was did you belong to? A Johnson Whitwire.
Q Was Johnson Whitwire a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where did he live before the war? A In Going Snake.
Q Where did he live at the time the war commenced? A Lived in Going Snake
Q In the Cherokee Nation? A Yes, sir.
Q Where were you living? A Lived right there with him.
Q Were you taken out of the Nation or go out during the war?
A Went out during the war.
Q Where did you go to? A Fort Scott.
Q Fort Scott, Kansas? A Yes, sir.

- Q Where did you return to the Cherokee Nation, come back?
A In '66.
- Q Where did you come to? A To Gibson.
- Q Fort Gibson? A Yes, sir.
- Q In the Cherokee Nation? A Yes, sir.
- Q How long did you stay about Fort Gibson? A Just about a week.
- Q Where did you go from Fort Gibson? A Went to Grand river.
- Q What part of Grand river did you go? A Up to Bob Daniels' place on Grand river.
- Q Cherokee nation? A Yes, sir.
- Q How long did you stay there? A About a couple of weeks.
- Q Where did you go from there? A Went to Big creek.
- Q How long did you stay there? A About six months.
- Q Big Creek in the Cherokee Nation? A Yes, sir, lived with my mother.
- Q Then where did you go? A Then I went back to Springfield, Mo.
- Q Were you married or single? A I was married.
- Q Where was your family? A Down in Springfield, just my wife.
- Q You didn't bring your wife? A No, sir.
- Q When did you bring your wife back to the Cherokee Nation?
A I went there and stayed a year and then went back.
- Q stayed in Springfield? A Yes, sir, in Springfield.
- Q Then where did you go to? A Came to Big Creek.
- Q Then how long did you live at Big creek? A Been living at Big Creek about 29 or 30 years.
- Q Do you know exactly how many years you have been living there?
A Not exactly, about that.
- Q Where were your children born? A Born on Brush Creek some of them and some on Big creek.
- Q Were any of your children born outside the Nation? A No, sir, all born in the Nation.
- Q Where are these children for whom you apply with you living; with you, the younger ones? A Yes, sir.
- Q Is Rachel Whitmire your children? A Yes, sir.
- Q Is her name still Whitmire or she married? A She is Ross.
- Q What is her husband's name? A Most Ross.
- Q Where does she live? A She lives on Cedar Creek.
- Q Is that in the Cherokee Nation? A Yes, sir.
- Q How long has she lived there? A About three or four years I believe she has been married.
- Q Been living there ever since she has been married? A Yes, ever since she has been married.
- Q Has she any children? A No, sir.
- Q Well, what is Lizzie's name now? A Adair.
- Q What is her husband's name? A Ben Adair.
- Q She married to Ben Adair? A Yes, sir.
- Q Has she any children? A Five children I think it is five.
- Q Where does she live? A Lives up on the head of a little Creek they call White Oak.
- Q That in the Cherokee Nation? A Yes, sir.
- Q How long has she lived there? A About ten or 12 years to my best knowing.
- Q Where does Anna live? A She lived on the prairie there about four miles from where I live, west.
- Q In the Cherokee Nation? A Yes, sir.
- Q She married? A Yes, sir.
- Q Who is she married to? A George Ward.
- Q Any children? A No, sir, she hasn't got any children.
- Q Where does Austin Whitmire live? A He lived in Vinita.
- Q How long has he lived there? A He has been living there about two or three years.
- Q Where did he live before he went to Vinita? A He lived down in Sequoyah district.
- Q How long did he live in Sequoyah district? A I don't know, about two or three years.

-3-

Q How long since Austin made your place his home; is he married or single? A He is married.

Q When did he marry? A He has been married about ten years I guess.

MR. DAVENPORT: where did you go during the war?

A Went to Fort Scott.

Q How long did you stay at Fort Scott? A Well, I didn't stay to Fort Scott very long.

Q Where did you go from there? A I came back to the Cherokee Nation.

Q What part of the Cherokee Nation? A Why down to the Cherokee Nation, down to Springfield, Missouri.

Q That isn't in the Cherokee Nation, is it? A No, sir.

Q How long did you stay at Springfield, Mo. A Stayed around there till the war closed.

Q Well, then after the war closed what did you do? A I went back to Fort Scott.

Q How long did you stay at Fort Scott then? A Why on I went back, well I stayed there then about till the war ended, to Springfield, Missouri, I stayed there and drive teams.

Q Then after the war ended at Springfield, Mo., and you quit driving teams, when you left there, where did you go?

A When the war ended?

Q Yes, when you left Springfield, Mo.? A I can't recollect.

Q You don't know where you went then? Where were you married?

A I was married in Springfield, Mo.

Q In what year? A Well, a year before the war ended.

Q What is your oldest child's name? A My oldest child, Rachel.

Q What is your wife's name? A Martha.

Q Is she living now? A Yes, sir.

Q Well now after the war ended, you and your wife were living in Springfield, Mo., when the war ended? A Near Springfield? No.

Q Well, what did you do after that, after the war closed?

A Why after the war closed I came back to the Cherokee Nation.

Q What point did you come to then after the close of the war?

A Came to Gibson.

Q Did you bring your wife there? A No, sir.

Q Where did you leave her? A In Springfield, Mo.

Q She was keeping house there, was she? A Yes, sir.

Q Have you any children born at that time? A Had one, he was dead.

Q What was his name? A Charley.

Q Where did he die? A He died in the Cherokee Nation.

Q What year? A I can't tell you how long ago, about 14 or 15 years as near as I can recollect.

Q What did you do next then after you came back to Fort Gibson, as you claim? A After I came back to Fort Gibson I came to the Cherokee Nation.

Q You were in the Cherokee Nation when you came to Fort Gibson?

A Yes, sir.

Q What did you do next? A I came to Grand river.

Q Who did you see when you came to Grand river? A Why I seen these Bear boys.

Q Anyone else? A And Lynches.

Q Anyone else? A And - - oh I can't recollect.

Q How did you come back to the Territory the first time you came?

A Well I came back with some freight wagons.

Q When did you bring your family to the Cherokee Nation? A Well I left my family there, I came here, and I was here a year or maybe six months and left my family up there, and I came here and located me a place.

Q Where did you locate the place? A On prairie creek.

Q What part of the Nation is that? A Right near Big creek, it is west of Big creek.

Q Year where place is it now? A My brother's place.

Q What is your brother's name? A Mart Whitacre.

Q Do you know Albert Barrie? A Yes, sir.

Q Where was he living when you came back and located your place?
A When I first came myself I never seen Albert Morris.
Q How far did you locate the place from where Albert Morris' place is up on Big Creek? A I guess about three or four miles.
Q Did you have a place made there when you first saw Morris in that country? A No, sir.
Q Were you living on that place when Morris first came? A I was living to my brother's place.
Q How far is that from the Morris place? A About seven miles down the Creek.
Q Do you know Watt Starr? A Yes, sir, I was raised with him.
Q You know him before the war? A Yes, sir.
Q When did you first see him when you came back to the Cherokee Nation? A Well, it has been about twenty years ago.
Q You saw him about '78 or '9? A I don't know dates, if you get a date on me you have got me, I don't know the date.
Q You know you saw him there a short while after you came back to the Territory, don't you? A Yes, I saw him, but Watt Starr he don't know where I live, he couldn't get to my place.
Q I asked you if you saw Watt a short while after you came back to the Territory? A No, not a short while, I lived down the Creek then to my brother's house.
Q How long after you came back to the Cherokee Nation before you saw Watt Starr, the man with whom you have been raised, about how many years? A I can't tell you exactly.
Q Was it two or three? A No, I can't tell you exactly how long.
Q Can't you give me your best judgment as to how many years you had been here before you saw Watt Starr? A No, sir, I had been here a long time.
Q Well, the first time you saw him he came to your house to see about your coming back? A No, he never came to my house.
Q He came to see you somewhere? A No, he never came to my house, no, sir.
Q Didn't he come up where you were to see you? A No, sir.
Q Have you ever seen him since you came back? A I saw him down to Chelsea.
Q When was that? A When this Court was going on.
Q Was that the first time you saw him since the war? A The first time I saw him?
Q It was? A No, sir.
Q You had seen him before that and had a conversation in which you told him you had just come back from Kansas? A No, sir, I never lived in Kansas.
Q In which you told him you had just returned to the Cherokee Nation? A I told him I just came from below, I never lived in Kansas.
Q When was it you told him that, when you were in Chelsea enrolling?
A No, I never spoke to him in Chelsea, I made a mistake; I never saw him after the war until down here at Chelsea.
Q None of your other children but the one, Charlie, was born in Kansas? A That is all, Charlie was born in Springfield, Missouri.
Q You lived right in the City, did you? A No, I lived out west of Springfield.
Q About how far? A About a quarter of a mile.
Q On whose place did you live? A I didn't live on anybody's place; I just lived in town.
Q I asked you if you lived in town and you said you didn't live in town. From whom did you rent your farm? A Well, I lived there just out on the reserve.
Q You lived on the Government grounds then? A Yes, sir, lived out on the reserve at a little shanty I built out there for myself.
Q Have you any brothers except the one you spoke of? A Yes, sir.
Q What are their names? A Mass.
Q Any other? A And Jesse.
Q They are your brothers? A Yes, sir.
Q They are living in the country? A Yes, sir.

MR. HASTINGS: Did you have any witnesses at all before the Kern-Clifton Court? A Yes, sir.

Q Who? A I went in, but they were not called.

MOSE RILEY, being duly sworn by Commissioner Needles, testified as follows:

MR. SMITH: State your name. A Mose Riley.

Q How old are you? A 51.

Q Where do you live? A Chelsea.

Q How long have you lived there? A 21 or 22 years.

Q Do you know this applicant, Frank Whitmire? A Yes, sir.

Q How long where he lives? A Yes, sir.

Q Where? A On Big Creek.

Q How long has he lived there? A I don't know sir how long he has lived there, lived there a long time.

Q How far is that from where you live? A About 18 or 20 miles from where one of my places is.

Q Where did you first know Frank Whitmire? A I have knowed him ever since the war.

Q When did you first see him in the Cherokee nation after the war?

A Right after peace, after we came back here I saw him.

Q How long after you came back here before you saw him?

A I don't know, sir, how long, it wasn't very long though.

Q Give us your best judgment as to how long it was? A It couldn't have been more than three or four months I reckon.

Q Where did you see him? A Over in Saline district.

Q Don't know how long he had been back when you saw him? A We came back in the fall and I saw him that same year, that same winter.

Q I say you don't know how long he had been back when you saw him?

A No, sir, I don't know that.

Q Did you see him once or more than once at that time? A I only saw him once right then but I saw him after that.

Q How long afterwards? A Next time I saw him it must have been three or four months afterwards up on what is called Lynch's Prairie, that was four or five miles from where I lived.

Q How long afterwards? A It must have been three or four months I reckon, four or five months, something like that.

Q How long after that, or when did he come up on Big Creek to live?

A I don't know sir just exactly when he did come there.

Q Do you know any of his children? A I know one or two of the, that is, by name.

Q Do you know his wife? A Yes, sir, know her when I see her.

Q Ever been to his house? A Yes, sir, I have been there a number of times.

Q Do you they house? A Yes, sir.

Q Live together as man and wife? A Yes, sir.

Q How are they received in the neighborhood? A As man and wife.

COMMISSIONER: When did you say you first saw this applicant?

A Over in Saline.

Q After the war; when was that? A I don't know just exactly what time it was.

Q What year was that? A It must have been in the winter, it was along in the winter I think of, well the same year we came there.

Q When did you come? A I came in '66.

Q What time of the year did you come? A We came in the fall.

Q And you saw this man this next winter? A Yes, sir, I saw him that winter.

Q The fore part of the winter or last part of the winter? A It was close to about Christmas, I don't know how whether after or before Christmas, but it was along there somewhere.

MR. HASTINGS: Who was with him? A He was by himself when I saw him.

Q Come to your house? A No, I had no house but he came to my father's house.

Q Where was he living? A I don't know sir where he was living,

I know where his father was living.

Q Where was your father living? A Old the old Millair place.

Q Made a crop there that year? A Yes, he made a crop there, I helped him to.

Q Qnd there was nobody with this man? A Nobody with him when he came to my father's house.

Q Was he in a wagon? A No, sir, horseback.

Q How long did he stay there? A Just stayed there all night.

Q Was his wife with him? A No, sir.

Q Was he married at that time? A I don't know sir, whether he was or not.

Q Never heard him say anything about that? A No, sir.

Q He was a stranger to you, never saw him before? A I saw his father.

Q But him? A No, sir, I never saw him before.

Q About how old was he at that time? A I don't know.

Q Was he a man? A Looked like he was.

Q How are there any particular circumstances that you remember his being there that time? A Yes, sir, he was inquiring about uncle Moss Alberty.

Q Was that the particular circumstance? A Yes, sir, and I knowed his daddy.

Q He stayed all night at your house? A Yes, sir.

Q Was Mrs. Martin Thompson on that place at that time? A Yes, sir.

Q You had never seen him before the war? A No, never saw him.

Q How soon before you ever saw his wife? A I never saw his wife till '73.

Q Where did you see him? A When I saw her I saw her at his house on Big Creek.

Q How far is that from Albert Morris? A I don't know where Albert Morris lived there.

Q Do you know where he lives now, where his farm is? A Yes, sir.

Q How far is that from his farm up there? A Well, where Frank lives now I guess it is about two miles and a half or three miles south.

Q Did this man have any children in '73 when you saw his wife?

A Yes, sir.

Q How many? A I don't know how many, I stayed all night at his house.

Q But you don't remember these children's names? A Remember their names, I remember their names when I heard them called.

Q You would have remembered it if it had been in '66? A I know that I would know it if I saw them in '66.

Q But you don't remember seeing them in '73? A I never heard their names.

Q About how old was the largest one? A I don't know, they are grown and married, most of them.

Q At that time, in '73? A Some good size girls and some good size boys.

Q About how old was the oldest one? A I don't know, they were big enough to take my horse and put it up at his house.

Q At that time, in '73? A Yes, sir.

Q Was the oldest a girl or boy? A I don't know which one was the oldest one.

Q Was it a boy took your horse and put it up? A Looked like a boy, it had on pants.

Q And you think that was in '73? A It was in '73.

Q You are positive of that? A Somewhere along about that time.

Q I want to know if you are positive? A I can't say for sure it was then, but it was along there sometime.

Q Could it have been as late as '75? A Well, I think it was '73, but I know it was '73. I have got a child that was born in '73, and

it was born the night before I stayed all night at 7700's.

- Q You know he was born in '73? A I know my child was born and I stayed all night next night at his house.
- Q You are more positive in '66 than you are in '73? A Oh yes, you know we know something about '66, and I know something about now so far as that is concerned.
- Q Where was he living in '73, Frank? A Same place he is living now? A No, sir.
- Q How far from there? A Why I don't know whether it was on his place or his brother's place, I don't know which one of them it was, I don't know whose place it was, but where I stayed all night was on the side of the creek, and he don't live there now.
- Q What side? A On the east side of the Creek.
- Q What creek? A On the east side of Big Creek.
- Q You don't know whether it was his place or not? A I don't know, I never asked him.
- Q What sort of a house was he living on? A Log house.
- Q You don't know how far that is from where he is living now? A No, sir, I know where the place is if I could go to it.
- Q You don't know who is living on that place now? A No, sir.

ANDERSON LYNCH, being duly sworn by Commissioner Needles, testified as follows:

- BY SMITH: State your name. A Anderson Lynch.
- Q How old are you? A 64
- Q Are you a citizen of the Cherokee nation? A Yes, sir.
- Q Recognized citizen? A Yes, sir.
- Q Do you know this applicant, Frank Whitmire? A Yes, sir.
- Q How long have you known him? A I knowed him just a while time the war was coming up.
- Q Did you know him before the war? A Yes, sir.
- Q Know whether he was a slave or not? A Yes, sir.
- Q Who did he belong to? A Johnson Whitmire.
- Q Was Johnson Whitmire a Cherokee Indian? A Yes, sir.
- Q Citizen of the Cherokee nation? A Yes, sir.
- Q Where did he live before the war? A Lived away down below Tahlequah, somewhere down in there.
- Q How far was that from where you lived? A Oh it must have been, I can't tell exactly how far it was, it was a good piece, it was two days travel I think down in there.
- Q Do you know where Frank Whitmire, this applicant, lives now? A No, sir, never was at his house.
- Q When did you first see Frank Whitmire in the Cherokee Nation after the war? A It was in '66 after Christmas, about January, I guess; he was up to Bob Daniels' place up there where my brother was living.
- Q How long after Christmas of '66 was it before you saw him? A A few weeks I guess.
- Q Along in January then? A Yes, sir.
- Q Where was it you saw him at that time? A That was up at Bob Daniels' place.
- Q In the Cherokee Nation? A Yes, sir.
- Q Where was the Bob Daniels place? A On Grand river up above where I was living.
- Q Did you see him once or more than once at that time? A I just saw him once up there at a gathering at his brother's.
- Q How long after that was it before you saw him again? A I never saw him until they had a gathering over there at Goose Neck, and met up there with him again.
- Q You say you have never seen to his house? A No, sir, never been there.
- Q Well, at the time you saw him at the Bob Daniels place, what was he doing at the Bob Daniels place? A He just had some there I suppose to see his brother, or something.
- Q Do you know of your own knowledge? A No, sir, I don't know what his business was, I just saw him there I thought.

- MR. DAVENPORT:** He was just fooling around there, Crap, was he?
- Q Yes, he was just there, I don't know how long he stayed there.
- Q Had his wife with him? A No, sir, he didn't, I never saw any woman.
- Q Have any children? A Not as I know of.
- Q You don't know when that was, do you? A It was along in January, just after Christmas.
- Q Of what year? A Just after '66.
- Q Don't you whether it was January '67 or January '68? A No, it was just about two weeks after Christmas, not have been some here along about there.
- Q You didn't know this fellow before the war, did you?
- A Yes, sir, I knew him before the war.
- Q And you lived two days travel from him? A Well the way I come to find out was following the regiment traveling, going backward and forwards.
- Q Well the regiment, was it going that was before the war?
- A Well Waiter's was.
- Q Before the war broke out? A No, sir, the war had commenced.
- Q Don't you know this fellow left the country when the war commenced and didn't come back till after the war was over? A He was down at the Whitmires.
- Q Which one of the Whitmires was he with? A Johnson Whitmire.
- Q Where was they living? A We camped right close there to the Whitmires in the creek.
- Q What creek? A It must have been a river or something, it wasn't far from there.
- Q Did it have any name? A I don't know of any size for it, I heard of so many little creeks down there.
- Q In fact you don't know much about it anyway, do you?
- A I just only knew him.
- Q How large was he when you saw him there at that time?
- A A good big sized fellow, big enough to drive a team.
- Q Was he grown? A Wasn't quite grown.
- Q Was he grown after the war when you saw him? A He was mighty near it, he was a good size boy.
- Q And wasn't quite grown after the war? A He was about grown I reckon.
- Q You know you saw him? A I saw him, of course he was a good sized fellow then, not a child.
- Q You don't know where he went during the war? A No, sir.
- Q Don't know where he married? A No, sir.
- Q Don't know anything about his family? A No, I never seen them.
- Q Don't know where his family was when you claim to have seen him down there just after Christmas after the war closed? A No, sir, don't know where they were.
- Q Did he come to your house, or whose house? A No, sir, was there at his brother's, his brother was on the Bob Daniels house.
- Q What was his brother's name? A Hese Whitmire.
- Q Know anything about what family Hese lived nearby? A Nearly George Landrum's family.
- Q And this man, after you say him there, it was several years before you saw him again? A No, sir.
- Q You don't know where he had been living in the meantime?
- A No, sir, don't know where he had been living.
- Q And you just happened to remember he come along there to his brothers and you saw him? A After I come to think of it, I was here and he was here.

MR. HASTINGS: What year did the Kerr-Clifton Commission make a roll? A I don't know.

- Q What year did Wallace make a roll? A Never kept count of it.
- Q You don't know anything about dates? A No, sir.
- Q Don't know one year from another when it came to keeping dates?
- A No, sir.

MR. SMITH: You know when you came back here after the war?
A Oh yes, sir.

FRANK WHITMIRE, recalled, testified as follows:

MR. HASTINGS: Where did you first see Dave French A At Fort Gibson.

Q After the war? A Yes, sir.
Q What time of the year? A About just before Christmas, a little while before Christmas.
Q Did you spend your Christmas in Fort Gibson? A Yes, sir.
Q Was Dave living there at that time? A Yes, sir.
Q Was he living in a house was you at his house? A I wasn't at his house, I don't know whether he had or not.
Q Did you see his wife down there? A No, sir.
Q Did you see the members of his family? A No, sir.
Q Did you ever see Dave French before? A I used to see him before, I was raised right by him.
Q Before the war? A Yes, sir.

DAVE FRENCH, being duly sworn by Commissioner McCall, testified as follows:

MR. SMITH: State your name. A Dave French.

Q How old are you A 72 years old.
Q Do you know this applicant, Frank Whitmire? A Yes, sir.
Q How long have you known him? A Well, knowed him all the time, a long time.
Q Know him before the war? A Yes, sir.
Q Was he a slave? A Yes, sir.
Q Who did he belong to? A Johnson Whitmire.
Q Was Johnson Whitmire a Cherokee Indian? A Yes, sir.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Where did he live when the war commenced? A He was living down on the Creek, they called it Pee Vine I believe, in below where we lived about seven or eight miles.
Q Where was this man Frank Whitmire at this time? A He was there.
Q When did you first see Frank Whitmire in the Cherokee Nation after the war? A I saw him Christmas in '66 in Fort Gibson.
Q Know how long he was up there at the time? A No, sir, he might have lived here in Gibson, I can't tell you.
Q Mr. French, do you know whether he was married at that time or not? A No, sir, I don't.
Q When did you next see him after you saw him in Fort Gibson? A I don't know exactly how long, I guess I next saw him away up on the river, on Big Creek, I don't know which.
Q Do you know where he lives now? A Yes, sir, on the Big Creek.
Q Have you ever been to his house? A I believe I have, but not very much.
Q You know how long ago it has been since you first saw him on Big Creek. A No, sir, I don't.
Q Was it a long time or a short time? A Well, it has been a good while, every one in a while I saw him, maybe I saw him that year and maybe the next year and maybe the year after that.
MR. DAVENPORT: You knew him before the war? A Yes, sir, I knew him all the time.
Q And when he came to Fort Gibson you recognized him at once?
A Yes, sir.
Q He have his wife with him there? A He never had his wife, I never saw anybody with him.
Q You were living at Gibson at the time? A I was living at Gibson, I was going backwards and forwards hauling people from Kansas, I had stayed there to Gibson though all the time till peace.
Q Did you have your wife with you? A I did not.
Q Where was she at that time? A I don't exactly recollect.
Q Was she in the Territory or Kansas? A I don't recollect.

- Q Don't know where your wife was living? A No, sir, I don't
recollect now.
- Q You were married? A Yes, sir.
- Q She had some children? A Yes, sir.
- Q You don't know where she was living when you saw him in Christmas
in '66? A I don't recollect where I had them at that time.
- Q They were in Kansas? A Might have been in Kansas at that time.
- Q You don't know where the family was? A No, sir, I don't know
as he had a family, I never asked him.

FRANK WHITMIRE, recalled, testified as follows:

- COMMISSIONER: You were married in Kansas A No, sir.
- Q In Missouri? A Yes, sir.
- Q When did you first bring your family to the Cherokee Nation?
A I can't recollect when I did bring them it has been so long I
can't recollect, I came here and settled --
- Q You came back and married then? A Yes, sir, went back and
married.
- Q You were not married the first time, you went back and married
and stayed there several years.
- Q One of your children were born in Missouri? A No, sir, all
born in the Nation.
- Q All of these oldest children born in the Nation? A Yes, sir,
only Charlie.
- Q You must have lived up there five or six years before you married?
A No, I married my wife before the war ended, and then I went
back after Charlie was born.
- Q Married your wife in Missouri before it ended? A Yes, sir.
- Q Got any proof of your marriage? A No, sir, not here.
- Q Married in Missouri, was you? A Yes, sir, Springfield, Missouri.
- Q Got a license before you married, did you? A No, sir, I just
married, a man married me.
- Q That wife you married there living here yet A Yes, sir.
- Q She is the mother of these children? A Yes, sir, mother of
all of them.

The 1880 authenticated roll of Cherokee freedmen examined
and the applicants not identified thereon.

The 1896 census roll of Cherokee freedmen examined and the
applicants not identified thereon.

The Kern-Clifton roll examined and the applicants identi-
fied thereon as follows:

Frank Whitmire on page 151, No. 3729, Coconawawee district;
Jesse Whitmire on page 151, No. 3733, Coconawawee district;
A a whitmire not on said roll.
Ella whitmire on page 151, No. 3731, Coconawawee district;
George Whitmire on page 151, No. 3735, Coconawawee Dist.
Bessie whitmire on page 151, No. 3734, Coconawawee Dist.

- Q You never knew for Ada? A No, sir.
- Q Why? A Just didn't; she was knocked off the roll.

The Wallace roll examined and the applicant, Ella Whitmire,
identified thereon, page 149, No. 3116, Coconawawee district
as Ellen Whitmire.

COMMISSIONER: Frank Whitmire applies for the enrollment
of himself and five children, to-wit: Jesse, Ada, Ella, Georgy
and Bessie. His name cannot be identified upon the authen-
ticated roll of 1880 or the census roll of 1896. He is
identified upon the Kern-Clifton and the Wallace roll. The
names of his children, except Ada, are identified upon the
Clifton roll, Ella being also identified upon the Wallace
roll. Applicant avers that he was a slave of Johnson Whit-
mire and went out of the Cherokee Nation during the war, and

returned to the Cherokee nation in the year 1866, and married in the state of Missouri and returned to the state of Missouri and married and brought his family to the Cherokee Nation some years later. A He makes satisfactory proof as to his residence. Now Frank Whitmire and his five children enumerated herein will be listed for enrollment as Cherokee freedmen upon a doubtful card. He will be notified by mail of the action of the Commissioner in the premises. It will be necessary for him to file satisfactory proof of the same to the Commissioner or otherwise upon any of the rolls of the Cherokee Nation.

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 12th of July, 1901.
(Signed) T. B. Needles,
Commissioner.

J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original in the above case.

Sworn to and subscribed before me this the 6th of September, 1901.

J. O. Rosson
C. R. Beckwith

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Austin Whitmire for the enrollment of himself and four children as Cherokee Freedmen; said Whitmire being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Austin Whitmire.
Q How old are you? A 27.
Q What is your post office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself, wife and four children.
Q What is your wife's name? A Josephine.
Q How old is she? A 26.
Q Give me the name of your children? A Cora.
Q Well, how old is Cora? A Three years old.
Q The next one? A Year old.
Q What is its name? A Mineola.
Q How old is Mineola? A Years old.
Q The next one? A Josephine.
Q How old is Josephine? A Five years.
Q The next one? A Arthur.
Q How old is Arthur? A Six years old.
Q Your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Which rolls? A I don't know; it is on the roll with my father, it is on the Wallace roll.
Q What is your father's name? A Frank Whitmire.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Martha.
Q Is she living? A Yes, sir.

The 1880 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicants not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 152, #3756, Austin Whitmire, Cooweescoowee District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 149, #3113, Oscar Whitmire, Cooweescoowee District.

The names of applicant's children not found on any of the rolls of the Cherokee Nation.

- Q Who is the mother of these four children for whom you apply?
A My wife.
Q Josephine? A Yes, sir.
Q Is she a citizen? A Yes, sir.
Q Do you apply to have her enrolled? A Yes, sir.
Q What is her father's name? A I don't know.
Q What is her mother's name? A Easter Carter.
Q Is Easter Carter a citizen? A Yes, sir.
Q Has she been enrolled? A I don't know whether she has or not.
Q Have you got witnesses? A Yes, sir.
Q Who do you want witnesses, for yourself or your wife?
A My wife.
Q Your mother has been enrolled has she? A Yes, sir.
Q Do you claim through your mother or father?
A My father.
Q Where were you born? A Born on Big Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Have you lived in the Cherokee Nation all your life? A Yes, sir.

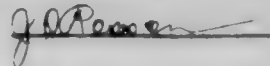
Austin Whitmire, et al.--2.

- Q Never lived out of it? A No, sir.
Q Are these children all living at this time? A Yes, sir.
Q Were they all born in the Cherokee Nation?
A Yes, sir.
Q Your witnesses are not here, you had better apply for yourself now and apply for your wife when your witnesses come? A All right.
Q Have you got anybody here to prove your marriage between yourself and your wife? A I don't know.
Q Who married you to Josephine? A Reuben Sanders.
Q Is he living? A Yes, sir.
BY MR. J. S. DAVENPORT, Cherokee Representative:
Q You have lived in the Cherokee Nation ever since you can remember? A Yes, sir.

COM'R KEEZLES: Austin Whitmire applies for the enrollment of himself and four children, to-wit: Cora, Mineola, Josephine and Arthur. His name cannot be identified upon the authenticated roll of 1880 or census roll of 1896; he is identified upon the Kern-Clifton roll and Wallace roll. He avers that he is the child of Frank and Martin Whitmire. He claims citizenship through his father, who was listed for enrollment as a Cherokee Freedman upon doubtful card #256, and the testimony taken in said case will be made part of the record in the testimony at bar and a copy thereof filed therewith. He avers that he was married to one Josephine Carter, a citizen; and that as a result of said marriage he has four children for whom he applies. He makes satisfactory proof as to residence, consequently Austin Whitmire and his four children, as enumerated herein, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. It will be necessary for him to file satisfactory proof of birth of said children, their names not appear upon any of the rolls. It will also be necessary for him to file satisfactory proof of marriage between himself and his wife, he averring that the preacher is now living.

---00000000---

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.



Subscribed and sworn to before me this 17th day of July, 1901.



Commissioner.

-H-

File with C. E. D-974, Austin Whitmire.

SUPPLEMENTAL: C.E. D-956.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept. 27, 1901.

In the matter of the application of Frank Whitmire et al for
enrollment as Cherokee Freedmen.

TESTIMONY ON THE PART OF THE CHEROKEE NATION.

Appearances:

Mr. Smith, of Kellette & Smith, for the applicant;
Mr. J. S. Davenport, for the Cherokee Nation.

WATT STARR, being sworn by the Commission testified as follows:
BY THE COMMISSIONER:

- Q What is your name? A Watt Starr.
Q Where do you live? A Near Claremore.
Q How old are you, Mr. Starr? A 56 years old.
Q How long have you lived in the Cherokee Nation? A About 53 years,
I was out 3 years during the war, and I have lived here all my life
but that.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q In what district did you live in the Cherokee Nation before the
war? A Goingsville.
Q Did you know, before the war, a slave by the name of Frank Whit-
mire? A Yes sir.
Q To whom did he belong, if you know? A Belonged to Johnson Whit-
mire.
Q You know whether or not Frank went out ax during the war? A Yes
sir he went out.
Q Have you seen Frank Whitmire since the war? A Yes sir.
Q When was the first time you saw him after the war, Judge? A
I can't collect it was in '77 or '78, one or the other, I don't
recollect just which, in the fall.
Q Where was it you saw him? A On Big Creek.
Q In the Cherokee Nation? A Yes sir.
Q Did you have any conversation with him at that time as to where
he had been and when he came back? A Yes.
Q State what that conversation was, as near as you can remember?
A He said he hadn't been back but a few days, just had come in a
few days before I saw him, and said he had been to Kansas; I
asked him why didn't he come back sooner, he said he just couldn't
get back.
Q You had been raised with him before the war, or near him? A
Yes sir, in a mile and a half or two miles of him.
Q Before you met him ax during the time you speak of did you hear that he
had returned? A I heard that he did, and I started over to see
him and I met him; we was raised up together and were boys together,
Q And that's when he told you then that he had just come back from
Kansas? A Yes sir.

BY THE WIT:

- Q Mrs. Starr, what date did you say that was? A '77, or '78, one
or the other.
Q When did you first have occasion to remember the date that you
met him, when was the subject first made a subject of inquiry,
after the time that you met him? A I talked about meeting him off
and on, I never was sworn to an statement until that Ferns Clifton
Court.
Q You testified before the Kerns Clifton court did you? A Yes sir.
Q How far from the time you met Frank Whitmire until the Kern Clifton
court, you had no occasion to remember anything about the date that
you saw him did you? A No I don't recollect.
Q That was some 28 or '9 years after you saw him wasn't it? A I
don't know when the Kerns Clifton court was, I kept no account of it.

Frank Whitmire I. (sup/1)

Q. That was in 1896 when the Karns Clifton court sat? A. I couldn't say.

Q. You remember it has been within the last 7 or 8 years? A. Yes sir.

Q. Now you can't state whether it was in '67 or '68? A. No, I know it was not that, it was in '77 or '78.

Q. You don't know anything about where he was in '67 or '68?

A. No, I don't; he told me he was in Kansas; he told me he just come from Kansas.

Q. Now where were you in '67 and '68? A. In Goingsnake District.

Q. Where were you in '66? A. In Goingsnake.

Q. Where were you in '65? A. In the Choctaw Nation part of the time.

Q. When did you return to the Cherokee Nation after the war? A. I aint no slave.

Q. I know, but many of the Cherokees went out? A. I come back the fall after peace was made, in '65.

Q. Nearly all of the Cherokees went out of the Nation during the war? A. No, sir.

Q. Most of them went out didn't they? A. Several of them went out.

Q. All I want to know is when you got back after the war? A. '65, I think, in '65.

Q. Now you never saw this slave, Frank Whitmire, until along in '77 or '78? A. No, '77 or '78 ~~xxxx~~ one or the other, I couldn't keet tell you which.

Commission: This testimony will also be made a part of the record in doubtful Cherokee Freedman case, card no. 984.

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 October 7, 1901.

[Signature]

Commissioner.

Cher. Fr. D. 975

Cher. Fr. D. 975

To be filed with the case of Wannie Derrick, C. P. D. #975.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 25, 1901.

In the matter of the application of Alfred Bell for the enrollment of himself and six children as Cherokee freedmen.

APPEARANCES:

Mellette & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

ALFRED BELL, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Alfred Bell.
Q How old are you? A 51.
Q What is your post office address? A Hayden.
Q What district do you live in? A Coowee Coowee.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Your name on any of the rolls of the Cherokee Nation? A No, sir, because not, without is is the rejected roll.
Q You never have been recognized then by the Cherokee authorities?
A No, sir.
Q Who do you want to enroll besides yourself? A My children.
Q How many children have you got? A Nine.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Missouri.
Q How old is she? A About 50.
Q Is she a citizen? A No, sir.
Q She is a non-citizen is she? A Yes, sir.
Q Well, give me the names of your children under 21 years of age and unmarried? (Hands Commissioner paper.)
Q James, he is 20, is he? A Yes, sir.
Q Earl, he is 18? A Yes, sir.
Q Lucian, he is 16 is he? A Yes, sir.
Q What is the name of the next one, Russia? A Yes, sir.
Q How old is Russia? A 16, they are twins.
Q The next one Eddie, 14? A Yes, sir.
Q What is the last one's name? A Senie.
Q Is she 12? A Yes, sir.
Q These children all living at this time? A Yes, sir.
Q They born and raised in the Cherokee Nation? A Yes, sir.
Q Just six then that are under age? A Yes, sir.
Q MR. SMITH: Mr. Bell, how old ~~was~~ did you say you are? A 51.
Q Were you a slave? A Yes, sir.
Q Who did you belong to? A Mr. Bell's wife.
Q Which Bell? A Hooley Bell, Sabra Bell.
Q Col. L. B. Bell's wife? A Yes, sir.
Q Where were you living when the war commenced? A Living in the Nation, here on Beattie's Prairie.
Q Who were you living with? A Mr. Bell and his wife.
Q Were you taken out, or did you go out, of the Cherokee Nation during the war? A Yes, sir, they carried me south.
Q Who carried you? A Mr. Bell, my master.
Q Where did he carry you to? A Texas.
Q When did you return to the Cherokee Nation after the war? A '66.
Q Where did you come to? A Fort Gibson.
Q How long did you stay in Fort Gibson? A I didn't stay up there but about five or six days.
Q Then where did you go? A Came up on Lightning creek.
Q Then how long did you live up on Lightning creek then after coming there that time? A I lived there off and on, three years.
Q Where do you live now? A On Lightning Creek.
Q How long have you been living there the last time? A On

Lightning Creek?

Q Yes, sir. A I have been living there all the while.

Q I understood you to say you lived three years on Lightning Creek after you were there from Fort Gibson? A Yes, sir, I went from there where I am.

Q You are still on Lightning Creek, are you? A Yes, sir.

Q You have been living where you are now ever since you moved from the first place you went to on Lightning Creek? A Yes, sir, ever since I moved from Mr. Daniles place I went where I am, I worked here off and on until I came to where I now live.

Q All these children for whom you apply, that you have named, are they the children of yourself and your wife, Missouri Bell?

A Yes, sir.

Q Have they all been born since you and Missouri have been married and living together? A Yes, sir.

Q Are they living with you, these children? A Yes, sir, some of the are, the others are living up in the country, the oldest ones.

Q Are these children whose names you gave here, which ones are living somewhere else, if any of them are not living with you?

A They are about in the country, there are not any of them but what are in the country at this time.

Q They are all alive now? A Yes, sir.

Q MR. J. S. DAVENPORT, Cherokee attorney: Where were you living when the war broke out? A On Beattie's Prairie.

Q You didn't go to Texas with Mr. Bell before the war broke out?

A Yes, sir.

Q You were not living on Beattie's Prairie then when the war broke out? A Well, at the breaking out they carried me south.

Q You went south before there was any war, didn't you? A Yes, sir, the war it hadn't commenced when I went to Texas.

Q You lived there now until you saw, '66; is that when you claim you left there? A No, sir, I claim I came back here.

Q When did you leave Texas? A I left in '66.

Q What time of the year? A In the fall.

Q Now when did you go back to Texas? A I didn't go back to Texas at all.

Q Were you a married man at the time you left Texas in '66? A No, sir, I was a boy.

Q How old were you? A I was 16 years old.

Q Well, you went back to Texas then later on? A Yes, sir.

Q Well you married in Texas? A Yes, sir.

Q Now you had a child named Bob that was born in Texas, didn't you? A No, sir.

Q One named Frank that was born in Texas? A No, sir.

Q Where was Hannie born? A They are my children.

Q Were not they born in Texas? A No, sir.

Q Where were they born? A On Lightning Creek.

Q Bob was born on Lightning Creek, was he? A Yes, sir.

Q And Hannie? A Yes, sir.

Q And Jim? A Yes, sir.

Q And Ernest? A Yes, sir.

Q Lucian was born on Lightning Creek? A Yes, sir.

Q And Russia? A Yes, sir.

Q Eddie? A Yes, sir.

Q And Genia? A Yes, sir.

Q All your children were born on Lightning Creek? A Yes, sir.

Q Lightning Creek in the Cherokee Nation, is it? A Yes, sir, Cherokee nation.

Q Did you testify before the Kern-Clifton Commission? A Yes, sir.

Q I will ask you if you didn't testify before that Commission that all your children excepting Willie were born in the State of Texas? A I don't know whether I did or not, I might have.

Q If you did testify to that, was it true or untrue? A Yes, sir, they were born here.

Q When you came to Lightning Creek in '66 who did you find there?

A In '66 I found these people lives on Lightening creek here, Mr. Whitnair's folks, Harry Still.

Q Which one of the Whitesires? A Kase.

Q Who else? A Ransome Downing.

Q Who else? A Uncle Mose and Ransome Downing I said.

Q They were the only people living in the Cherokee Nation on Lightening creek when you came back? A No, sir, they were not all there.

Q Who else were there? A Yes, sir, there were other people.

Q Who were they? A Loony Glass' folks I judge.

Q To what point on Lightening creek in the Cherokee Nation did you first return? A Over here up where I am living at near Hayden postoffice.

Q That year were you married? A I married in the year '69 I believe.

Q In 1869? A Yes sir.

Q You know what County in Texas you were married in? A Grayson I believe, some of them counties.

Q How long did you live in Texas after you were married before you came to the Cherokee Nation? A I just stayed there the balance of the year, and came back to the Nation.

Q Did you come back before or after Hookey Bell came from Texas, or L. B. Bell, commonly called Hookey? A I came back before he did.

Q About how long before, or do you know? A No, sir, I don't know exactly how long before he did.

Q Where was he living before he left Texas? A Living on the old Bell place the last I knew of him,

Q That was before you married or after you married? A Before I married.

Q Then you went back to Texas and married? A Yes, sir.

Q Was Mr. Bell there when you went back? A No, sir.

Q Where did you first see Harry Still after you came back to this country? A Near there after you went there, where he lived at, on a place close to Hayden post office there.

MR. HASTINGS: Was that after you brought your wife there? A No, sir, it wasn't the first time I saw him, he was there when I came there from Daniels' place, he helped me make my place.

Q Did you make that after you married? A No, sir, before I married.

Q When you came the first time? A Yes, sir.

MR. DAVENPORT: What time did you come to Lightening creek?

A In the spring.

Q Of what year? A In the spring of '66 I believe, I don't know exactly what year, but it was in the spring after I stopped to Daniels' to work there, and went over the next spring and took up a farm on Lightening creek.

Q How many times you been married? A Once.

Q Your wife's name Mary? A Yes, sir.

Q Was she ever married before you married her? A Yes, sir.

Q What was her first husband's name? A His name was Tom Standard.

Q Was he living when she married you? A No, sir, he died.

Q She was a widow? A Yes, sir.

Q You and she had been living together ever since you married?

A Yes, sir.

Q She was a citizen of the State of Texas? A Yes, sir.

Q Have you got any marriage certificate? A No, sir.

Q She is the mother of all these children? Is she? A Yes, sir.

taking of testimony continued by Stenographer Chas. van Waise.

Ernest 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 cases, and that 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 6th of July, 1901.
(Signed) C. R. Breckinridge,
Commissioner.

Continued from Stenographer B. C. Jones.
Nowata, I.T. June 25th, 1901.

By Mr. Davenport of applicant:

- Q Where did you see Fred Martin the first time after the war?
- A Fort Gibson.
- Q When was that? A In '66.
- Q What time of the year? A In the fall
- Q Who was with you then? A George Thompson.

FRED MARTIN, called and sworn as a witness for the applicant. BY MR. SMITH:

- Q What is your name? A Fred Martin.
- Q Where do you live? A On Grand River, Saline district.
- Q What is your post office? A Spavinaw.
- Q Do you know the applicant here, Alfred Bell? A Yes, sir, I have seen him.
- Q How long have you known him? A When did you first become acquainted with him? A There was a boy that was with George Thompson who came to our house, that they called Alfred, and to the best of my knowledge this is the boy.
- Q When were they at your house? A In the fall of '66.
- Q Were you a witness in the George Thompson case? A Yes, sir, I was.
- Q Where did you see him, what place? A Fort Gibson.
- Q You mean Fort Gibson, Indian Territory? A Yes, sir.
- BY MR. DAVENPORT: How old was this boy that they called Alfred that was with George Thompson the time you saw him? A A good sized boy.
- Q About how old did he look to be? A I don't know.
- Q Was he ten years old or more? A Looked to be bigger than that.
- Q How old were you then? A I am now 43 years old.
- Q That would make you about seven years old then? A 8 or 10, I think, I was.
- Q How long were they there? A A short time.
- Q A good many people came there didn't they? A Yes, sir.
- Q You have testified as to the identity of a great many people, men, women, girls and boys that came there to your house that time haven't you? A No, sir, not many.
- Q Well you have testified as to some haven't you? A Yes, sir, all those I saw and remember.
- Q You had never seen this boy before that had you? A No, sir.

HARRY STILL, called and sworn as a witness for the applicant. By Mr. Smith:

- Q What is your name? A Harry Still.
- Q What is your post office address? A Hayden.
- Q Are you a recognized citizen of the Cherokee Nation, a freedman?
- A Yes, sir.
- Q Do you know this applicant, Alfred Bell? A Yes, sir, I know him.
- Q Do you know whether he was a slave or not before the war?
- A No, sir, I don't.

Q When did you first see him in the Cherokee Nation after the war?
A January '66.

Q Where did you see him? A Coming to Hanson Thompson's and
staid there a while and left there.

Q How long did he stay there? A Staid there until long in the
summer same time.

Q Are you sure that it was in January? A Yes, sir, Hanson went
to Fort Gibson and when he came back this man came with him.

Q Do you know where this applicant lives now? A Yes, sir.

Q How far is it from you? A Adjoining places with me.

Q How long has he lived there? A It has been—he started a claim
there the same spring he came there and lived there several years
and then left; he lives there now.

BY DAVENPORT: You saw this fellow at Hanson Thompson's place
in January, '66? A Yes, sir.

Q And you have been seeing him ever since in the country?

A No, sir, not all the time.

Q You don't know who his master was? A No, sir.

Q You don't know when he moved back to the Nation to live?

A I know I saw him in January, '66.

Q You didn't get back yourself until August '66 did you?

A I got back here in '65 and '66 both.

Q You wasn't here in the Cherokee Nation in January '66 were you?

A O f course I was.

Q You got back in January and saw him in January, '66?

A I got back the last part.

Q Of January? A Of '66.

Q Where was Alfred's family when you saw him in '66? A Didn't
have any.

Q When did he bring his family, did you see them? A Yes, sir,
I saw them, the next time I saw him.

Q How long after you saw him first did you see his family?
4, 5 or 6 years.

Q He didn't continue to reside there in that community in '66?

A No, sir, he came there and staid a while and left the then came
back again and he had his family with him then.

Q How many children had he when he returned? A Didn't have any,
might have had William.

Q Was his children all born on Lightning creek in the Cherokee
Nation? A I think they was.

Q How far did he live from you then? A I guess he lived about
4 miles from my place first and now we has adjoining places.

BY SMITH: You said something a while ago about coming back
here in the last part of '66 and of seeing this man in January of
'66 what do you mean by that? A I made three trips here, the
first one was in the spring of '65, and the second one was in the
spring of '66 and the last one was in the fall of '66.

Q You came here the second time in the spring of '66? A Yes, sir.

Q Then you were not here in January, of '66? A No, sir, I came
to Fort Gibson in '65, and then came here in the first part of '66

Q Then you were not here in January of '66? A No, sir, I came to
Fort Gibson in '65 and then came here in the first part of '66 and
then came again in the fall of '66, I made three trips.

Q Then what time of the year was it that you saw this boy in '66?

A The last part.

Q Now let me understand you right, when did this man Alfred Bell
come there to where you saw him in '66, was it before or after your
third and last trip? A It was after.

Q What made you say that it was in January then? A I should have
said the last part of '66.

BY COMB'S RECALLS: If you did say that it was in January '66
it was a lapsus lingue was it? A Yes, sir.

JOHN LANDRUM, called and sworn as a witness for the applicant: by Mr. Smith:

- Q What is your name? A John or Jack Landrum.
Q Where do you reside? A Hayden.
Q Do you know the applicant, Alfred Bell? A Yes, sir.
Q Did you know him before the war? A Yes, sir.
Q Was he a slave? A Yes, sir.
Q Who did he belong to? A They said Holley Bell owned him, I don't know if it was him or his wife that owned him.
Q When did you first see this applicant, Alfred Bell, in the Cherokee Nation after the war? A After the war I seed him on salt creek.
Q Where is salt creek? A This side of Lightning, 5 or 6 miles.
Q Is it in the Cherokee Nation? A Yes, sir.
Q When was it that you saw him there? A In '67, it was so said.
Q Do you know what time of the year it was? A No, sir, I disremember.
Q What months it was, I did have it in my mind but I just forget it.
Q You don't know how long he had been there? A No, sir.

BY COM'R NEEDLES: Alfred Bell applies for himself and six children; his name cannot be identified on the roll of 1860 or on any of the rolls in the possession of the Commission, neither can the names of his children be found thereon. He avers that he was a slave in the Cherokee Nation before the war, was taken out of the Cherokee Nation and returned in 1866; he avers that he married in Texas, his wife Missouri being a non-citizen. He makes no proof of his marriage, and it will be necessary for him to file proof of his marriage in the shape of a certified copy of the marriage record, and also satisfactory proof of the birth of his children. Now he and his six children as named in the testimony will be listed for enrollment as Cherokee freedmen on a doubtful card, and he will be notified by mail of the final decision of the Commission.

ADDITIONAL TESTIMONY.

- by Mr. Smith of John Landrum:
Q How far do you live from the applicant? A About two and a half miles.
Q Have you ever been to his house? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q Are they living together as man and wife? A Yes, sir.
Q How long have they been living as man and wife? A Ever since they came there.
Q Are they received in the community as man and wife? A Yes, sir.

BY HASTINGS: When did they come there as man and wife?
A They came there when he came up there on Salt Creek the second time, he came first by himself.

- Q When did his wife come? A She came the latter part of '67.
Q Did they have any children when they came? A Yes, sir.
Q How many? A Oh no sir, they didn't have none then.
Q He brought his wife there in the latter part of '67 did he?
A Yes, sir.

- Q That was in the Cherokee Nation? A Yes, sir.
BY COM'R NEEDLES: Do you know this man's children? A Yes, sir.
Q Were they all born in the Cherokee nation? A Yes, sir, I guess so.

BY SMITH OF THE APPLICANT:

- Q Give me the names of your children older than James? A Will, Bob and Mammie.

Q Is Annie married? A No, sir.
 Q What is her name now? A Birze.
 Q Where does she live? A With me.
 Q Does she have any children? A One.
 Q What is his name? A Lucian Iras.
 Q How old is Robert? A U. about 10 on Lightning creek,
 Cherokee Nation.
 Q Where does William live? A Close to where I am.
 Q Are they married? A William is dead.
 Q How old is William? A 15.
 Q When after you were married was he born? A Year.

Chas. von Weize, being 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.
 (Signed) Chas. von Weize.

Subscribed and sworn to before me this the 10th of July, 1901.
 (Signed) T. B. Hodges,
 Commissioner.

J. O. Rowson, being duly sworn, says that he is stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

Subscribed and sworn to before me this September 6th, 1901.

F. R. Beckwith
 Commissioner.

STRAIGHT as to child Lucien:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Nannie Derick for the enrollment of herself and one child as Cherokee Freedmen; said Derick being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Nannie Derick.
Q What is your age? A 22.
Q What is your post office? A Hayden.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Do you want to enroll anybody besides yourself?
A One boy, my son.
Q What is his name? A Lucien Derick.
Q How old is it? A Four years old.
Q What is your father's name? A Alfred Bell.
Q What is your mother's name? A Missouri Bell.
Q Are they living? A Yes, sir.
Q Father and mother both Cherokee Freedmen? A My father is.
Q Do you claim citizenship through your father? A Yes, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A David Derick, he is enrolled David Whitire.
Q Is your husband alive? A Yes, sir.
Q Are you living together? A No, sir.
Q You claim your citizenship through your father? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q On what roll? A Wallace roll and K. C. roll.

The Tribal Rolls of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

- Q Is your husband's name on the roll of 1880? A Yes, sir.
Q Well, have you any proof of marriage between yourself and your husband? A Yes, sir.
Q What proof have you got; have you got a marriage certificate?
A No, sir, but I have witnesses here that seen me married.
Q Did your husband enroll this child when he was enrolled?
A No, sir.
Q Who married you? A Jesse Rowe.
Q Is he living? A Yes, sir.
Q Is he present? A No, sir, I don't think he is.
Q Well, what proof of marriage have you got? (No response.)
Q This child of yours is Dave Whitire's child? A Yes, sir.
Q Have you ever been married to anybody but him? A No, sir.
Q He is on the roll as Whitire and you say his name is Derick? (No response.)
Q Your husband came here and swore that his name was Whitire? (Said to have lived with Moses Whitire and enrolled under that name, but name of his father said to be Derick.)

HARRY STILL, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Harry Still.
Q What is your age? A 54.
Q Do you know the applicant here, Nannie Derick? A Yes, sir.
Q Do you know her husband? A Yes, sir.
Q What is her husband? A Dave Whitire is the way he was enrolled; his daddy's name is Ed Derick.
Q Do you know whether they were married or not?
A Yes, sir, I was at their wedding.
Q When was that? A It has been four or five years ago.

Nannie Derick, et al.--2.

- Q Have they been living together as man and wife since that time?
A They did live together, they have parted.
Q When? A I think it has been little over a year, or perhaps two years.
Q Did they have any children while they were living together?
A Yes, sir, they have got one child I think.
Q Was it born while they were living together as man and wife?
A Yes, sir; little boy.
Q Who has custody of that child now? A This girl's mother has it at her house.

NANNIE DERICK, the Applicant, recalled:

- Q Was this child, Lucien, born while you were living with your husband? A Yes, sir.
Q Did you have any since? A Yes, sir.
Q Did you ever have any before? A No, sir.
Q You are not married since you separated from your husband?
A No, sir.
Q Has your husband married again? A No, sir.

HARRY STILL, recalled: BY MR. J. S. DAVENPORT, Cherokee Representative

- Q Was Ed Derick the citizen of the mother? A It was the mother of Dave that was on the 1880 roll
Q Was the mother or father of Dave Derick a Freedman?
A Both, Mary was a Cherokee Freedman and so was Ed.

BY COM'R NEEDLES:

- Q Do you know this fellow? A Yes, sir.
Q If you see him tell him he had better come in and straighten up his enrollment. A All right.

NANNIE DERICK, the Applicant, recalled:

- Q You have been born and raised in the Cherokee Nation have you?
A Yes, sir.
Q You claim your citizenship through your father do you?
A Yes, sir.
Q You never drew any money? A No, sir.

COM'R NEEDLES: Nannie Derick applies for the enrollment of herself and her child, Lucien. She cannot be identified upon any of the rolls of the Cherokee Nation. She avers that her name is not upon any of the rolls of the Cherokee Nation and upon examination of the rolls her name cannot be found. She avers that she is the child of Alfred Bell, who was listed for enrollment on doubtful card #64, and the testimony taken in the matter of the enrollment of Alfred Bell will be made part of the record in the case at bar and copy thereof filed herewith. She makes satisfactory proof as to residence. She avers that she was married to one Dave Whitacre or Dave Derick; said Dave Derick is now enrolled on straight card #1000 as Dave Whitacre, that having been the name he is enrolled upon the authenticated roll of 1880. She avers that she has one child named Lucien, and she makes satisfactory proof that her child was born while she and her husband were living together as man and wife, and that she is now separated from him. Nannie Derick will be listed for enrollment as a Cherokee Freedman upon a doubtful card. Her said child, Lucien Derick, will be listed for enrollment as a Cherokee Freedman, by reason of the fact of the father, David, being found upon the authenticated roll of 1880. It will be necessary for her to make satisfactory proof as to the birth of her child.

James J. ... et al. — 2

RECORDED
INDEXED
JUL 17 1901
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

J. G. Mason, 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 thereon.

J. G. Mason

Subscribed and sworn to before me this 17th day of July, 1901.

[Signature]

Commissioner.

File with C.F. D-985, Nannie Derrick.

SUPPLEMENTAL: C.F. D-863.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 9, 1901.

In the matter of the application of Alfred Bell et al for enrollment as Cherokee Freedmen.

Appearances:

Mr. Smith, of Hallett & Smith, attorneys for applicants;
Mr. W.W. Hastings, of attorneys for Cherokee Nation.

L. B. BELL, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A L. B. Bell, 62, Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Did you or your family, prior to and up to the war own a slave by the name of Alfred Bell? A Yes sir, I did, and my wife, or rather belonged to my wife.
- Q Fr. Alfred Bell who applied for enrollment as a citizen at Nowata? A Same Freedman.
- Q Where were you living in 1865 or '6 after the war? A Why I was living in Rusk County, Texas, on a farm.
- Q Now where was this Alfred Bell in '65 and '66? A He was there on my farm.
- Q Was he there during the entire year of '66? A Well he was I reckon, I farmed there that year and had him on the place; he might have quit me sometime along about Christmas of that '66; I know he did when that terminated, went off and rented a farm somewhere else; I was breaking up to move back to the Cherokee Nation then, in '67.
- Q Well when did you come back? A I left there in March, 1867.
- Q Where was Alfred Bell at that time? A Well Alfred as I understood from him had rented some land near by there, I don't know, mile or two away from there, probably further.
- Q Well he had lived with you through the year of '66 clean up until Christmas? A Yes sir, up about that time. The year went out there with them you know when Christmas come; we didn't do no more work after that time; the first of January was generally understood to be the first of the year though.
- Q You mean by that the first of January, '67? A Yes, the first of January of any year.
- Q Well after he left you in '66 in the spring of '67 did you hear of Alfred Bell making a trip up to the Cherokee Nation before you left down there? A No, I never heard of anything of that sort.
- Q Did you ever see Alfred Bell since you came up here? A Yes, I think the first time I met Alfred was over there at the Wallace roll; I don't have a distinct recollection of the time, but I am satisfied of that, because the Clifton roll was the next time I saw him.
- Q Where was he living when the Wallace roll was made? A Well he was just here trying to get on that roll.
- Q You know where he come from then? A I could not state exactly whether he told me he was just from Texas or not; he told me though he had married and had a good big bunch of children.
- Q You hadn't seen him in this country before that? A No sir, I hadn't seen him here, nor heard of him being here.
- Q Had he married when he left you? A No. Alfred was probably 18 or 20 years old when I saw him turned his loose.

BY MR. SMITH:

- Q Mr. Bell, where were you when the war closed? A I was up near Rocky Depot in the Choctaw Nation.

Q How long before you reached Cook County, Texas? A How long before I got home?

Q Yes? A After we disbanded it took me about two days and a half to ride home.

Q What month did you go to Texas in? A We was disbanded in May I think and I got home in a few days.

Q While you were in the army where was Alfred? A I presume he was right there with the balance of my negroes. There was none missing when I come home.

Q You found Alfred in Texas when you went home in May, '65? A May, '65.

Q How that did you do the rest of the year '65? A We had a crop on hands there, and he just worked along with the balance of them.

Q Did you stay at home during the rest of that year? A Yes sir, I stayed at home until December, about the first I reckon.

Q First of December, '65? A Yes sir, somewhere like that.

Q Then where did you go? A I went to Shreveport and New Orleans and up to Saint Louis and then down the Mississippi to Memphis, and took a boat there and come on land, and come up the Arkansas River.

Q How long were you away? A I was gone probably thirty days.

Q Then did you remain home during the entire year of '66 after that, or were you away at any time? A I stayed right there at home with the exception of 10 or 12 days; this Joe Thompson who testified awhile ago and I come up to Red River; we was gone probably 10 days on that trip.

Q How many slaves did you have there? A I expect there was as much as 18 or 20; I would have to figure up on it; maybe more. There was a whole lot of children.

Q Now after that crop that was cut when you got back in '65, was there another one planted in '66? A Yes sir.

Q Well now of the number of slaves that you had there do you remember Alfred during all of the year of 1866 that you were at home, are you able to state that he was there all the time? A Well that's my recollection about it; I don't know I called the roll over that morning or any morning.

Q One of them might have been away? A Yes sir.

Q So you are not positive that he was there during all the time that you were there in '66? A Well I would be positive so far as all the reasonable doubts could be made.

Q But you don't absolutely remember it of your independent recollection? A That he was there every day.

Q Yes? A No sir, I couldn't say that.

Q Of course you don't know where he was when you were away? A No.

Q He did belong to you before the war? A Yes; well as a matter of fact he belonged to my wife; she had him when I married her.

Q She was a citizen of the Cherokee Nation? A She was a Cherokee.

Q And you took this Alfred Bell as having the war? A I took him out in 1861, about October.

Q Now you never saw him until the Wallace roll; you said he was trying to get on that, well he got on it didn't he? A Well I rather think he did.

Q Well then you don't know of your own personal knowledge when he did come back to the Cherokee Nation first? A No sir I don't.

COMMISSIONER NEWELL: This testimony will be filed with the testimony taken in the original case, and will be made part of the record in Frontier 1, 208 and 275 and 1833.

March 20th (1871)

I D. Brown, being there July 1868, and as a member of the Commission to the Five Civilized Tribes is correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereon.

M. Brown

Subscribed and sworn to before me this 20th day of March 1871.

J. C. Starr
Notary Public

OFFICE OF THE COMMISSIONER OF THE BUREAU OF INDIAN AFFAIRS

No. D 975-

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

**Proof of Service made
and original filed with the
DAWES COMMISSION.**

SEP 25 1901

NOTICE!

IN THE MATTER OF the application of Samilo Derrick
for enrollment as a Cherokee citizen:

Case No. D. 975

To Samilo Derrick Hayden S. S.

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 Vinita, Indian Territory.
Indian Territory, on Oct. 9th 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 on the respective days above named, 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 SEP 18. 1901

L B Beitt
M. M. Hastings
Attorneys for the Cherokee Nation.

Cher. Fr. D. 976

Cher. Fr. D. 976

therefore not here in 1866 and the Commissioner of Indian Affairs and the Secretary of the Interior agreed with the Commission as to the facts in the Garry Still case but recently reversed the Commission because of the fact that Garry Still had been admitted to citizenship by the Cherokee authorities in 1871 but not because he had returned to the Cherokee Nation in time under the treaty of 1868.

The other witness was Sam Webber and we have had occasion to state that he has been upon a committee to represent Cherokee Freedmen and has testified in their behalf in a great number of cases and has given so much false testimony that the Commission itself must be satisfied that little if any weight can be attached to any statement that he might make.

There is considerable testimony introduced in this particular case not referred to by the Honorable Commissioner of Indian Affairs in his letter recommending the reversal of the decision of the Dawes Commission, the relevancy of which is not apparent unless especial attention is called to it.

We took occasion in our General freedmen brief to call attention to the testimony introduced in the case of Aaron Whitmire F. D. 216; Edward Wright F. D. 218; Elizabeth Weigs F. D. 391. If a map of the Cherokee Nation is consulted it will be found that Big Creek lies within the Cherokee Nation South and East of Coffeyville, Kansas; that Snow Creek is a branch of ^{Hickory River} Big Creek and a number of smaller streams also empty into Big Creek and the Verdigris river. All of this section of the country is open prairie lies south of the Kansas line and is in what is known as Coconino District in the Cherokee Nation; and lies North of the Price Railway and North of the Missouri, Kansas & Texas Railway which two railroads intersect each other at Winita, Indian Territory.

To fully understand the weight that should be given the testimony introduced in the three freedmen cases herein above referred to it is really necessary for one to be acquainted with the geography of the Cherokee Nation and the members of the Commission to the Five Civilized Tribes have lived in the Indian Territory for a number of years, some longer than others and during the past four or five years have had occasion to travel all over it where stations of the Commission have been held and

are therefore very familiar with all of the country. Now the Members of the Commission know that Sam Webber claims to have come back to Big Creek a short distance from the Kansas Line; that the Whitmires claim to have come back a little after some of the Webbers and that the Sanders family settled near where the Webbers did. These three families were the first to return to that section of the country or in fact to the whole of Coowee seowee District; it is therefore pertinent to ascertain if possible when they returned to the Cherokee Nation. Because if they came first and they did not return in time, then as a matter of course those who followed, came too late to acquire rights to citizenship in the Cherokee Nation. Following this line of inquiry, the representatives of the Cherokee Nation endeavored by record testimony and such other testimony as could be found to fix as definitely as possible when the Webbers, Sanders and Whitmires came and the records in the old Application of Lewis Whitmire in their applications before the Chambers court in 1878 were found together with their statements made under oath and such witnesses as were introduced at that time. Their written applications were upon file, which showed that they at that time, in 1878, only claimed that a few men came down to the Cherokee Nation in the fall of 1866, leaving their families in the State of Kansas, that they hunted out a location after which they returned to Kansas and that they did not bring their families back to the Cherokee nation until the last of February or the first of March 1867.. Every witness introduced before the Chambers court by them on their behalf testified to this same state of facts. In fact none of them claim differently. It was then only a short time after the war and the exact date of their return could then be definitely fixed and was definitely fixed. There can be no question but that no Freedman, be he man or woman, wintered in all of this section of country herein above described in 1866, and when one of these witnesses so testified, he commits wilful perjury and the members of the Commission knew it, and by their decision in numerous cases rejecting these people have in fact so found.

In Freedman's 391 Sanders lets drop a remark that on their way to the territory that their luggage was scattered for 100 miles by the

was charged with the murder of Dyer Hayford and that this was when they were moving to the Indian territory. It then became important to know when Hayford was killed and at what time the officers were searching for Eli Mackey. In searching the files of the official county paper at Fort Scott Kansas where Hayford was killed it was found that he was killed on the 22nd day of December 1866 and the files of the paper show and the man who arrested him testified that Eli Mackey was arrested at once and that within a few ~~moments~~ moments and before it was general known Mackey was arrested and lodged in jail and another issue of the paper dated February 27th 1867 tells of Eli Mackey Breaking jail and escaping and that a reward of two Hundred dollars was offered for his apprehension and the next issue of the paper introduced was dated March 27th 1867 and this gives a long account of the ~~tragic~~ tragical killing and hanging of Eli Mackey and of a number of people being killed and mention is made in this long account of Benjamin Files who was introduced as a witness in the case and who gives a detailed account of the killing of Hayford by Mackey as was told by the newspaper accounts; but the newspaper accounts are important because they fix exact dates; they are records brought from the county clerks office in Fort Scott, Kansas and these records and the testimony of the witnesses conclusively show that the search that was made for Eli Mackey when the country was scoured, when a reward was offered and when in fact the wagons of the Sanders detachment was searched must have been from between February 27th 1867 and March 27th 1867.

These dates it seems to us are conclusive as to the time of the return of the first families to this great area of country in which Big Creek is located and where so many Freedmen families claimed to have returned and located after the war.

In addition to the testimony with reference to the Hayford case before ~~the court~~ and in addition to the testimony herein above referred to in the whitire cases before the Chambers court we have a number of witnesses from the State of Kansas from the vicinity that the Webbers case from including Douglas Walker; Henry C Short; Miami Walker and her husband and all of these disinterested witnesses from the State of Kansas swear ~~that~~ that he himself did not return to the Cherokee Nation in 1868 and

positively and conclusively that the Webbers did not leave Kansas until the last of February or the first of March 1867; these witnesses are disinterested; they lived within a stones throw of the webbers; they have no interest in swearing falsely in these investigations. It seems to us that great weight should be given their testimony since they are completely corroborated by the record as herein above indicated. But in this case we do not have to rely wholly upon this general testimony but if we did it is entirely sufficient because the applicants themselves admit that the Webbers and Whitmires and Sanders families were all living on Big Creek in the Cherokee Nation when they came there.

The Cherokee Nation introduced as a witness S. H. Mayes, who, by one way is an ex chief of the Cherokee nation, is a man of high standing and his reputation can not be questioned and he testifies to meeting David Mayes the father of the two principal applicants herein, on the bank of the river in 1868; that David Mayes had been to Tahlequah; it was to the best of his recollection in November at least late in the fall and that he made inquiry of David as to his whereabouts; that this David Mayes was his fathers old slave that he recognized him and that David admitted that he had just returned from Kansas. A few years later he saw him again at his home on Big Creek where David Mayes and he again talked and that David admitted that he returned too late to be entitled to enrollment in the Cherokee Nation. Now S. H. Mayes certainly has no ill feeling against his fathers old slave in fact he had the kindest feeling, and affectionate regard for all of his fathers old slaves. Inquiry was made by all of the Cherokee families as to the welfare of their old slaves as was quite natural for them to do.

William Martin was also introduced who testified that he lived on Big Creek; that he came there in 1867; that David Mayes was not there when he came but that he came some time afterwards and that according to the best of his knowledge it was in 1868.

The Members of the Commission understand the situation in the Cherokee nation they understand that all of these freedmen will testify that they returned in 1866; it makes no difference whether they return three years ago or thirty years ago.

and more than that the members of the Commission well know that they can bring any number of freedmen witnesses to corroborate them.

It is a sad state of affairs but we feel compelled to call the attention of the department to the fact that these several standing witnesses making a business of following the Commission from place to place and are professional witnesses and the members of the Commission have found that their statements are at variance with the truth in such a great number of cases that little credence should be given to their statements.

These freedmen argue among them selves that they all ought to be admitted who were former slaves and they justify their various false swearing upon that ground whereas the Cherokee nation contends that only such as honestly complied with the treaty are entitled. There is a great deal at stake in these investigations and we submit that the burden of proof is upon the applicants who should be compelled to make out their cases by reputable witnesses.

The Commissions decision refers to the return of Sam eber which has been found to be in the spring of 1867 in certain other cases and we submit that the Commissions decision upon these points taking into consideration the knowledge of the Commission upon the Geography of the country and the further fact that they meet these witnesses face to face and see their demeanor upon the witness stand and see how they dodge questions and how willing they are to give certain testimony which can not be taken into consideration by the Department that the decision of the Commission is correct and should be affirmed.

Respectfully,

Wells Hastings & Davenport,

Attys Cherokee nation

By J. Starr

[Faint, mostly illegible text at the bottom of the page, possibly bleed-through from the reverse side.]

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

.....

In the matter of the application for the enrollment of Josiah Mayes et al, as Cherokee Freedmen, consolidating the applications of:

Josiah Mayes	C.F.D. 976
David Mayes et al	C.F.D. 981.

The records in these cases show that applications for enrollment as Cherokee Freedmen were made by Josiah Mayes, for himself, and by David Mayes, for himself, and for his minor children, Jennetta C. and Richard H. Mays, at Nowata, Indian Territory, July 1, 1901; That on subsequent dates supplementary evidence was introduced in these cases; That on April 20th 1904, the Commission to the Five Civilized Tribes ordered that the applications of these persons be denied; on September 24, 1904, Hon. A. C. Tenner, Acting Commissioner of Indian Affairs recommended that the decision of the Commission adverse to these applicants be not affirmed and that all of these applicants be enrolled as Cherokee Freedmen; on Oct. 24, 1904, Hon. E.A. Hitchcock, Secretary of the Interior notified the Commission of the recommendation of the Acting Commissioner and requested the Commission to advise the Cherokee Nation of such recommendation and to allow the attorneys for the Cherokee Nation thirty days in which to file an argument in support of the decision of the Commission, and to allow the applicants ten days in which to file an argument in their behalf; on December 12th, the attorneys for the Cherokee Nation served a copy of that argument in these cases upon the attorney for these applicants.

In his letter to the Honorable Secretary of the Interior Hon. A.C. Tenner Acting Commissioner said:

"The record shows that the principal applicants were the slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war; that their father, David Mays, was a slave of a Cherokee citizen at the

beginning of the war of the rebellion; that he left the Cherokee Nation during the war and returned to the Nation prior to Feb. 11, 1867 and established a home for himself and his wife and the principal applicants. That the name of the principal applicants are not identified on the 1880 authenticated roll but are found on the Wallace and Kern-Clifton rolls.

The applicants, Jennetta C/ and Richard H. Mays are the minor children of the said David Mays and have no right to enrollment except such as they derive from their father.

In view of the record it is recommended that the decision of the commission adverse to these applicants be reversed and that all of the applicants be enrolled as Cherokee Freedmen."

A careful analysis of the record shows that the recommendation of the Hon. Acting Commissioner is sustained by the evidence.

The evidence shows that David Mays and Josiah Mays were slaves of a citizen of the Cherokee Nation at the time of the commencement of the war of the rebellion; that they are the descendants of David Mays and Susan Mays, his wife, who were also slaves of a Cherokee citizen at that time; that these principal applicants were taken into the state of Kansas, with their parents, during said rebellion, and that David Mays, their father, together with Josiah and his sister returned to the Cherokee Nation in the fall of 1866 and selected a location for himself and his family on Big Creek, erected a rude dwelling there and made other necessary arrangements for keeping his family with him in that, then uninhabited and uncivilized country, and that after having completed the necessary arrangements for maintaining his family at his new home, he returned to Kansas to bring the remainder of his family to the Cherokee Nation and did bring them to his new home in the early part of 1867. These facts are conceded by all.

It is alleged by the applicants, and such allegations are supported by a preponderance of evidence, that David Mays brought the remainder of his family to his new home in the Cherokee Nation prior 11, 1867.

Some testimony was introduced by the Cherokee Nation, evidently for the purpose of attempting to prove that David Mays Sr. did not return with the remainder of his family to the Cherokee Nation until the latter part of February or the first part of March, 1867,

By rejecting the applications of these persons, the Commission evidently felt that it was incumbent upon these parties to show beyond a shadow of a doubt that they were all physically present in the Cherokee Nation on or Prior 11, 1867, and that such presence was not shown beyond all doubt.

In Departmental letter (I.T.D. 4256-1904) addressed to Blue & Bulger, Hon. F.L. Campbell, Acting Secretary of the Interior in answer to an allegation that the decision of the Commission in the Emily Walker case was not warranted by the evidence, very correctly said that "Fair minds may easily differ as to the conclusion that should be drawn from such evidence", but I submit that in these particular cases there is not the slightest excuse for a difference in the conclusions that should be drawn from the evidence adduced.

The evidence clearly shows that, under the ruling of the Department, these applicants are entitled to enrollment.

Let us admit for the sake of argument that David Mays Sr. did not bring these applicants physically into the Cherokee Nation until some time in the first of March, 1867.

David Mays Sr. was the head of the Mays family, and had established himself in good faith in the Cherokee Nation in the fall of 1866. As in evidence of his good faith, we need only to refer to the fact that he had selected a location for a home and had erected a dwelling there and had made other necessary improvements in the fall of 1866, beside bringing with him the elder ones of his infant children and leaving them in the Cherokee Nation when he returned to the state of Kansas for the remainder of his family.

In his opinion on the question of domicile, the Hon. Assistant Attorney General for the Interior Department in May of 1904, said:

"I am of the opinion that physical return of the persons within the time prescribed by the treaty was not necessary in these cases where domicile theretofore held in the Cherokee Nation had not been abandoned or lost."

The courts have universally held that a man's domicile is the place where he has his true, fixed and permanent home, and principal

establishment, and to which whenever absent he has the intention of returning.

Vattell tells us that domicile is "a habitation fixed in some place with the intention of remaining there always".

Pothier tells us that domicile is the place where a person has established the principal seat of his business and his residence.

Kent tells us that "Two things then must confer to constitute a domicile; first, residence; and secondly the intention of making it the home of the party."

As above stated the evidence shows that David Mays Sr. moved from the state of Kansas to the Cherokee Nation and established the principal seat of his residence and his business in the fall of 1866, and at the time of such establishment he intended to continue to retain his new domicile.

When he went from his newly acquired domicile in the Cherokee Nation to the state of Kansas, the evidence shows that he went only to bring his family to his new home, and that at the time of his departure he intended to return.

The evidence shows that David Mays Sr. acquired a domicile in the Cherokee Nation in the fall of 1866. He in fact removed thereto with an intention of making the Cherokee Nation his domicile in the fall of 1866.

No man can have two domiciles. If he has more than one dwelling house, the one in which he sleeps or passes his nights, if it can be determined, will be considered his domicile.

There can be no question but that the domicile of David Mays Sr. was in the Cherokee Nation in the fall of 1866 and that he did not change his domicile after that time.

If such is the case, the domicile of David Mays Jr. and of Josiah Mays was in the Cherokee Nation in the fall of 1866.

Kent tells us that minors retain the domicile of their parents, and if the parents change their domicile, that of the infant children follow; and that the domicile of a married woman follows that of her

husband.

The court held that the domicile of David Mays Sr. was in the Cherokee Nation in the fall of 1866 and that the domicile of David Mays Jr. and of Josiah Mays was in the Cherokee Nation in the fall of 1866.

of the father and changes with that of the father; 31 N.J. Eq. 194, 45 Mo. App. 415, (2 Ala. 601, 112 U.S. 452 and 67 N.Y. 357.

If it be held that David Mays Sr. acquired a domicile in the State of Kansas by reason of his location in that state during the war, such domicile was purely of a national character, as he had been born in the Cherokee Nation, was a descendant of a Cherokee slave and was at the time of his removal to Kansas in 1862, a Cherokee slave. He remained a Cherokee slave until 1863, at which time he was liberated by Cherokee law.

The Supreme Court has held that a slave has no political rights; 1 Wheat. 558. A foreign domicile is a political right which is only acquired by residence and intentions.

David Mays did not acquire any political rights in Kansas than he possessed in the Cherokee Nation.

True, his civil rights in Kansas were not so restricted as they had been in the Cherokee Nation, but domicile is not a civil right.

When he was liberated by Cherokee law on February 15, 1863, his domicile became the same as that of his owner, by act of law. While his domicile was in the Cherokee Nation at that time, he was not physically present there until in the fall of 1866.

The Cherokee Nation was his domicile of origin. The books tell us that the domicile of origin always remains in abeyance. If one leaves a domicile of choice with the intention of acquiring a new one, his domicile of origin attaches the moment he leaves and persists until he acquires another; 75 Fed. Report. 321.

If it be held that the United States was the domicile of choice of David Mays Sr., and that the Cherokee Nation was his domicile of origin, the moment he left his United States domicile with an intention to acquire another, his domicile of origin attached, and as his domicile of origin attached to him in the fall of 1866, so did the domicile of origin of his minor children attach. But however it may be, David Mays acquired a domicile in the Cherokee Nation in the fall of 1866, and the fact, if fact it be, that David Mays Sr.

was not physically present in the Cherokee nation until the first of March 1867, does not deprive him of the right he would have if he had been physically present in the Cherokee nation prior to February 11, 1867.

On the first page of their argument in support of the decision of the Commission, the attorneys for the Cherokee Nation say: "

"The Commissioner of Indian Affairs on Sept. 24 1904 (Land 31042-1-04) without going into details states:

"In view of the record it is recommended that the decision of the Commission adverse to the applicants be reversed and that all of the applicants be enrolled as Cherokee Freedmen."

"No further reason is assigned by the Hon. Commissioner of Indian Affairs in the letter from which the above is quoted."

It will be noted that the Hon. Commissioner says, "In view of the record", and the Hon. Gentlemen who assisted in the construction of the record complain that "no further reason is assigned:"

I have understood all along that it is the record from which not only the Department but the Commission, obtain their knowledge of the status of all applicants, but such does not seem to be the understanding of the Hon. gentlemen who represent the legal department of the Cherokee Nation.

After thus complaining about the Honorable Commissioner basing his recommendation upon the "record" these attorneys call the attention of the Department to the fact that these principal applicants were quite young at the time it is claimed they came to the Cherokee Nation.

True, it has been many years since these applicants were compelled by force of circumstances, and circumstances over which the Cherokees had complete control, to settle in the then uninhabited district which the Cherokee attorneys described as lying north of the Kansas line, west of the R. F. & T. and North of the Frisco railroad, but these people had something to impress the date of their return upon their minds.

There is quite a bit of human nature about a man, whether he be white red or black. It is but human that a man endowed with all of his senses craves his liberty. Liberty is one of the absolute rights of man under the Divine Law. For generations these people

had been deprived of that absolute and divine right.

In 1866, they had but recently been made free and were recently still had the Cherokees expressly given to them all the rights of native Cherokees. These freed persons had no political rights in the United States. They had been informed that they were entitled to the same political rights in the Cherokee nation as were their former owners. They were an unwelcome people in the states, and were advised of their rights in the land of their birth. They received this advice in 1866. Advice of this nature, is likely to have a lasting impression upon the tablet of human memory.

I submit that it is not more remarkable that these freedmen remember the date of their return to the Cherokee nation, than it is that the witnesses whom the Cherokee nation brought to the Territory to testify to such unimportant occurrences, to them, as the departure from the neighborhood of a freedman so long ago as 1866, undoubtedly is. But a discussion of the relative merits of the various witnesses for truth and veracity, is not, I take it, what the Department desires.

I take it that the Department wishes to feel that its decisions in these matters are absolutely correct; that justice is done to all parties interested- the Cherokee nation and the Freedmen.

I take it that the Department feels that the questions involved are of too much importance to these applicants to be passed over lightly, or of too much importance to the human beings who settled in the district, described by the Cherokee attorneys, and there made for themselves homes and made of themselves a people whose wonderful development stands unparalled in history- considering all the circumstances- to be handled in an uncouth and unscholarly manner.

I take it that the Department desires the Cherokee attorneys to assist it to render unto the Cherokee nation that which is the Cherokee nation's; and that it desires these applicants to assist it to do them justice.

In short I take it that the Department only aims to correctly administer the law and that its only object is to maintain the

arguments is to enable it to do justice.

A discussion of the short comings of any individual negro, whether he be a drunkard or a minister of the gospel is not helpful to a proper understanding of the citizenship law.

Such an argument as the one I am called upon to answer in these cases be of great weight in tribunals wherein paper bound law books are not considered as of sufficient dignity to be recognized, and wherein the opinions of such men as Vattel, Blackstone or Marshall will not be considered at all because the authors are dead.

It is with no little diffidence that I attempt an answer to such an argument before men whose positions in the nation's Cabinet is prima facie evidence of their superior manhood, and as whatever discussion I might make in regard to the allegations contained in the Cherokee attorneys' argument would be of no value in aiding the Department to arrive at a correct understanding of the questions involved in this case I will but refer to the statement made on page six of their argument, namely:

"These freedmen argue among themselves that they all ought to be admitted who were former slaves and they justify their various false swearing on that ground whereas the Cherokee petition contends that only such as honestly complied with the treaty are entitled."

There is a great deal at stake in these investigations and we submit that the burden of proof is upon the applicant who should be compelled to make out their cases by reputable witnesses."

The whole trouble about the construction of the Cherokee freedmen roll, grows out of the question, what is a strict compliance with the treaty.

In his instructions to the Commission to the Five Civilized Tribes contained on pages 134 and 135 of the tenth annual report of the Commission, the Hon Secretary of the Interior declared that the direction for making a Cherokee freedmen roll contained in section twenty-one of the act of Congress approved June 25, 1890, is "plain and explicit", and then following this comment the Honorable Secretary summed up the law relative to the enrollment of these people in a manner so plain and explicit that it is difficult to understand how that instruction could be misinterpreted, yet I sub-

with that a close analysis of that instruction together with the undisputed facts ascertained by a view of the record in these cases shows that these applicants are entitled to be enrolled.

In that instruction to the Commission the Honorable Secretary said:

"It is your duty now to make such a roll, which shall include the names of all Cherokee citizens who are or were freedmen who had been liberated by voluntary act of their former owner or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty or who returned thereto within six months thereafter, and their descendants."

In the general brief and argument filed with the Department by the firm of Blue & Bulger on about Nov. 10, 1904, it is shown that the Honorable Secretary referred to five classes of persons as being entitled to enrollment, namely:

1. All Cherokee freedmen who were liberated by law;
2. All Cherokee freedmen who were liberated by voluntary act of their former owners;
3. All free colored persons who were in the Cherokee country at the time of the commencement of the war of the rebellion and were residents therein on August 11, 1866;
4. All free colored persons who were in the Cherokee country at the time of the commencement of the war of the rebellion but were absent therefrom on August 11, 1866 but returned thereto prior to February 11, 1867;
5. The descendants of all persons above mentioned.

There are two classes of freedmen, namely: those who were liberated by law and those who were liberated by their owners.

There are two classes of free colored persons, namely: those who were in the country at the commencement of the rebellion and were residents therein on August 11, 1866, and those who were in the country at the commencement of the rebellion but were absent therefrom on August 11, 1866, but returned thereto prior to Feb. 11, 1867.

To these four classes and their descendants the law expressly gives all the rights of native Cherokees.

In article four of this treaty of July 19, 1866 it is expressly designated that the freed persons referred to in this treaty are those who were formerly slaves of any Cherokee, and that free negroes are persons who had not been such slaves.

Freed persons is an expression in the common gender. Freedmen is a word in the masculine gender. The law provides that a word used in the masculine gender in a law shall embrace a female as well as a male unless a contrary intention is manifest.

Thus we see that freed persons and freedmen are, in this treaty, synonymous terms?

There is no question but that free negroes and free colored persons are synonymous.

A glance at article ten of this treaty shows that it was not the intention of the treaty making parties to give to free colored persons-free negroes- equal rights with freedmen- freed persons. In this article no mention was made of free colored persons or free negroes at all. This article shows that it was the express intention of the treaty makers to give to freedmen - freedpersons- equal rights with Cherokees by blood.

If it be true that freed persons were intended to be given equal rights with Cherokees by blood, absence from the Cherokee nation alone, for a limited or for an indefinite time would not deprive them of their citizenship rights.

This treaty provides that at the request of the Cherokee National Council the Secretary of the Interior shall cause the Cherokee nation to be allotted at the expense of the United States government.

In compliance with such a request the allotment is now being made. These applicants are Cherokee freedmen and the descendants of Cherokee freedmen who were liberated by law. The treaty provides that they shall have all the rights of native Cherokees. They, themselves, are native Cherokees. They are natives of the Cherokee nation.

If the ~~first~~ part of the clause in this sixth article which

imposes a time limit upon the return of free colored persons also refers to and imposes the same time limit upon the return of freedmen, who were formerly slaves of any Cherokee the first qualification expressed in this clause must also refer to freedmen, since the time limit clause is the second member of the compound clause of which it is apart. If it be true that a freedman is not entitled to enrollment because he did not return prior to the expiration of the six months' limit, it is also true that a freedman who was a slave of a Cherokee citizen at the time of the commencement of the war of the rebellion, and was on that day out of the Cherokee country in his owner's service whether he had been a servant with his owner who was at that time visiting the races in New York, or representing his nation in Washington, such freedman would not be entitled to enrollment, even if he had returned the day following such commencement and remained here until the present time, because the clause referred to is "who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months."

There is no question that the first member of this clause does not apply to freedmen, yet it is the only construction that can be put upon this provision if it be held that any part of this compound clause modifies freedmen. The whole of the compound limiting clause modifies the same words. Each of the pronoun subjects of a compound limiting clause represents the same antecedent or antecedents as each and every other pronoun subject of the same compound limiting clause.

At the time this treaty was made, the ruling in the United States had but recently succeeded in suppressing the rebellion which had grown out of the question of negro slavery.

These people had emancipated the slaves in the United States, and having succeeded in their efforts to abolish human slavery, they felt the necessity of permitting the emancipated persons to enjoy their freedom. It was the feeling of the victors in the United States that freedmen should enjoy the same rights as other

United States citizens.

The Cherokee nation had violated its obligation of neutrality, and in consequence of such violation had shared in the defeat of the so-called confederacy.

At the time of the commencement of the war of the rebellion the citizens of the Cherokee Nation owned and had in their possession a number of negro slaves. Negro slavery was considered legitimate under the Cherokee law, and as a result of the violation of neutrality the element in the Cherokee Nation which favored the abolition of slavery, had gotten control of the Cherokee National Council and had emancipated all Cherokee slaves.

At the time this treaty was made the ruling power in the United States desired that the freedmen of the Cherokee Nation should be given the same rights that their former owners possessed. The United States was in a position to compel the Cherokee Nation to accede to this desire and in the compliance with the expressed wish of the United States, the Cherokee nation agreed to give to "all freedmen who had been liberated by voluntary act of their former owner or by law," and their descendants, all the rights of native Cherokees.

There is nothing in the whole treaty or in the history of the events which caused the Cherokee nation to make this agreement that throws the slightest doubt upon the truthfulness of this proposition, that the Cherokee nation and the United States, did not intend to place such a time limit upon the return of Cherokee freedmen absentees that it would make it impossible for them to secure the very thing which it was expressly agreed they should have, and which the ruling element in the United States intended they should have, namely, all the rights of native Cherokees.

However this may be held to be - it matters not to these applicants as there is no evidence which tends to disprove the truthfulness of the testimony of these witnesses who swore that these people came to the Cherokee Nation prior to February 11, 1867.

Joseph Hays testified that he came from Kansas with his father

to the Cherokee Nation in the fall of 1866, and that his father left him on Big Creek, with his brother and went back to Kansas for his mother and the remainder of the family.

Harry Still testified that Josiah Mays returned to the Cherokee nation in the fall of 1866; that when he himself returned to the Cherokee Nation he settled at Lightning Creek, and that the first time that he saw the Mayses was two or three months after his return when he was visiting the Big Creek settlement and saw David Mays Sr. there together with Josiah.

Sam Weber testified that David Mays Sr. brought Josiah to Big Creek in the fall of 1866.

It is worthy of notice that the attorneys for the Cherokee nation did not attempt to cause this witness to contradict himself, but did attempt to cast a reflection upon his memory in regard to people by asking him if he saw Eli Dougherty, Bill Mc Cracken, Tuck Bryant, Elick Rider and Blue Alberty on Big Creek in the fall of 1866.

These men were Cherokees who did not reside in the Northern part of the Cherokee nation, and the fact that Sam Weber did not see them or know them at that time is not evidence tending to show that he was not in the Cherokee nation in the fall of 1866, and especially since all of these fellows resided in the south central southeastern and eastern part of the Cherokee nation at that time and are not even presumed to have been in the Big Creek settlement in 1866.

There is not a scintilla of evidence tending to show that the matters to which Josiah Mays, Harry Still and Sam Weber testified are not true, yet the Cherokee attorneys devote a goodly portion of their argument to venting their spleen on these men.

The attorneys refer to the testimony given in the Chambers court in which certain acknowledgments are said to have been made.

I do not have the records of the Chambers court in my possession and it seems from the copy of the record of these cases which I now have that the Chambers records were not made a part of the Dawes record.

The Chambers roll is not recognized as of sufficient value to be given notice by the acts of Congress or by the court of claims.

It is a well known fact that there is not, in existence, a roll of Cherokee freedmen, that is not a monument of shame to the persons who constructed it.

It is now the object of the department to construct a roll as nearly in accordance with the law as possible.

In his instructions above quoted the Honorable Secretary of the Interior said:

"It is your duty now to make such a roll, which shall include the names of all Cherokee citizens who are or were freedmen who had been liberated by voluntary acts of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty or who returned thereto within six months thereafter, and their descendants."

The Commission is now doing everything in its power to do its duty, as declared by the Secretary, but for some reason it has failed to understand what that duty is.

It is the duty of the Commission to enroll all freedmen who have been liberated by voluntary acts of their former owners or by law, and their descendants.

It is the duty of the Commission to enroll all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein on August 11, 1866, or who if absent from the Cherokee Nation on that date should return therein within six months from that date, and their descendants.

This is clearly the duty of the Commission. This is the duty of the Commission as set out by all the laws relative to their duty.

This was the duty of the citizenship courts that preceded the Dawes Commission, but it is not contended by any person who is in a position to know, that any one of those courts did its duty, and yet the violation of duty by the preceding courts, is taken as a

to the enrollment of Cherokee freedmen.

It however then may be, the record in these cases at bar shows that the decision of the Commission adverse to these claimants is to be reversed and that all of these applicants ought to be enrolled as Cherokee freedmen.

In support of the above, in regard to the duty of the Commission, it respectfully challenges the attention of the Department to the brief and argument on the question of citizenship of freedmen in the Cherokee Nation filed on and received November 10, 1864, of all of which have been duly served on, and delivered to the attorneys for the Cherokee Nation and the Dease Commission.

On page 22 of their general brief on the question of citizenship of freedmen in the Cherokee Nation, filed with the Commission some time ago, the learned attorneys of the Cherokee Nation say:

"It will be noted that the classes of colored persons are referred to; one that were slaves and liberated by their owners or by law, and the other class were free colored persons who were residing in the Cherokee Nation at the commencement of the rebellion."

This statement is absolutely correct as far as it goes, and shows that the Cherokee attorneys understand the law.

They go on and say:

"Each unrequited citizen to have a residence in the Cherokee Nation at the time of the making of the treaty and to return within six months after the signing of the treaty before any acts of citizenship could attach."

The wording of this part now shows that the judgment therein expressed, and the work of the council and not of the treaty, as they hardly intended to contend that a freedman must have been a resident in the Cherokee Nation on July the 19th, 1866, and he must have returned to the Cherokee Nation within six months from that date.

It certainly is a treaty of the Cherokee Nation, made on January 19, 1866, is not one of the conditions precedent to entitle freedmen to enrollment, but the real judgment of the attorneys asserted itself, when they wrote the sentence following the last one quoted, namely:

"In any event the Cherokee Nation contends that the burden of proof is upon the applicants to show by competent evidence of honest, reliable, trustworthy witnesses that they were slaves of Cherokee citizens and freed as such either by law or by voluntary acts of

of their owners, or that they were free colored persons lawfully residing in the Cherokee Nation at the commencement of the rebellion and that they returned within the time prescribed by the treaty".

Here it will be noted that the Cherokee attorneys do not hold that it was necessary for a freedman who was liberated by his owner or by law to have been in the Cherokee Nation on July 19, 1866, but they do contend that it was incumbent upon him to prove beyond a shadow of a doubt that he was a freedman who had been liberated by voluntary act of his former owner or by law. It is also contended by the attorneys that in order to entitle a free colored person to enrollment he must show beyond a doubt that he was in the Cherokee country at the commencement of the rebellion and that he was a resident in the Cherokee Nation on July 19, 1866 or that he returned to the Nation prior to January 19, 1867.

This was evidently the understanding of the Cherokee Nation when it adopted the fifth amendment to article three of its national constitution on November 27, 1866, as in that amendment the following sentence was used:

"All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, and all freedmen who have been liberated by voluntary act of their former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months from July the 19th, 1866, and their descendants, who reside within the limits of the Cherokee Nation, shall be taken, and deemed to be, citizens of the Cherokee Nation".

And yet this judgment expressed by the Cherokee attorneys is not without its defect.

In 1859 or 1860 the Cherokee National Council passed a law which required all free colored persons at that time in the Cherokee Nation, to remove therefrom or choose a master.

Article four of this treaty of July 19, 1866, given to all free negroes, not having former been slaves of any Cherokee, and who resided in the Cherokee Nation prior to July 1, 1861, the right to settle in the Canadian District, and in article nine,

again the same class of persons is given certain rights.

It is not probable that these people would have been mentioned in the articles of the treaty if there had been no such persons in the Cherokee Nation in April of 1846, and if such persons had resided in the Cherokee Nation at that time they could not have been lawfully removed to Spain, as the Cherokee law expressly provided that the remainder of such people in the Cherokee Nation should be left.

The Government acknowledges the fact that the Cherokee Nation owed an obligation to its freedmen, and that such obligation should be made a part of the treaty.

"Concededly it was not intended that free colored persons or persons of color, or former slaves of Cherokee citizens should be granted the rights of citizenship in the Cherokee Nation, and that the Government has no obligation on the part of the Cherokee Nation to provide for them."

The Government's contention is an assertion, that persons who were former slaves of Cherokee freedmen or "some of the former slaves of Cherokee citizens" were not contemplated in the contract of the agreement to give to all freedmen the same rights as their former owners or by law, all the rights of native Cherokees, is not sustained by the language used by the treaty making nation in the treaty itself, or by the history of the facts that induced the Cherokee Nation to make a compact, and again referring to article four, we find that the freedmen were referred to there, and these persons "were and formerly should be all Cherokee".

"Formerly" is an adverb of time and one of those adverbs that covers all of the time preceding the act to which it refers.

The freedmen of the Cherokee Nation were slaves of the Cherokee Nation until the time of the rebellion, and included the former slaves of the Cherokee Nation.

In this sentence it is frankly acknowledged that the Cherokee Nation had an obligation to provide for its freedmen. These words "because in that event there would have been no obligation on

the part of the Cherokee nation to have provided for, to say the least, implies that there was an obligation on the part of the Cherokee Nation provided for its slaves who were not liberated until after April 1861.

The obligation which the Cherokee Nation owes the freedmen, was a natural obligation which is held by Ayliffe to be the result of natural equity.

These freedmen had been compelled by the Cherokees to give to them the benefit derived from their mental and physical efforts for a generation.

Natural equity provided that when the Cherokees returned to these freedmen that absolute right from which they had deprived them for so many years, they should also have given to them the right to enjoy such freedom.

If the Cherokee Nation was under obligation to its freedmen, natural equity would not have permitted the Cherokees to free themselves from that obligation by imposing a certain condition, which they knew that these freedmen were unable to meet, and which these freedmen were unable to meet.

The existence of this natural obligation was recognized by the United States and the Cherokee Nation at the time this treaty was made, and no time limit was placed upon the return of freedmen absentees, as many of them were known, by the United States and the Cherokee Nation, to be so situated by reason of the ignorance or poverty or ignorance and poverty, or by reason of their detention by their former owners or by persons to whom they had been sold, out of the Cherokee Nation, in violation of law, that they could not probably return within the time prescribed for the return of free colored persons.

On account of these facts no time limit was placed upon the return of freedmen absentees.

The Cherokee nation was morally bound, by reason of its natural obligation, to give to these applicants all the rights of native Cherokees, and could not shift that responsibility by providing

that they must have returned to the Cherokee nation, regardless of circumstances and conditions, within six months from August 11, 1866 or, they would be forever barred from the rights to which they would be entitled if they had have returned within the time stated.

Such a provision would defeat the object and purpose of the agreement to give to them all the rights of native Cherokees. It would be a case of doing indirectly what could not be done directly.

Yet it will hardly be considered that this natural obligation owed to its freedmen by the Cherokee Nation, was the sole reason why the Cherokee agreed to give to its freedmen equal rights with themselves.

The free colored persons- i. e. negroes- mentioned in this treaty, are expressly designated in article four as persons who had not formerly been slaves of Cherokees.

They were taken into the Cherokee Nation for their own personal gain. The Cherokees owed them nothing, and yet it is not disingenuous, by the Cherokee attorneys that a free colored person who was a resident in the Cherokee Nation at the time of the commencement of the rebellion, and who was also a resident therein July 1, 1865, or who if absent therefrom on that date, returned thereto and settled therein in good faith, prior to January 19, 1867, are entitled to enrollment.

A few unwholesome remarks from Harry Still and Sam Weber do not tend to justify the action of the Commission in denying to these applicants the rights that not only natural equity, but the expressed condition of the treaty entitled them.

Jennetta C. and Richard H. Mays, being the descendants of David Mays are entitled to enrollment if David is.

In view of the record and the law, I submit that the recommendation of the Honorable Acting Commissioner of Indian Affairs is commendable, and that the decision of the Commission to the Five Civilized Tribes adverse to these applicants ought to be reversed.

and that all of these applicants ought to be enrolled as Cherokee freedmen.

Respectfully submitted,

Blus & Bulger,

Attorneys for Applicants.

By.....

Service of the within argument is hereby acknowledged by the attorney for the Cherokee Nation, as is also the receipt of a copy, dated December 17, 1904, at Vinita Indian Territory.

W. L. Hastings and Havenport,

Attorneys for Cherokee Nation.

By.....

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9, 1901.

In the matter of the application of Aaron Webber for enrollment as a Cherokee Freedman.

Aaron Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Aaron Webber.
Q How old are you? A 36 I think.
Q What is your post office address? A Wymer, Cherokee Nation.
Q What district do you live in? A Cooweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Just myself.
Q Have you ever applied to be enrolled by any other tribe or Nation besides the Cherokee Nation? A Yes, sir, the Clifton Court and the Wallace Court.
Q The you apply to any other Nation, the Creeks? A No, sir.
Q Never drew any money from any other Nation? A No, sir, I didn't.
Q Have you been recognized by the Cherokee authorities as a Cherokee citizen? A Yes, sir.
Q Is your name on the roll of 1880? A It is on this roll here Mr. Bledsoe has got here; I ~~xxxx~~ come with my brother Sam Webber.
Q Is your name on the roll of 1890? A No, sir.
Q Did you ever draw your strip payment money? A Yes, sir.
Q How much did you draw? A \$15.50, and then I drew this other payment, this last payment, I drew it.
Q You drew the last payment? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
The Kerns-Clifton roll examined, and the applicant identified thereon, page 126, No. 315, Cooweescoowee district.
Q Were you a slave before the war? A Yes, sir.
Q Who did you belong to? A Takie Webber.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where did you go during the war? A Went to Kansas.
Q When did you come back from Kansas? A Came back in 1866.
Q You been living here ever since? A Yes, sir.
Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q Got no children then? A No, sir, I haven't.
Q You are certain you came back in 1866? A Yes, sir, I did.
Q Who did you come back with? A Sam Webber and my father.
Q Why is your name not on the roll of 1880? A Why I can't tell you about that.
Q Did you ever try to have it put on? A Yes, sir.
Q They refused to do it? A Yes, sir, must have, for it aint there.
Mr. W. W. Hastings; attorney for Cherokee Nation: You say you returned with your brother Sam? A Yes, sir, I did.
Q Did you come the first time he came out here? A Yes, sir, I did.
Q What time of the year was it? A '66.
Q What time in the year '66? A Well you see I can't read and I can't write, I didn't keep no count of the days and the months because my owner's didn't give me time to get my education.
Commissioner: Was it in the fall or summer? A It was along in March when I came back in 1866.
Mr. Hastings: Was it the March after the treaty was made? A Yes, sir.
Q You are certain of that? A Yes, sir, I am.
Q And you came back with him at that time? A Yes, sir.
Q Did he bring his family along then? A Yes, sir.
Q His wife and children? A Yes, sir.
Q He had already been out there and put up a house? A Yes, sir, I had come out before that and I come with him, and he put up a house and I came back with him in '66.

- Q The first time you came back was in March after the treaty was made? A Yes, sir, that is when we moved there.
- Q How long before that was it when you came out? A I can't give the days of the months, how long it was we came out, but we came and put up a house one fall and went back and came right on down.
- Q About how long did you stay out here when you had put up the building? A We stayed three or four days and then went right back and moved down.
- Q What kind of buildings did you put up? A We put up a log cabin.
- Q Out on Big Creek? A Yes, sir.
- Q How far from where Sam Now lives? A Sam lives on the north side of Nowata and we live up there on Big Creek, I can't tell you exactly how many miles, but he lives at Nowata and we live up there on Big Creek.
- Q What old citizen lives near where you first located, where you first located when you first moved out? A There isn't anybody lives there now.
- Q Name some old citizen who lives at the place now where you located then? A Sam Webber.
- Q Does Sam Webber live at that place now? A He did live there but he don't live there now.
- Q Who lives at the place Sam and you came to? A The Meigs and Whitmires and Sanders, and a whole lot of them.
- Q You have lived there ever since? A Yes, sir.
- Q You came out in wagons the first time? A Yes, sir, because Sam Webber drove the ox wagon and I drove the horse wagon.
- Q Do you know anything about dates? A I know when they say the year is out, and this year is in.
- Q What year is this? A If I am not mistaken I think this is May.
- Q The year though? A I can't tell you exactly what year it is, because I am not educated like you smart men.
- Q You are satisfied in '66 you came here in March? A Yes, sir.
- Commissioner: Do you know when the treaty was adopted, know what month it was adopted in, the treaty; you told Mr. Hastings you came here the march after the treaty was adopted; you don't know what month in 1866 the treaty was adopted? A No, sir, I don't.
- Q Have you got any witnesses? A Yes, sir, Sam Webber, and Abe Hare.

Sam Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Sam Webber.
- Q What is your age? A About 58, somewheres nearabout that.
- Q What is your post office address? A Nowata.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
- Q Your name on the 1880 roll? A Yes, sir.
- Q Do you know Aaron Webber? A Yes, sir.
- Q Is he any relation to you? A He is my brother.
- Q Was he a slave? A Yes, sir.
- Q To whom did he belong? A Takie Webber.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q By blood? A Yes, sir.
- Q Where was he during the war? A He was with us in Kansas.
- Q When did he come back? A He came with us when we came back in July.
- Q You came in July from Kansas and he came with you? A Yes, sir.
- Q What year was that in? A In 1866.
- Q He was a slave the same as you? A Yes, sir, same as me, with the same owners.
- Q Ought to be entitled to the same rights you have got? A Yes, sir, have just the same right, belonged to the same parties too.
- Mr. Hastings: Q What time of the year was it you say you brought him back? A We came in July and built houses and went back and moved down.
- Q You had heard of the treaty passed? A We came right in the same month the treaty was made in because we overtook the delegates

at Fort Scott.

Q You had heard of the treaty before you left there? A As soon as we arrived at Fort Scott and talked to them, and they told us they had made a good treaty.

Q And you came on down and he came with you? A Yes, sir.

Q Did you bring your families at that time? A I didn't have any family then.

Q The rest of the people, they come along? A Yes, sir, I was small myself, I was with father, we came and built and went and moved some of them after that.

Q How long did you stay down there at this time? A I didn't stay long, I couldn't tell you just how long we really stayed, we didn't stay only long enough to find claims and cut logs and build shanties.

Q Who lives up there at the place that you located, now? A Reuben Sambers lives right where I built my house, he is living there to-day

Mr. Bell: Where did you start from when you started from Kansas down to Big Creek? A Started from a little creek six miles south of Mound, said to be about twenty miles north of Fort Scott.

Q Had you started to the Cherokee Nation when you came across these delegates at Fort Scott? A Yes, sir.

Q What was your notion about starting? A I had been down here and looked through the country and went back and told them the war was over here as well as everywhere else, and let's come home.

Q You hadn't started then with a view to saving your rights here under the treaty? A We didn't know nothing about the treaty, it wasn't made when we started as we knowed of, until we got to Fort Scott, and we saw the delegates.

Q What time was that? A Along in the last part of July, the last week in July, as near as I can remember.

Commissioner: When Aaron says he came in March he is mistaken?

A He is mistaken, he don't know dates; he is not bright enough to know dates.

Abraham Hare, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Abraham Hare.

Q How old are you? A About 70.

Q What is your post office? A Wymer.

Q Are you a Cherokee Freedman? A Yes, sir, claim to be.

Q Your name is not on the roll of 1860, is it? A No, sir.

Q Were you a slave? A Yes, sir.

Q What was your owner's name? A Arlie Hare.

Q Do you know Aaron Webber? A Yes, sir.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Takie Webber.

Q Well, did you know Aaron Webber before the war? A Yes, sir.

Q Did he go out of the Cherokee Nation during the war? A Yes, sir.

Q Did you go out? A Yes, sir.

Q What made you colored people go out during the war? A We couldn't stay here.

Q Thought it was safer to go out? A Yes, sir, I had to go out.

Q Why couldn't you stay here? A They wouldn't let us.

Q Who wouldn't let you? A The Rebels and the Yankees neither one.

Q Where was Aaron Webber during the war? A He was with his father up in Kansas.

Q When did he come back? A He come back in the fall of '66.

Q How do you know? A I come with him.

Q And you came at that time? A Yes, sir.

Q Have you known Aaron Webber since that time? A Yes, sir.

Q Has he always lived in the Cherokee Nation? A Yes, sir, lives right by me now.

Mr. Hastings: Your rights are disputed? A Yes, sir, same as his.

Q You were in here this morning; your case was presented?

A Yes, sir.

Commissioner: Aaron Webber applies for the enrollment of himself as a Cherokee Freedman. His name does not appear upon the authenticated roll of 1880, but does appear upon the Kerns-Clifton pay-roll. By reason of the protest of the Cherokee Nation the name of Aaron Webber will be placed upon a doubtful card awaiting further consideration of the 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 10th of May, 1901.

C. R. Breckinridge,

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Joe Ross
C. F. D. 350.

Appearances:

V. V. Hastings for the Cherokee Nation,
Mallett & Smith for the applicants.

DOUGLAS WALKER, being first duly sworn by Commissioner C. R. Breckinridge, testified as follows for the Cherokee Nation.
(By the Commission)

- Q Give me your full name? A Douglas Walker.
- Q How old are you? A 50.
- Q What is your post office? A Mound City, Kansas.

(By Hastings)

Q How long have you lived in Mound City, Kansas? A Since May 1857.

Q What was your father's name? A James Walker.

Q What was your mother's name? A Miami Walker.

Q Was your father and mother here the first of the month? A Yes sir.

Q They testified in this matter at that time did they? A Yes sir.

Q Do you know Samuel Webber? A Yes sir.

Q Did you know his son Samuel Webber? A Yes sir.

Q Where did you know them? A Near Mound City, Kansas; in the neighborhood where I live.

Q Do you know the applicant here? Joe Ross? A I know him as Joe Webber.

Q Is the the same fellow? (pointing) A Yes sir.

Q Where was he living at the time? A He lived with the older Sam Webber at the time.

Q You know this applicant here is the same party? A Yes sir.

Q Did you know a woman named Chlora? A Yes sir.

Q What relation was she to Joe Ross? A Sister.

Q Did you know Aaron Webber a little duck legged fellow? A Yes sir.

Q Where did you know him? A In the same family in Mound City, Kansas, Linn County.

Q Whose farm did Samuel Webber live on, if you know? A He lived on a farm that belonged to a man named Jeff Flemmings.

Q I mean in the year 1866? A My father bought the farm.

Q Of whom did he purchase the farm? A Of Flemmings.

Q Do you know where young Sam Webber was married? A He was married there in Linn County, near Mound City, in the neighborhood there, where I was living.

Q Did he marry before or after he moved from that country? A Before he moved.

Q Mr. Walker, have you locked up the date of when your father purchased that farm? A Yes sir.

Q The date of the deed? A Yes sir.

Q What was that date? A The date of the deed is October '56.

(By Mr. Smith) Object to that if you have not the deed.

(By Mr. Hastings) Have you locked up the date? A Yes sir, but have forgotten the exact date as to says.

Q At that time, where was Sam Webber living? A On this farm that father purchased.

Q Where was young Sam living at the time he married? A On this farm on the same place.

Q What is your best judgment as to the time Sam Webber, including Joe Ross, Chlora Grayson and Aaron Webber left that country with their women folks and come to this country? A According to my best recollection it was the latter part of February or early in March of '67, I can't state exactly the month; early in the spring of '67 though.

Q Did they all move down at the same time? A All started together.

Q Left there together? A Yes sir.

(By Mr. Smith)

Q You say you know that this applicant in this case is the same man that you knew at that time in Kansas as Joe Webber? A Yes sir.

Q How did you know it? A I recognized his countenance as one man knows another.

Q How? A Well I saw him.

Q When? A Today.

Q Where? A On the street.

Q And you knew him as Joe Webber? A Yes sir, the name Joe Ross was not used much.

Q When did you first become acquainted with old man Sam Webber? A In '63 he moved on that farm.

Q Which farm? A The farm my father bought in the neighborhood where I lived, the old Flemming farm.

Q When did your father buy that farm? A In the fall of '56, I have forgotten the exact day, in October or September.

Q Who owned the farm at the time old man Sam Webber was on it? A Jeff Fleming owned it until my father bought it.

Q How do you know it was '63 that you became acquainted with Sam Webber? A I remember that it was during the last years of the war and the refugees were coming into Kansas, both white and black, in '63 and they were amongst them.

Q Did any come after '63? A Yes sir some came later and some come earlier, and I remember again by this farm, I remember how long they farmed it before we got it.

Q How long? A Three years--four years in the spring of '67.

Q They farmed it four years before your father got it? A They farmed from '63 to '67.

Q You say the reason you knew that you knew this man in '63 was because you knew how long they worked this farm before your father got it? A Yes sir.

Q You say it was in September of 1867 that your father bought that farm? A In '66.

Q You are positive about that? A Yes sir we got possession the first of March '67.

Q Did old man Sam Webber rent this place from your father? A No sir he rented it from Flemings.

Q Did Sam Webber, the old man and the boys, come down here or leave that country in the fall of '65? A I think not.

Q Don't you remember that they did and that the old man came back by himself one time? A If my memory serve me, it was in '66, late in the summer, or early in the fall of '66.

Q What was in the fall of '66? A That they came down here--started away from there.

Q Who came then? A Sam Webber, the old man, and young Sam and Aaron.

Q What is your recollection as to how long they staid? A They came back I think in November or late in October.

Q Well which came back first? A Why I think the older Sam Webber came first.

Q How long do you think it was before you saw Sam Webber Jr. again?

Q Well, it was a short time, a month or so--I can't recollect that, it is a good while ago.

Q Who helped Sam Webber make a crop in '66? A Johnson Webber and the old man Sam made a crop in '66.

Q Who helped him? A Then two and the little boys I think worked too; Aaron did, I don't know but as Joe did too, I don't remember much about that.

Q Where was old man Sam Webber in July 1866? A That summer he raised that crop and worked part of the summer for my father on this farm.

Q Is it not a fact that in July of 1866 that Sam Webber Jr. came here for his father and that they left there for this country to build some houses? A That is not the way I remember it.

Q You have stated that it was a long time ago, do you think that you remember the date absolutely? A Not to the day or month exactly, but that is my best recollection.

Q Are you testifying to the best of your recollection? A Yes sir.

Q Do you remember of Sam Webber Jr. bringing any hides to that country?

A Yes sir.

Q When was that? A In the fall or beginning of the winter of '66 and '7 he brought some hides and furs.

Q To refresh your memory, was it not in March? A March when?

Q '66? A No sir.

Q Upon what trip was that that he brought these hides? A He left and said he was coming down on a hunting trip.

Q Was that the trip when he left Kansas and when old Sam returned first that you spoke of a while ago? A Yes sir, that was the one, the same trip.

Q Do you remember of Sam Webber selling out a crop up here? A I don't.

Q Do you remember of them leaving there to come to the Territory to build some houses? A Yes sir.

Q Was that after the time that he brought the hides there? A It was that trip that he left there for the purpose of building some houses that he brought the hides when he returned.

Q Dont you remember of them leaving there to come to the Territory for the purpose of building houses? A Well that was wither in the spring or winter, in the latter part of February or early in March I have not given the matter any considerable study.

Q How do you fix the dates you have given? A I remember them and then by the dates I have looked up.

Q What dates have you looked up? A The purchasing of this land.

Q Are you testifying from the date of the purchase of that land? A Father bought the place in the spring of '66 on condition and paid \$80 down, or traded cattle, as a forfeit, and in the fall he got some money and got full possession of the place; Webber had possession until the first of March, that is the Kansas law, from the first of March one year until the first of March the next year; they had possession of it until March first 1867.

Q Mr. Walker, when you had occasion to investigate this matter, you had forgotten all about it practically hadn't you? A No sir, but it was something I had not thought much of.

Q You couldn't have told on the moment what year Sam Webber left there could you? A I would have had to look at the dates.

Q Then you are not testifying from your recollection, but from the dates that you have looked up since? A Part of it is from recollection and part of it is from looking up the dates.

Q How long has it been since you thought of the time Sam Webber left that country before you made this investigation? A I was asked the question as to when they moved and I hadn't given the matter any thought till then.

Q You didn't know then did you? A Yes sir after I thought it over.

Q How long did it take you to think it over? A I dont exactly remember.

Q Can't you give us some idea of it? A 2 or 3 weeks.

Q Were you here when your father testified in this case? A Yes sir

Q Did you know as much about it then as you do now? A No sir.

Q How long was that from the time you had first been asked to about the date? A I had not expected then to give testimony in this case and had not thought much about it.

Q What were you doing here then? A I was subpoenaed in another case.

Q You had been talking about this case then? A Not much.

Q How much? A A word or two.

Q And you were here all the time your father and mother were her and yet didn't testify in this case? A Yes sir.

Q You went back to Kansas? A Yes sir.

Q And came back here again to testify? A Yes sir.

(By Hastings)

Q You were subpoenaed by the Cherokee Nation? A Yes sir.

(Continued by Stenographer J. O. Rossen)

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Tribes, he reported in full the above cause and that the foregoing is a true and complete transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 9th of November, 1901.

T. B. Needles,

Commissioner.

The undersigned, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original.

Roy Palmer

Subscribed and sworn to before me this the 14th day of August, 1902.

Prince Jones
Notary Public.

Before Commissioner Breckinridge, at Tahlequah, I.T., Supplemental C.F.D.-350, Joe Ross.

(By Stenographer: This following testimony was originally taken down by stenographer J.O. Rosson, and afterwards dictated by him to stenographer M.D. Green.)

--00--

HENRY C. SHORT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Henry C. Short.

Q How old are you, Mr. Short? A 48.

Q What is your post office? A Mound City.

Q In the Cherokee Nation? A In Kansas.

BY MR. HASTINGS:

Q How long, Mr. Short, have you lived in and about Mound City, Kansas? A Well ever since the spring of 1857.

Q What was your father's name? A John Short.

Q Were you living there in the years '66 and '67? A Yes sir.

Q Were you living in town or in the country? A Living in the country.

Q Do you know Douglass Walker that left the stand? A Yes sir.

Q Did you know a colored man by the name of Sam Webber up there?

A Yes sir.

Q Do you know that young Sam Webber, his son? A Yes sir.

Q Do you know Joe Ross? A Yes sir.

Q This is the man there? (Pointing to the applicant.) A I wouldn't have known him unless he had been pointed to me. They always called him Joe; I don't remember about him being called Joe Ross up there.

Q Have you talked to him? A Just spoke to him.

Q Did he recognize you as being the man? A He recognized me as being Short by telling him who I was and where I was from; he claimed that he was one of the boys.

Q Do you know Aaron Webber, a little duck legged fellow? A Yes sir.

Q Where did you live in the spring of '66? A In Linn County, on Elk Creek, in Kansas.

Q Did you live on the same place in the fall of '66? A Yes sir.

Q Did you live in the same house? A I lived in the same house now that I moved into in the fall of '66.

Q Well now what time in the fall did you move into it? A Well now it was the last of October or the first of November, I won't say which; along about in them times I moved, that is my folks moved; of course I was small, I moved there after that from the west part of the place to the east part of the place.

Q Do you know where Sam Webber was at that time? A They lived then at that time in the fall of '66 they lived on the place known as the Fleming place, adjoining farms of ours.

Q Were they living there when you moved? A That fall?

Q Yes sir? A They were living there then.

Q I will ask you what is your best judgment as to the time they moved with their families and left that country? A Well I could not say just how, for I have got nothing to fix them dates. The best of my judgment they left there in February.

Q February now of what year? A Of '57, I would say that, but now I aint certain, I aint got no opinion about what time they left.

BY MR. HASTINGS: Now I move to strike out the testimony to that effect, because the witness says that is his opinion.

Commissioner: We will take it for what it is worth and let the Commission pass on it.

BY MR. HASTINGS:

Q That is your best judgment? A Yes, sir.

Q That is your best recollection? A (No response.)

Joe Ross (sup'1) 6

Q You said I believe you knew they were there in the fall? A Yes sir, that is all I can state positively, I don't know how long they were there.

Q You know that by your move? A Yes sir, that is the one thing I have got you know.

Q Do you know Joe's sister, Chlora? A Yes sir, there was a girl there called Chlora, I supposed it was Joe's sister.

BY MR. SMITH:

Q Mr. Short, how old were you in '66? A About 13 years old, September 6, 1866.

Q Now when were you asked first as to the time when Sam Webber left that country? A When was I asked first.

Q Yes? A I think it was last Sunday.

Q Well you didn't know did you? A No, I don't know what day he left there at all.

Q Did you have that opinion then? A Yes, I have the same opinion I got now; it was the best of my opinion they left in the spring; I got nothing to say they did or did not.

Q Where was Sam Webber, Jr., in February 1866? A I don't know.

Q Where was he in October, 1865? A He was on the Creek.

Q Did you see him? A Yes, he was there; he hadn't moved; he come down here and went back again in the fall; and the whole family was all there in the fall.

Q That was in the fall of 1865 was it? A Fall of 1866.

Q I am talking about 1865? A Well they was there too.

Q Did you see him? A Yes, of course they was there.

Q Of course, well how do you know, did you see him? A Yes I saw him.

Q Where did you see Sam Webber in the fall of 1865? A Oh I don't know; he worked some for us.

Q Did he work for you in the fall of 1865? A Worked for my grandfather some.

Q That young Sam Webber? A Yes, sir.

Q You say you knew young Sam Webber, the younger of the two? A Yes, sir; I knowed young Sam and old Sam too.

Q Did you know young Sam Webber, called Sam Webber, Jr.? A Yes sir, of course it has been a long time from the time I saw him, from the time he left there until I come down here; saw him the first time as soon as I moved there.

Q What did you say about his being a boy? A I suppose he was a young man, I couldn't say as to that.

Q What about Joe Ross, was he a boy? A Yes sir, Joe was younger than me if I am not mistaken? A Wasn't much difference in the ages; but I think he was younger than me.

Q How is it not a fact that Sam Webber and his father old Sam Webber and Aaron Webber came to the Cherokee Nation in the fall of 1865?

A I think not, I don't think they did; they was there in 1865 but they was going and coming all the time; they come down in 1866 and located.

Q They came in 1866 and located? A Yes sir, but they come back and got their family.

Q Now you know only that they were there in 1865? A I know they were there in '66.

Q You don't know what time in '65 they were there? A They were there before '65.

Q Well I am talking about '65; were they there in the spring of '65?

A I couldn't say what time of the year; I think they were there all the time.

Q You don't know whether they were there all the time in 1865 or not? A No sir, I couldn't say they was.

Q Do you remember Sam Webber Sr. and Sam Webber Jr. and Aaron Webber coming down to the Cherokee Nation at any time? A They come down in the summer of '66 I think, directly after crops was made; they come down here and they went back together back up there in the fall.

Joe Ross (sup'1) 7.

- Q Well did they ever come back together? A I don't know whether they did or not: Aaron didn't come back I don't think.
- Q What about Sam Jr., did he come down with his father? A Yes sir, I don't know whether Aaron came back or not: I know Sam and the old man come back and got the family.
- Q Do you know that they came back together? A Yes, I am pretty sure that they came back, I know I saw them afterwards.
- Q Do you remember of Sam Webber Jr. ever bringing any hides into the country? A No sir, I don't remember; I remember Sam telling me he had his cabin up.
- Q When did he tell you he had his cabin up? A In the fall of '66.
- Q He had been down here in the fall of 1866 and had built a cabin? A Yes sir, he told me he had his cabin built.
- Q And now that final move when they took all the people out you think was in what time? I don't know, but it runs in my mind as February or March, I won't say anything about that.
- Q What year? A '67.
- Q You say you won't say anything about that? A I don't know whether it was or not.
- Q You don't know whether it was or not? A No sir, that is a fact: but it runs in my mind it was.
- Q There was Sam Webber during the winter of 1865 and '66, the winter that commences with December, 1865 and ends with February 1866? A I think he was there.
- Q Well, did you see him there? A Yes, I think he was there pretty much all the time.
- Q Well do you know it? A I got no way to fix it; that's my opinion he was there.
- Q You can't state it positively that he was or was not? A I know most of them was there and I believe he was too.
- Q You can't state that positively? A No sir, not unless I got something to fix the date.
- Q You won't say that? A No sir.
- Q Now can you remember about Sam Webber coming up there in the spring of 1866 and bringing some beef hides? A No sir, I can't remember; of course then dates is a long time ago; now I have got these things fixed in my head that was in the fall of '66 I was moving from one farm to the other, and that was in the fall.
- Q You didn't go off of that farm? A No sir, just moved from the west to the east side.
- Q And you were a boy about 13 years old? A Yes sir.
- Q What is there in that to fix the date in your mind it was in 1866 any more than 1865 you moved? A I know we moved from the things that occurred; the death in the family of a young man that was there; I know it was '65.
- Q How about that now; about the deaths in the family? A There was a young man died in the family in '65, 3 years after we moved there it must have been from the things that he did when we moved from one house, but he didn't move in his house at all.
- Q You don't seem to be positive about any of these dates you give?
- A Why I do, when the family moved over, remember that fact.
- Q I mean about Webber's movements? A They was all there in the fall of '66; they was all there in October or November one of the two months, because we moved then.
- BY MR. HASTINGS:
- Q Now you never missed them up there in 1865 did you? A No sir.
- MR. SMITH: I object to that; it is not competent whether he missed them or not.
- Q Did you ever miss them up until the summer of 1866? A No sir, I have no recollection of them leaving there until that.
- Q That is your first recollection of them leaving? A Yes, sir.
- Mary A. Night, being sworn and examined by Commissioner Archibald, testified as follows:

Joe Ross (sup'1) 8

Q Give me your name, Madam? A Mary A. Hicks is the way I sign my name.

Q How old are you? A If I live to the 21st of next month I will be 67 years old.

Q What is your post office? A Minter.

Q Is that in Kansas? A Yes sir.

BY MR. HASTINGS:

Q How far do you live from Mound City, Kansas, Mrs. Hicks? A I live 6 miles.

Q How long have you lived in that neighborhood? A Ever since the spring of 1857.

Q Were you living there then after the war? A Living there in the time of the war.

Q Do you know Mr. Walker, Douglass Walker, that has been on the stand? A Yes sir.

Q Do you know Mr. Short that left the stand here? A Yes sir.

Q Mrs. Hicks, did you know of a man up there by the name of Sam Webber? A Yes sir.

Q How far did you live from him just after the war? A Well I think it was about 175 steps; they used water out of my well.

Q Did you know his son, young Sam Webber? A Yes sir.

Q Well did you know a little short-ones called Aaron Webber? A Yes sir.

Q Did you know a boy called Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this time? A Why I met Joe Ross down there; he said he knew me and come up and shook hands with me and I saw Sam Webber.

Q I will ask you to look if this is the same parties now? A Well I tell you Ross don't favor himself so much, but Joe he is just like his father and I knowed him because he is just like his father; well old uncle Sam was older than Sam is of course.

Q I will ask you if you had any deaths in your own family in the fall of '66? A Yes sir.

Q What was the date of it? A The date of the death?

Q Yes, madam? A Well it was in October.

Q Did you make any record of it in your Bible? A Yes sir.

Q Is this your Bible? A I reckon it is; if you will let me look I will tell you.

Q Look at it and see if this is your Bible? I think it is, but I can't read it, I haven't got my specs.

Q You haven't got your specs? A No sir.

Q Well of the family record here of births and deaths appear this: "Franklin Hicks, was born November 7, 1854;" A Yes sir.

Q And under the column of deaths appears: "Died October 23, 1866"

A That is correct.

Q Who was Franklin Hicks? A He was my son.

Q Do you know where Sam Webber was when your son Franklin died?

A No sir, I could not tell you.

Q Don't know? A No, I don't; you seen this Sam?

Q That man? A Oh the old gentleman; he lived up there by me I think; I am not positively he lived there then.

Q Do you know where his wife was? A His wife died there.

Q Well, do you know whether she was dead at the date of your son's death? A Yes sir, she died I think before he died; there was an old lady, they called her old aunt Shosh, living.

Q She was living? A Yes, sir.

Q Was she a member of this family? A Yes sir, she lived there with them.

Q Well do you know whether she was there during the sickness of your child? A Yes sir, she sat up with me several time, and if it was a bad night and she can no one else in the world come and sit up with me.

Q Did you know a sister of Joe's called Callie? A Yes, sir.

Q Now I would like to have your best friend Mrs. Hicks as to the time Old Sam Webber moved with his family and children from that corner?

MR. SMITH: The applicant objects to the witness giving her opinion as to the time when this sickness took place, because it is not the subject of their expert or opinion evidence.

COMMISSION: I understand the question to be her best recollection.

A It has been a long time you know.

Q Well, answer the question? A About him being there?

Q I want to know, the question is, what is your best recollection as to the time Sam Webber and his family, when he left Kansas with his family? A -

OBJECTED to by applicant.

A Well my best recollection was that, I would not be positive of course, but I think it was in February or March, of or the other. The best of my recollection, because the old lady, old aunt Rhoda and uncle Cy, that was her husband, they both was old and feeble and I think old uncle Sam stayed there on that account more than anything as long as he did.

Q Well now that would be February of what year? A It would be '67 wouldn't it?

Q You lived then about 175 yards from them? A Yes sir, I could hear them sing over there and hear them laugh and talk to my house.

Q On whose place were they living? A Well they was living on Mr. Walker's place then.

Q He had recently purchased it? A Yes sir.

Q Do you remember who he purchased it of? A I think it was a man by the name of Fleming; I think it was Flemings owned it.

BY MR. SMITH:

Q About how long, Mrs. Hicks, had Mr. Walker owned this place at the time these people lived there? A Well I couldn't answer that question.

Q Well you could tell whether it had been a few months or whether it had been a year or two? A It was, I suppose it may be quite a while; I couldn't tell you.

Q You remember that Mr. Walker owned a place there? A Of course I know he had charge of the land; I think Mr. Walker bought it from Mr. Fleming if I ain't mistaken.

Q And you know these Webbers were living on the Walker place?

A Yes, sir.

Q Well what is your best recollection as to how long Mr. Walker had owned that place? A I don't know; I won't pretend to say anything I don't know; I don't want to meddle with, I didn't come down here to criticise or anything about it; I want to tell the truth as far as I know.

Q Where was young Sam Webber in December, 1865, and up until January or February of 1866? A I could not tell you where he was, I think Sam worked out some around; I couldn't tell you whether he was at home all the time or not; I could not tell you.

Q Where was young Sam Webber at the time your child died? A I couldn't tell you that; This one.

A Yes? A I don't know.

Q He was not there was he? A I don't know, I couldn't say as to that.

Q Do you remember old man Sam Webber and young Sam Webber and Amy Webber and others leaving; Aaron Webber and others leaving that community in 1866 and coming down to the Cherokee Nation? A I recollect only Sam coming down here, I don't know, I won't be positive, I guess though it was in '65.

Q Well about how long was it ago, your best recollection, before this date in the fall that you have spoken of? A I don't know.

Q Don't know? A No I don't; but I recollect about it, he brought me back spice wood and sassafras root.

Q Do you remember young Sam bringing some ~~like~~ in to the community? A No, sir, I didn't charge my mind with anything like that.

Joe Ross (sup'1) 10

- Q Well now give me some idea, Mrs. Hicks, about the time ~~you~~ Sam Webber started off on this trip to the Cherokee Nation in 1866 that you testified about? A Why I don't know; he came in the fall I reckon.
- Q You don't know whether it was fall, summer or spring? A No sir, I don't.
- Q Well how is it you have no better recollection of this very time that you mention he came than you have of the first time? A I know he was there when that child of mine died.
- Q And you don't know how long after that? A No; they went along the latter part of the winter, but I don't know what time; I think though it was in February or March.
- Q You couldn't be positive whether it was February or after Christmas could you? A I don't think it was before Christmas.
- Q You don't think that was? A No I can't, for several facts.
- Q You can't state positively whether it was before or after Christmas, you can't swear it? A I wouldn't want to swear it either way.
- Q Where did you move from to this place that you live? A Where did I move from?
- Q How long have you been living at this place now where you lived when your child died? A I have been living on the place ever since the spring of '57.
- Q About how long did you remain on the place? A I stay there yet, when I am at home; my husband is dead.
- Q Do you know how many trips Sam Webber made to the Cherokee Nation before this time that he came away from there the last time? A No sir, I don't.
- Q You know of his coming one time? A I know him and his father and I think Aaron, and I don't know whether Joe was along or not.
- Q Well is this Joe? A Well of course, oh that one, Joe Webber that one sitting there?
- Q Yes? A I think it is.
- Q Which one of them don't look familiar? A That one, he was nothing but a boy when I knew him.
- Q Which one, the right one here, the black one? A Yes sir.
- Q What is his name? A Joe we always called him.
- Q And what is this man right here? A Sam, that is the way we always called him.
- Q You think that is the man you knew up there in Kansas? A This Joe? A I don't know, he says it is; he was nothing but a boy when I saw him.
- Q Youn don't recognize him then? A Hardly, I wouldn't know; he says he is the man; I used to think he was a very good boy when they lived there, but then he has growed out of my knowledge.
- Q You don't know where the old man Sam Webber was in July '66 do you? A No sir.
- Q You remember anything about young Sam Webber coming for the old man and the family in July 1866? A Well he might have come after them but they didn't come down here in July.
- Q You don't know when they did come? A Why I think they come some time in the latter part of the winter, but I say I would not be certain what month it was, in February or March.
- Q You wont be certain it was either of them? A I say they left, I was there and saw them start.
- Q You would be certain it was either February or March? A I think they did.
- Q You think so? A Yes sir.
- BY MR. HASTINGS:
- Q I was going to ask you if you knew about young Sam Webber marrying? A They said he married; I didn't see it down.
- Q Did you hear of his marrying up there? A Yes sir.
- Q Was that before or after he left? A It was before they left.

Joe Ross (sup'1) 31

JANE SPEARS, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Jane Spears.
Q How old are you? A I am 45 years old.
Q What is your post office? A Mound City.
Q In the State of Kansas? A Yes sir, Mound City, Kansas.
BY MR. HASTINGS:
Q Mrs. Spears, was Mrs. Hicks who left the stand your mother?
A Yes sir.
Q How long have you lived in and about Mound City, Kansas, I mean in the neighborhood? A Well I came there when I was about a year old.
Q And have you lived there ever since? A Yes sir, well since I have been married I have just moved one mile north.
Q You moved a mile north of your mother? A Yes sir.
Q Do you know Douglass Walker? A Yes sir.
Q Do you know Henry C. Short? A Yes sir.
Q Do you remember at an early date just after the war some colored people that lived up there; one of them by the name of Sam Webber?
A Yes sir.
Q Do you remember his son Sam? A Yes sir, I know him.
Q Were you living with your mother at that time? A Yes sir.
Q Did you know Joe, that was living with them, Joe Ross? A Yes sir.
Q Have you seen any of these parties since you have been here this time? A I met them to-day.
Q Talked with them some? A Well I just spoke to Joe; Sam I did not.
Q Did he recognize you? A Well he let on as though he did; I don't know that he did; I suppose he heard we were here.
Q I will ask you if this is your mother's family Bible? A Yes sir.
Q That is the family record of the births and deaths? A Yes sir.
Q I will ask you if you had a brother by the name of Franklin Hicks?
A Yes sir.
Q Do you remember the date of his death? A Yes sir, October 23, 1866.
Q I will ask you if you know where the Webber family was living at the time he died? A Yes sir, they were living there.
Q About how far from your mother's? A About 175 steps I suppose, in a cabin.
Q Short distance? A Yes sir.
Q Did you know Aaron Webber, a little short legged duck legged fellow? A Yes sir.
Q I would like to know from you Mrs. Spears your best recollection as to the time old man Sam Webber left that country permanently with his family? A
BY MR. SMITH: The counsel for the applicant objects to that question, because it is incompetent and calls for the opinion of the witness.
COMMISSIONER: The counsel for the applicant has put a number of questions in the same form and asked as to their best recollection that exists; it is entirely competent to give the best recollection and belief in regard to the facts.
Q My best recollection is that it was in the spring of '57, either February or March.
Q Did you know whether or not young Sam Webber carried up them?
A Yes sir.
Q Did you know whether that was before or after they left there?
A That was before they left there.
BY MR. SMITH:
Q Mrs. Spears, did you know Sam Webber, Sr., leaving that country and coming to the Cherokee Nation, or leaving that country for the Cherokee Nation before the time you mention? A He came in the fall I think, or summer sometime and got a claim I think.

Q Fall of what year? A '66, and then came back.
Q Now do you remember young Sam Webber's coming back with references to the time Sam Webber Sr. came, who came first when they returned from this trip looking for claims you speak of? A They came together.
Q You are sure of that? A Yes sir.
Q Where was Aaron Webber, did he come back with them? A I don't remember very much about him.
Q You don't remember whether he did or not? A No, I won't be positive whether he came with them or not, when they came after their claims.
Q Do you know when the older Sam Webber made the first trip to the Cherokee Nation after the war? A Well it was in the fall of '66 I guess, about that time, either summer or fall.
Q Either summer or fall? A Yes sir, sometime along in the summer or fall.
Q Might not it have been the late spring? A No, it was not, because he made his crop there and then came afterwards.
Q Made a crop in '66? A '66.
Q What did he do with that crop? A I suppose he put it up here, disposed of it.
Q Do you know whether he sold it or not? A No, I don't know whether he sold it or not, I think they fed it to their stock before they left.
Q Where was Sam Webber Jr. in December 1865? A I don't know where he was at.
Q Where was he in January and February of '66? A January or February of '66, I can't say.
Q Where was he in July of '66? A I don't know where.
Q Do you have any recollection of Sam Webber Jr. coming there after his father in July '66? A No sir.
Q Do you have any recollection of Sam Webber coming there at any time with any hides, beef hides or any kind of hides? A No sir.
Q Where was old man Webber living in the year of 1865? A He was living there close to my mother's farm I speak of.
Q Is 175 steps of you? A Yes sir.
Q And you don't remember of his coming there at any time off of a trip except the time he came back with his father? A He went to Fort Scott I guess, I never tried to keep any trace of his whereabouts.
Q Now what makes you think it was February or March of '67 that these people left there? A Well I have all reasons to believe that circumstances about it; well the old darkey had a cane patch and the darkey boys trapped on the land that winter.
Q These darkey boys? A The Webber boys.
Q What? A Trapped for game that winter on the patch of cane where we had left the seed on the corn.
Q That the winter that commenced in December and ends in February, December, '66 and February of '67? A It was all in the winter of course.
Q Well the winter is pretty well over by the last day of January isn't it? A Not always it aint.
Q Well the bigger part of it; two months is gone isn't it? A No sir, not in our country.
Q How many months do you have in the winter there? A Some winters we have pretty hard and some winters we don't have so much.
Q So that as a matter of fact the fact that they trapped there on your place during the winter would not of itself lead you to believe that they didn't leave there until February or March? A Well it don't show toward spring they left; that is the best of my knowledge.
Q Now in what way do you fix the date, you speak of your people, is that the way you fix the date, by that? A No sir, I fix it by the way, of course that is the way by the people, of this country, they were there, that is, the family were, I don't know.

member so much about the man; there was an old lady that moved down here with the man that sat up with my brother in his sickness.

Q Do you remember Sam Webber bringing you any sassafras and spice switch up there? A Yes sir.

Q When was that? A That was the first time they came down.

Q When was it? A That was in '66.

Q What month? A I don't know.

Q Can you state within two months of the time? A No I don't know as I could.

Q Can you remember that as well as you could the other time? A (No response).

Q You know that they were gone from there before the spring of '67, and it must have been in '66 they brought the sassafras? A Yes sir.

Q What was it, sassafras roots? A Yes sir.

Q That must have been in the spring? A I don't know.

Q Well they don't make sassafras in the fall? A We used it for tea

Q It was not in the spring at all Sam Webber brought the sassafras?

A No sir, it was not; he didn't bring it at all; the old gentleman brought it.

Q Well now as a matter of fact do you remember any one of these people being there at the time your brother was sick and died except the old woman Rhoda? A Well this family was there on the place; I don't remember them being there.

Q Well if they were you tell me who you saw except Rhoda the old woman? A Well I don't know as I remember. There was Johnson's wife, of course I don't just remember who was there, I was just a child then; there was a great many of the neighbors in, but I remember the old lady, sitting up with my brother at the time he was sick.

Q Now isn't it a fact that the old lady Rhoda is the only one you remember being there at the time? A No sir.

Q Now who else was there? A Chlora was there.

Q Well now name some other one, all you know that was there? A I don't know, I don't remember them, there was hardly any day but what they was there, some of them.

Q Well now that I want to know, who was there except this woman, Rhoda? A I don't know anything about that.

Q You don't know? A No sir.

Q How many trips did the Webbers make down here to this country, do you know? A They came once and got claims and came back and went again.

Q All you know of? A Yes sir.

Q If they made others you don't know it? A No sir, I don't know anything about any more trips they made.

Q Now when was this entry in this Bible, the date of your brother's death, made, was that made at the time? A Just when he died?

Q Yes? A I don't know as it was, I suppose about the time.

Q Well about when, do you know who wrote that? A I know who wrote that?

Q That is what I am talking about? A This was drawn off from another Bible.

Q You don't think that this entry, "Lizzie Bell Lewis, born September 1st, 1868" is in the same handwriting that this is do you?

A No sir.

Q You don't know that this is in the same handwriting? A No sir, it is not.

Q Now who wrote that date, October 23, 1866? A Park Nichols.

Q Well now can you tell me how nearly at the time of your brother's death that entry was made? A No sir, I could not.

BY MR. HAYNES:

Q How long has this Bible been in your mother's possession? A I can't tell.

Q Has this entry been in here a long time to your knowledge? A Yes sir, it has been several years.

Q It was in there long before any investigation came up wasn't it?

A Yes sir.

BY MR. SMITH:

Q Didn't Sam Webber and his father come down here in '65? A If they did I never missed them from home.

Q If they came here you didn't miss them? A No sir.

MARY A PICES, re-called for additional cross examination.

BY MR. SMITH:

Q Mrs. Pices, when was the entry upon this Bible you have with regard to the date of the death of your child made with reference to his death? A Well I don't just remember when it was; it was not long.

Q Was it put there at or about the time he died? A Why it was not long after he died.

Q Well give us your best judgment as to how long? A Well he died that fall and I don't know just how long it was.

Q Well was it as much as a month? A I won't say sir.

Q You can give some idea? A Well I tell you now, I won't say anything when I don't know anything.

Q I thought probably you might know better than I do, as I know nothing about it? A If I know when I set it down I would recollect it; I have had a good deal of trouble about it.

Q I don't want to cause you any trouble about it, but I would like to know, it is some importance in this case? A There was a young man working for us that set it down.

Q What was his name? A His name was Nichols.

Q Do you remember how long after your child died before Nichols went to work for you? A No sir.

Q Well when it was set down what was it set down from, your recollection? A Why I had a husband then and all of us recollect it, who wouldn't recollect it?

Q I am asking you how long it was before this entry was made, if you can tell me? A I don't know when.

Q Do you think it was as much as two years? A No sir.

Q It was not? A No sir if I should guess at anything about it I should think it was along in the summer sometime, I should think now; afterwards this young man was breaking prairie and of course he broke it in the winter.

Q Was this the first place it was made where it was made here in this Bible? A Yes sir.

MR. SMITH: If the Court please, I want to show by the title page of the Bible that it was not published until in 1869.

COMMISSIONER: The title page has been examined and it shows that the edition of the Bible in evidence was published in Philadelphia in the year 1839.

BY MR. HASTINGS:

Q Do you remember, independent of the Bible, of the dates of your son's death? A Yes sir.

Q You didn't attempt to give distinctly when that entry was made in your Bible? A No sir.

Q You so stated? A Yes sir.

BY MR. SMITH: I object to that; it is leading.

BY MR. HASTINGS:

The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, recalled, in the case of Jefferson Ross and others, Freedman D-572, be made a part of the record in this case.

COMMISSIONER: It is ordered that the testimony just taken be filed as supplemental testimony in Cherokee Freedmen Doubtful case 466, the same being the case of Chloa Grayson, and it will likewise be filed in Cherokee Freedmen Doubtful case 216, the case of Anna Webber, and in Cherokee Freedmen doubtful case 380, the same being the case of Joe Ross.

It is further ordered that a set of all the testimony

Joe Ross (sup' 1) 15

Given by Sam Webber in Cherokee Freedman Doubtful case 872, the same being the case of Jefferson Ross, be filed in case Cherokee Freedman D-350, of Joe Ross, and in Cherokee Freedman D-196, of Clara Grayson, and in Cherokee Freedman D-216, of Aaron Webber.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in this case, as dictated to him from the stenographic notes of JOHN C. Rossen, by said Rossen, 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 November 16th, 1901.

J. C. Starr,

Notary Public.

3111.

To be filed with _____

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I.T., October 29th, 1901.

SUPPLEMENTAL TESTIMONY IN THE MATTER of the application of Joe Ross
C.F.D. 350.

Appearances:
W.W.Hastings, for the Cherokee Nation.
Mellette & Smith for the applicants.

BY MR. HASTINGS: The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, re-called, in the case of Jefferson Ross, and others, Freedman D 572, be made a part of the record in this case.

COMMISSION - - - It is further ordered that a set of all the testimony given by Sam Webber in Cherokee Freedman Doubtful case 972, the same being the case of Jefferson Ross, be filed in the case Cherokee Freedman D 350, of Joe Ross, and in Cherokee Freedman D 496, of Chloa Grayson and in Cherokee Freedman D 216, of Aaron Webber.

--00--

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 26, 1901.

In the matter of the application of Jefferson Ross for the
Inment of himself and four children as Cherokee Freedman.

Appearances:
Mellette & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

Sam Webber, being duly sworn by Commissioner Needles, testified
as follows:

Mr. Smith: What is your name? A Sam Webber.

Q How old are you? A About 58.

Q Where do you live? A I live about two miles west of here.

Q How long have you lived in the Cherokee Nation? A I was born and raised here, and after the war came back.

Q Do you know this applicant, Jefferson Ross? A Yes, sir.

Q Were you acquainted with him before the war? A No, sir, I wasn't acquainted with him before the war.

Q When did you first know him? A I got acquainted with him just after the war.

Q Where? A Here in the Nation.

Q About what part of the Nation? A He came to my house there on Big Creek in the Nation.

Q What time? A Along in the spring of '67.

Q Do you know of your own knowledge when he first came back to the Territory after the war? A No, sir, I don't know of my own knowledge.

Q Do you know where he was living at the time he came to your house?
A He had been working on Snow Creek he claimed and he was on his way hunting his sister.

Q Did you ever see after you saw him that time? A I put him on the trail down to his sister's and I never saw him for quite a little bit from that; when I saw him he was there on Lightning Creek.

Q Did you see him after that at his sister's? A I saw him then often and on for near about two years I guess.

Q Where? A There at Lightning Creek.

- Q In the Cherokee Nation? A Yes, sir.
- Q Was he a married or a single man at that time? A He was a single man to my knowledge.
- Q Do you know where he is living now? A No, sir, I don't.
- Mr. Hastings: You saw him around here for about two years?
- A Yes, sir.
- Q Then how long was it till you saw him again, Sam? A I remember after that of seeing him on Big Creek again.
- Q How long after that? A Must have been six months of a year after that I met him again there.
- Q You know where he was married? A No, sir, I can't tell you.
- Q Was he married at that time? A If he was I didn't know it.
- Q Did you know his wife? A No, sir, I don't know his wife.
- Q Did you ever see his wife? A Not to know it was her.
- Q Has this man ever kept house to your knowing? A When I saw him he was to his sister's.
- Q What was her name? A Katie Thornton.
- Q You never saw him in a separate, independent house, keeping house with his family? A No, sir, never did.
- Q What is his occupation? A I can't tell you.
- Q Did you ever see him making a crop anywhere? A I never saw him farming, I have seen him working for people around there.
- Q He never made a crop to your knowledge? A No, sir, not to my knowledge.
- Q Has he got any special occupation like a carpenter? A Not as I know of.
- Q What is Katie Thornton's husband named? A Henry Thornton.
- Q Was that her husband at that time? A Yes, sir.
- Q With whom does this man stay now? A I don't know that.
- Q You never saw him anywhere except around to his sister's? A That is all I have noticed him.
- Q Did he have any children when you saw him? A I never saw them if he did.
- Q You don't know where his family were, if he had any? A No, sir.

San Webber, re-called, testified as follows:

- Mr. Hastings: Mr. Webber, when were you first married? A When I first married, I married just a short while after the war, I don't remember what year.
- Q Before you came down here? A After I came down here.
- Q Well, about how many years after you came down here? A It wasn't a year, I guess after I came here.
- Q Well, you know what time of the year you were married? A I was married along in the winter.
- Q Was that the same winter you came, or the winter of '67? A It was along about, it thowed in '67, it was after Christmas.
- Q You mean in January of '67 or the last part of '67? A It was long after Christmas, I don't remember the date.
- Q What was your wife named? A My wife at that time was Rinda Har-
in.
- Q When did you commence keeping house? A I went in my house when first came there.
- Q You and your wife keeping house separate and apart? A I was keeping house when I was single, I built me a little house, and was living in there.
- Q What time in the year did you and your wife move into that house? A We moved right in the house after we were married.
- Q And you don't remember when that was, what time of the year? A Along after Christmas, I was already in the house.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the forgoing copy and that the same is a true and complete copy of the original transcript.

(signed) M. D. Green.

Subscribed and sworn to before me this November 16, 1901.

(Signed) J. C. Starr,
Notary Public.

(SEAL)

I, A. R. Oscever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the forgoing copy and that the same is a true and complete copy of a certified copy of the original transcript.

A. R. Oscever

Sworn to and subscribed before me this 11th day of August, 1902.

J. C. Starr
Notary Public.

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Elizabeth Meigs.
Q How old are you? A I dont know my age.
Q About how old are you? A I was four years old when we came here with the old settlers.
Q Was that when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 71 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then. A (No response).
Q Have you a husband? A No sir he is dead.
Q Then you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Meigs? A Ever since I was nothing but a girl.
Q Were you married to a man named Meigs? A Peter Meigs.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Reuben Daniel.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Are any of your family on that roll that you know of? A Yes sir, Alice Sanders is on it, she is a daughter of mine, Alice is.

The 1890 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows:

Page 175, No. 2658, Alice Sanders, Cooweescoowee district.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you draw your Cherokee strip money? A Yes sir.

The Meigs-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:

Page 100 No. 2612, Eliza Meigs, Cooweescoowee district.

- Q Did you ever go by the name of Daniel? A Yes sir then was my name.

The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 182, No., 40, Elizabeth Daniel.
NOTE: Wife of Peter Neiga.

Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:
Page 151, No. 2748, Elizabeth Neiga, Coowescoowee district.

- Q Where were you during the Civil war, did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.
- Q When did you come back? A In the winter of '66.
- Q What time in the winter? A Well it was in the winter.
- Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.
- Q When did he bring you down? A In the winter after he went from here on Big Creek.
- Q He came ahead of you then? A Yes sir.
- Q What time did he leave Kansas? A I cannot tell you when he first came.
- Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '56.
- Q Did he leave Kansas in the winter? A Yes sir.
- Q Was he down here when Christmas came? A Yes sir.
- Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.
- Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.
- Q How long after Christmas before you and he started down here together? A Directly after.
- Q He spent Christmas that year in the Cherokee Nation by himself? A Yes sir my husband did.
- Q What members of your family came down with you and your husband? A These children.
- Q Did you bring your child Alice Sanders with you? A Yes sir.
- Q All the children? A Yes sir.
- Q Can you explain why you are not on the roll of 1880? A No sir.
- Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. W. Hastings, Cherokee Representative:

- Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.
- Q Where were you living in Kansas then? A Fort Scott.
- Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all come here.
- Q Was it as much as a couple or three weeks? A Yes sir I guess so.
- Q And then you started down here? A Yes sir.
- Q Was it in the spring of the year when you reached here? A No sir in the winter.
- Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there warent no buds nor nothing on the trees, it was winter I tells you.
- Q You all came in wagons did you? A Yes sir.
- Q Who came with your husband down here when he first came? A Old man Kilm Sanders.
- Q Who else? A Robert Sanders.
- Q Who else? A Daniel Sanders.

Q Are there any else that you remember? A There was little Sam Webber and old man Sam Webber.

Q Any other Webber's? A Aaron Webber.

Q Did any one else come down? A I dont remember any one else now,

Q Were you there when they started down? A We all come together I am a telling you.

Q But I mean when your husband come on in advance of you. Who came with him then? Did these parties that you have named come with your husband when he first came down? A Yes sir.

Q You were at Fort Scott then? A Yes sir.

Q And they all started together? A Yes sir.

Q These that you have named are all the you can think of at the present time? A Yes sir.

Q Did they come in wagons or on horse-back that time? A They come in wagons that is first come.

Q Did they all come down did you? A Yes sir.

Q Did you come in wagons then? A Yes sir.

Q Did you come by a little place called Chetopa? A Yes sir.

Q Where did you come to in the Cherokees Nation? A I come right where I am living yet when I come to the Cherokee Nation.

Q And you are living there yet? A Yes sir, that old house was built in '66.

Q What house? A That one we is living in.

Q And you are living at the same old place? A Yes sir, in the same old place.

Q On what creek is that? A Big Creek.

Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.

Q You were the advance family or crowd that come to Big Creek were you? A Yes sir, we was the advance guard.

Q Did you see any one from Chetopa along the road through the Nation to Big Creek when you came there? A No sir.

Q Did these people who first came down with you husband return with him and then come down again when your family all came after Christmas? A Yes sir.

Q You all came back together? A Yes sir.

Q Now Auntie, did any additional people--any other families come down with you? A I dont know who all come down, I am just a telling you what I know.

Q There was Daniel Sanders, and Reuben Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all came with you? A Yes sir.

Q Did Sam Webber come? A Yes sir.

Q And your family? A Yes sir.

Q Are there any that I missed? A That is all that I gave you.

Q Is that all that come? A Aaron Bright come with us.

Q Who else? A (No response).

Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.

Q How come to the place that you are living at now did you? A Yes, sir and has lived there ever since.

Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.

Q What? A Lumie Riley was there on Verdigris, but not where we was living.

Q How far from where you settled? A I dont know how far.

Q Was it as much as 4 or 5 miles? A As much as ten miles if you guess at it right.

Q Were they the closest residents to you at that time? A Yes sir.

Q Were there any Delaware Indians there when you come there? A No sir I never saw none.

- Q Any Onages? A No sir, never saw none.
- Q You didn't see any body on Big Creek, neither white or black, except those that came with you? A That is all.
- Q And you have been there ever since? A Yes sir, ever since we moved there.
- Q You say your husband Peter Neigs built a house there? A There a log house there and he bought the house and we moved to it.
- Q Who built the house if you know? A Henry Harold.
- Q Was he a colored man? A Yes sir.
- Q Is he living? A I dont know if he is or not.
- Q Some 3 or 4 years after you came down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship?
- A Yes sir.
- Q They didn't admit him then did they? A I dont know.
- Q You know he was disputed? A I dont know nothing about it, I never paid any attention to any such things as them then.

By the Commission:

- Q Were you ever admitted by the Cherokee or Indian States court for Commission? A I dont know what you say.
- Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir my name enrolled us before he died.
- Q I mean in court? A That is what I am asking you.
- Q You know what a court is dont you? A Yes sir.
- Q What court do you know? A Kinas Clinton court.
- Q Any other court that you know of? A I know of the Wallace court.
- Q Any other? A No sir.
- Q Did he ever have anything done about his case by the Cherokee Council? A I dont know what was done, by name went there every year or two but I dont know what was done there.
- Q How long did it take you and those people to come from Kinasha to the Cherokee Nation? A I dont know how long we were on the road.
- Q Have you any witnesses with you that you want to introduce?
- A Yes sir.

REUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant.
(Examined by the Commission).

- Q What is your name? A Reuben Sanders.
- Q How old are you? A I suppose I am about 70.
- Q What is your post office? A Centralia.
- Q How long have you lived in the Cherokee Nation? A All my life.
- Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.
- Q Who did you belong to? A James Sanders.
- Q Were you taken to Kansas during the war? A Yes sir.
- Q You have a wife named Alice have you? A Yes sir.
- Q How long have you and she been married? A About 30 years pretty

more.

The 1830 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:
Page 164, No. 2537, Reuben Sanders, Coosawhatchee District.

- Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.
- Q What court? A The Chambers court.
- Q Is that the only one? A Yes sir that is the only one; I was admitted by the Chambers Court.

Q Where was it sitting? A At Tahlequah.
 Q In what year was that? A I can't tell what year it was
 Q Your citizenship had been disputed had it? A Yes sir.
 Q When was your right to citizenship first disputed? A It was
 during the time that Thompson O'Connell was chief.
 Q Was that before the 1860 roll was made? A Yes sir.
 Q Did the court decide in your favor? A Yes sir.
 Q Was there any dispute made then about your being put on the 1860
 roll? A No sir.
 Q Were you required to show a copy of the decision of the court,
 in your favor when you went to enroll in 1869? A No sir.
 Q Did they ask you any questions when you went to be enrolled in 1
 1869? A No sir.
 Q Where did they take your name? A I was in Gooseneck Bend, at the
 time.
 Q Do you know the applicant Elizabeth Weigs? A Yes sir.
 Q How was she her daughter? A Yes sir.

By W. W. Watkins:

Q Elizabeth's citizenship was disputed the same time yours was? A
 Yes.
 Q Did she go before the court at the same time? A No sir, I think
 not.
 Q Her wife's citizenship was also disputed? A I judge so.
 Q Did she go before the court? A Not to my knowledge.
 Q Did she go before the court before that time? A Yes
 sir, I think he got down to the Bob Daniels court, think he went
 with my father.
 Q Was Bob Daniels Chief Justice of that court? A Yes sir.
 Q How long after the war was that? A Yes sir.
 Q In the year 1869? A Yes sir.
 Q The day before that in that court? A I don't know.
 Q You were not in the army, were you? A No sir.
 Q You were about 18 or 19 years old when you come back? A Yes sir.
 Q How long I don't exactly know how old I was.
 Q How long you married then? A No sir.
 Q How long after I got back.
 Q Did you marry in your territory here? A No sir.
 Q How long had you been here before you married? A I have been
 married 37 years.
 Q How long had you been here before you married the first time? A.
 A Not very long.
 Q As much as a year? A It may be so.
 Q Is that your best judgment? A My best judgment is perhaps that
 it was that long.
 Q When were you married to your present wife? A Upwards of 30
 years, or so.
 Q How long did you live with your first wife? A Not very long, she
 died.
 Q How long? A Perhaps it was, maybe a little longer.
 Q Then you married your present wife? A Yes sir.
 Q When you came to the Cherokee Nation how did you come the first
 time? A In wagon.
 Q The first time? A Yes sir.
 Q Who came with you? A Several were on horse-back; it is beyond
 my knowledge how many there were.
 Q Tell all you can remember? A We made a trip in August and one in
 October and then we stayed here in the winter.
 Q Did you come in August? A Yes sir.
 Q Who came with you then? A Some of this family, Peter Weigs and
 his sons; the heads of these families.

- Q Who else came with you? A My brother Dan and the Whitneys.
Q Which ones? A Several.
Q Which ones? A Moss and Dennis, and the Webbers.
Q Name them? A Old man Sam and younger Sam and Little Aaron, and a man named Abe Thurman, and Abe Hair, and I dont know who else, I dont know who all come.
Q Who come when you come in October? A I dont know who all come then, some of that same crowd and some more come in October.
Q Do you remember any additional persons? A To the best of my knowledge the Smith Family.
Q What was his first name? A Old man Caesar Smith.
Q You come in both of the detachments yourself? A No sir.
Q Which one did you come in? A I come in August.
Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
Q On Big Creek? A Yes sir.
Q Where Mrs Meigs lives? A Yes sir.
Q And you returned in October, how long did you stay in October.
Q We all didn't return in October, we didn't all go back, some staid in August, some staid and some came back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.
Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.
Q What time in the winter? A Long in January.
Q You mean in '67.
Q No in the winter of '66.
Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of '66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

- Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

- Q When you moved here permanently, tell all that you possible can remember of who came with you in the January or February following?
A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
Q I dont mean only of that family, there were other families were there not? A Old man Billie Forman.
Q Who else? A He had several children.
Q The heads of families I mean? A Fannie Sanders; I dont recollect them all; I dont know as I can call the names of all of them.
Q Were any of the Webbers along? A Yes sir.
Q Old man Sam and young Sam? A Yes sir,; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I has forgotten them I dont think I can remember any of the others.

By the Commission:

- Q Did old man Sam Webber come? A Yes sir.
Q Did his son Sam come? A Yes sir.

Q Dont you remember any one else? A Rachel Webber.
 Q Do you think of any one else? A No sir.
 Q You knew that it was a mooted question before the Kerns Clifton Commission as to who came at this time and as to when you come? A. I havent been interested as to anyone except for myself.
 Q You know that there is a question about who came dont you? A Yes sir I guess I do.
 Q You say you came to Big Creek? A Yes sir.
 Q Did you come by the way of Chatopa? A Yes sir I guess that we did, I dont know that they called it Chatopa then, there was a house or so there.
 Q Did you cross the river there? A What river.
 Q Neosho? A No sir.
 Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.
 Q You came through what is Chatopa and came or west through the prairie? A We may have.
 Q You were in Wagons? A Yes sir.
 Q Were there any persons living on any of that country from Chatopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.
 Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.
 Q Then the houses were not built before you moved there with your families? A Yes sir some were, there there were logs or some up 8 or 10 logs high.
 Q Then there were none really completed until you moved there with your families? A No sir.
 Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.
 Q Do you know Jim Martin? A Yes sir.
 Q How far does he live from you now? A 4, 5 or 6 miles.
 Q Was he living there when you people moved there? A No sir.
 Q He had a brother names William Martin? A Yes sir.
 Q Was he living out there then? A No sir.
 Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.
 Q Was his name Dick Carter? A I think it was.
 Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.
 Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.
 Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?
 A Yes sir.
 Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.
 Q You didn't bring your families with you then? A Only part of them and some things that we had.
 Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Meigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them come in October.

Q Where was Peter Meigs in October? A He come with us at each trip.

Q Did he go back to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October? A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Meigs had been here? A Yes sir.

Q Where was Peter Meigs in Christmas of '66, do you know? A No sir I don't exactly know where he was in Christmas of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You stated here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he come with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

by Oscar Breckinridge,

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil War. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

#####

Chas. von Weise, being sworn states that as stenographer to 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 29th of May, 1901 at
Cherokee, I. T.

T. B. Needles,

Commissioner.

~~SECRET~~

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Vinita, I. T., May 22, 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman;
REUBEN SANDERS, having been before sworn by Commissioner Breckinridge, testified as follows:

- Q Give your name? A Reuben Sanders.
Q How old are you? A I am only about 50 past.
Q You gave testimony just now in the case of Elizabeth Meigs?
A Yes sir.
Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867 when we made the last move, about the first of the month; it was the following August in 1867; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.
Q How do you find out now it was January instead of February?
A It was just after Christmas that we was on the road coming down.
Q How long after Christmas? A Perhaps a week after Christmas; my reason for stating this is this, about Christmas- a few days before Christmas there was a man get killed named Hayford, and there was a gentleman killed him, a colored man killed that man Hayford, a man by the name of Mckey, and we started then right shortly after that killing was, and the winter followed us, thinking he was with us, in our crowd, that was just the following- a few days after Christmas, a week, or after Christmas.

Examined by Cherokee Representative, W. W. Hastings:

- Q How old are you? A Well I just don't know my age exactly, I suppose that I am about 50 years old; something in that line.
Q Where did you say that killing took place? A In Kansas.
Q Port Scott? A Yes sir.
Q And the man that was accused of the killing was named what? A James Walker.
Q You remember his first name? A No.
Q You remember the name of the man killed, you get his first name? A No sir I don't.
Q Did you ever learn afterwards whether or not that man was caught, do you remember? A It seems to me like I learned afterwards that the man was caught. No I don't know nothing about that part of it.
Q You know what county Port Scott is in? A No sir.
Q Was called your attention to this error? A I thought so myself, I couldn't see no reason to it; I was studying over it, I will.
Q You know now it was taken a few days after Christmas? A Yes sir, a few days after Christmas.

Com'r Breckinridge: This statement will be filed as supplemental in the Elizabeth Meigs case, to be considered in connection with the former statement of the witness, and the other evidence relating to the date in question.

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 23, 1901.

C. R. Breckinridge,

Commissioner.

File with Cherokee Freedman D-301, Elizabeth Meigs

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

- L. T. Brown, agent for the applicant;
- J. S. Davenport, of counsel for Cherokee Nation.

L. T. Brown: I would like to have the record show that sometime next week the applicant intends to introduce as witnesses in this case, Aaron Wright, Reuben Sanders, Dan Sanders, and Sam Webber, for the purpose of showing that all the applicants in this case returned to the Cherokee Nation during the time prescribed by the Nineth Article of the Treaty of 1866.

Commissioner Needles: Hasn't that already been shown?

L. T. Brown: And that they have had a continuous residence in this country since that year.

Commissioner: Well, that is all right.

ROBERT MEIGS, being duly sworn by Commissioner Needles, testified as follows.

Mr. Davenport: What is your name? A Robert Meigs.

Q Where do you live? A I live five miles southwest of Tahlequah.

Q What is your postoffice? A Park Hill is my postoffice.

Q How old are you? A I am 56 my next birthday.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life except a little while time of the war, from '64 to '65.

Q Did your people own any slaves before the war? A Yes sir.

Q Do you know whether they owned a woman by the name of Elizabeth? A No sir.

Q Do you know whether or not they owned her mother, or anybody of the family? A Elizabeth, no, sir.

Q Well, do you know Peter Meigs? A Yes sir.

Q Do you know what his wife's name was when the war broke out? A Betsy they called her.

Q Well, was she living, Betsy, at the time the war broke out? A Yes sir.

Q Well, did you ever know her by any other name than Betsy? A Bettie.

Q Where was Peter Meigs and his family at the breaking out of the war? A Well Peter was with us at home at the breaking out, but he and his wife was up there somewhere near the Dutch Mills on the Arkansas line.

Q Well I wish you would look at that woman there and see if she is the woman you knew as Betsy or Bettie or whatever you know her by (indicating applicant)? A Yes, I think that is the one, I have never seen her but once.

Q That is since the war? A I just saw her once in my life and that was time of the war, after the war.

Q Did you ever see Peter Meigs and his family after the war? A Yes, sir, saw Uncle Peter.

Q What year was that? A Sometime after '71.

Q What were the circumstances as to your seeing him or meeting him?

Q Why he had to come down to Council to see about fixing up his rights, and he came down to visit my brother John, we were right together, and I went up there to see him.

Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing where he and his wife were present in regard to his right or when he returned? A Yes sir.
Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him, and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A Why he said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a mine in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '66.

Mr. Davenport: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late, is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave out one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, D-396, D-398, D-404, D-402, D-401, D-407, and D-775, and the sub-references.

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 7th of November, 1901.

T. B. Needles,

Commissioner.

File with Cherokee Freedman D-391, Elizabeth Meigs.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:
L. T. Brown, agent for applicants;
L. B. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, testified as follows:

By I. T. Brown: State your name? A Daniel Sanders.

Q What is your age? A About 59.

Q What is your postoffice address? A Centralia.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A I think it does.

Q You know Elizabeth Meigs and George Meigs? A Yes, sir.

Q What relation is George Meigs to Elizabeth Meigs? A Her son.

Q Did you know Peter Meigs during his life time? A Yes, sir.

Q Do you know whether Peter Meigs, Elizabeth Meigs, and George Meigs were out of the Cherokee Nation during the war? A Yes, sir.

Q When did they return to the Cherokee Nation? A They came in '66.

Q With whom did they return? A They came with me and my father and the Webbers.

Q Have they had a continuous residence in the Cherokee Nation ever since? A Yes, sir.

Mr. Bell: When did you come to the Cherokee Nation yourself after the war? A In '66.

Q What time of the year? A First of December.

Q That was the first time? A Yes, sir.

Q When did you make your second trip? A Along in first part of January.

Q That was January, 1867? A Yes, sir.

Q Now which one of these trips was it that Peter and his family came with you? A They came both times.

Q Came both times? A Yes, sir, the old man came the first time and then the last time the family came.

Q Peter came with you alone the first time? A Yes, sir.

Q Then the second time he brought his family? A Yes, sir.

Q What did his family consist of? A Mary, George, Alice, Harry, Simon, and Jerry.

Q Then was his children? A Them was his children.

Q Well he had his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of the record in the case at bar and part of the record in D-394, D-396, D-398, D-401, D-402, D-404, D-407, D-775.

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 7th of November, 1901.

T. E. Needles,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and the same is a true and complete copy of the original.

Ray Palmer

Subscribed and sworn to before me this the 8th day of August, 1902.

W. R. R. R. R.
Notary Public.

File with F. D. 976, Samuel Whitmire.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, T. T. JULY 1, 1901.

In the matter of the application of David Mayes for the enrollment of himself and two children as Cherokee Freedmen.

Appearances:

L. T. Brown, Attorney for Applicants;
J. C. Davenport, of counsel for Cherokee Nation.

DAVID MAYES, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A David Mayes.
Q What is your age? A 41 or 41.
Q What is your post-office address? A Centralia.
Q What district do you live in? A In Cooweescoowee District.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Wish to enroll anybody besides yourself? A Two children.
Q What are the names of your children? A Jennetta C. Mayes.
Q How old is she? A Born the 31st day of August, 1896.
Q Make her five years old, would'nt it? A Yes sir.
Q What is the name of the next child? A Richard H.
Q How old is he? A He was born the first of October, 1898.
Q Are you married? A No sir, my wife is dead.
Q Were you ever married? A Yes sir, been married, but she is dead.
Q What was her name? A Gertrude Mayes.
Q She a citizen? A No sir.
Q She the mother of these children? A Yes sir.
Q What was her name before you married her? A Gertrude Miller.
Q You say she is the mother of these children? A Yes sir.
Q Was she ever married before she married you? A No sir.
Q Were you ever married before you married her? A No sir.
Q Was she your first wife? A Yes sir.
Q And you were her first husband? A Yes sir, so far as I know.
Q These are your children by her? A Yes sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes sir, Wallace roll and the Clifton roll.

L. T. BROWN:

Q How old did you say you were?
A About 40 or 41, I don't know just which.
Q You don't remember the beginning of the war? A No sir.
Q Have you a brother? A Yes sir.
Q What is his name? A Josiah Mayes.
Q Is the Josiah Mayes who applied there this morning for enrollment, your brother? A Yes sir.
Q Where were you living when you can first remember?
A Well I don't know, just, when I first remember we were south as near as I recollect.
Q You know when you returned to the Cherokee Nation?
A No, not exactly.

Q With whom did you return? A With my father and mother.
Q What is your father's name? A Dave Hayes.
Q Where have you lived since your return? A Up here on Big Creek.
Q All the time? A Yes sir.
Q Big Creek in the Cherokee Nation? A Yes sir.
Q What is your mother's name? A Susan Hayes.
Q Do you own a farm upon the public domain of the Cherokee Nation?
A Yes sir.
Q Ever vote in the Cherokee Nation? A Yes sir.
Q You lived here since your return with your father, Dave Hayes?
A Yes sir.

MR. DAVENPORT:

Q You did'nt return with your father when he first came?
A No sir, I did'nt return with my father.
Q You returned in the latter part of February, 1867, or along in
the year 1867? A Yes, or earlier, I don't know which.
Q Did'nt you testify before the Kern-Clifton Commission that you
returned in the latter part of February, 1867? A I don't know for
certain whether it was February or January of what.
Q Did'nt you say then it was the latter part of February, '67?
A I don't know.
Q Now which is come of? A I don't know, I was'nt old enough to
know, I suppose it was sometime in '67.
Q When you came back you came on Big Creek? A Yes sir.
Q You came near Tuck and Rube Sanders? A Yes sir.
Q They know when you returned? A Yes sir, they know.
Q They were here last week attending the enrolling of the Commission?
A Yes, sir.
Q They are not here this morning? A I don't think they are.
Q Did you speak to them about witnessing for you? A No sir, I
could have got them, but I had already spoke to them, they said they
did'nt know whether they were coming down.
Q They said they did'nt know whether you came back? A I don't know.
Q Did'nt Dan Sanders tell you last week that you did'nt get back
here until the last part of February, 1867, or late in the year?
A No, Dan Sanders never told me that.
Q Was'nt it correct that you did'nt get come back until that time?
A It was sometime in '67, that is right, I don't know whether it was
February of January or which.
Q Or whether it was March? A No sir, it was'nt that late though.
Q It was after Christmas considerably? A We came down here and
made a little crop that year.
Q Built you a house? A Why the house was built when we came.
Q Any land broke out? A No sir.
Q Who was living there when you came? A Why he brought my oldest
brother and sisters.
Q That was Josiah? A Yes sir.
Q You and your mother remained in Kansas then until your father came
back? A Yes sir, he could'nt bring us all the first time.
Q Where have you been living since that time? A Right there on
the old place.
Q Lot of people own farms up in that country that are not citizens?
A Why I don't know, I can't say.
Q You have known several of these claims, you know L. H. Singleton
owned a farm up there for years?
A I don't know; I did'nt know a Mr. Singleton, I have heard of him.
Q You don't know of any of these claims; you know J. B. Hargrove?
A Yes sir.
Q Know he owned a place there for a number of years? A Yes sir.
Q He was'nt a citizen was he? A I don't know.
Q Was'nt you know he was a claimant? A Why I heard he was.

JOSIAH MAYES, being duly sworn by Commissioner Needles, testified as follows:

L. T. BROWN:

- Q State your name? A Josiah Mayes.
Q Age? A 44.
Q Post-office address? A Centralia.
Q Do you know the applicant, Dave Mayes? A Yes sir.
Q What relation is he to you? A Brother.
Q Do you know to whom he belonged at the beginning of the Civil War?
A Yes sir.
Q What was his owner's name? A Johnson Whitmire.
Q Johnson Whitmire a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know when Dave Mayes returned to the Cherokee Nation after the close of the Civil War? A Yes sir.
Q When was that? A It was in the early part of '67, just after Christmas sometime.
Q Who brought him back to the Cherokee Nation?
A My father and mother brought him back.
Q Prior to the time his father and mother brought him, had his father been down here? A Yes sir.
Q What year was that in? A That was along in '66.
Q What did your father do when he came down in '66?
A He came down and taken him a claim.
Q And went back? A Went back and moved them.
Q Was that in the early part of '67? A Yes sir.
Q About how long after Christmas?
A Right directly after Christmas, right along in there.
Q Was it a week or two? A Yes sir, about a couple of weeks as near as I can remember.
Q Was the applicant, Dave Mayes, lived in the Cherokee Nation since that time? A Yes sir.
Q Living here now? A Yes sir.

MR. DAVENPORT:

- Q Now, it was'nt quite two weeks after Christmas, was it Joe?
A Why I suppose it was somewhere along there.
Q See if you cant remember and know it was just about a week after Christmas when he came back down? A No, I can't know that.
Q You hav'nt the slightest idea when your father brought these people down here, have you?
A Yes sir, I know it was somewhere along in there.
Q What makes you say it was just about two weeks after Christmas?
A That is as near as I can remember.
Q You are simply trying to get in within six months after the treaty was made? A No sir.
Q Did'nt you have that in mind when you answered the question?
A No sir, I did'nt.
Q Do you know what time the six months would have expired after the treaty, in '67? A No sir, I don't know exactly.
Q Never have understood what time it did? A No sir.
Q And did'nt fix your answer with that view? A No sir.
Q You don't know but what they had the whole year in some part of '67 to come back, do you? A No sir, I don't.

COMMISSIONER:

- Q How old are you? A I am 44.
Q You are older than Dave? A Yes sir.
Q What relation are you to him? A Brother.
Q How much older are you than Dave? A I don't know just exactly how old.

Q You and Dave were there at the same time in January, when you came back together? A I came back before that time I said.

Q He don't recollect just when he did? A He sir.

Q You are older than him and probably can recollect better?

A Yes sir, I naturally had a better recollection, but then when he was small of course I could recollect before he was.

Q Then you were about seven years old when you returned to the Cherokee Nation? A Yes sir, some where along there I guess.

Q And Dave was about how old? A I don't know just exactly how old he was, we didn't have our ages down.

Q When you answered awhile ago that he was a slave before the war you didn't know that? A Yes sir, he was born.

Q He wasn't born before the war was he? A Yes sir.

Q Well he is more than 40 years old?

A Yes sir, born along in there somewhere.

Q Not long before the war was it he was born? A I don't know just how long before the war he was born.

Q You were about seven year old at that time?

A Freaking out of the war?

Q Seven years old though when Dave came back; when you and he came here in '67 how you were how old then?

A I don't know exactly just how old I was.

Q Is enough to know? A Yes sir, I would allow.

Q 7 or 8 years old then? A Yes sir.

D. S. BROWN:

Q Your father made two trips to the Cherokee Nation? A Yes sir.

Q One in '66 and one in '67? A Yes sir.

Q At that time the applicant here, Dave Brown, was a small boy, a minor? A Yes sir, he was small.

Q I believe you said when your father made the trip here in '66, that he took up a claim and built him a house? A Yes sir.

Q And never in '67 with his family.

SAH WEBBER, being duly sworn by Commissioner Ben Lee, testified as follows:

D. T. BROTH:

Q State your name? A Tom Webber.

Q Age? A About 50.

Q Post-office address? A Nowata.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Does your name appear upon the authorized roll of 1897?

A Yes sir.

Q Do you know the applicant, Dave Brown? A Yes sir.

Q To whom did he belong at the beginning of the war?

A I can't tell you that altogether, of course I would be obliged to Johnson Whitwire, but I don't know that part of it.

Q There did you see him for the first time after the close of the Civil War? A When his father brought him in here.

Q When was that? A Along sometime just after Christmas they came in, along in January sometime.

Q Prior to the time that his father brought him here in January, '67, had his father been here, that is, after the close of the war?

A Yes sir, yes sir, came down and built and brought part of his things and part of his family.

Q In what year was it he came down and built the place?

A Along in the fall of '66 when he built him a house.

Q You know whether or not the applicant, Dave Brown, has lived in the Cherokee Nation since he returned with his father in January, '67?

A No grown up there, stayed there?

MR. DAVENPORT:

Q Do you undertake to say it was in January, '67, that his father brought this boy down? A Yes sir.

Q What makes you remember it was in January '67?

A Because we were looking for him to fetch his family up there.

Q You remember about that, it was January?

A Yes sir, it was sometime in January.

Q Might not have been February or March?

A No, quite along after Christmas.

Q And you are positive it was January? A Yes sir.

Q What makes you fix your answer positively in January, what difference does it make if he got back in January or March?

A I don't know what difference it makes, I am just telling you when he came.

Q You live how far of them?

A About a mile or a mile and a quarter, so cthing like that.

Q You were there many times and about along through the winter and you remember distinctly he came back in January, '67?

A Yes sir, because we were to help each other to work.

Q He had put up a cabin before he went away? A Yes sir, and left part of his family there.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1890 census roll of Cherokee Freedmen examined and the applicant not identified thereon.

The Kern-Clifton roll examined and the applicant identified thereon, page 101, No. 2527, Cooweescoowee District, as Dave Mays.

The Wallace roll examined and the applicant identified thereon, page 157, No. 2758, Cooweescoowee District, as David B. Mays.

DAVID MAYS, re-called, testified:

COMMISSIONER:

Q What is your name now, is it David B.?

A I go by David B., but they missed putting it down, I go by David sometimes.

Q Do you sign your name David B.? A I did the Wallace court.

Q Do you now? A No sir.

Q Your name now is simply David? A Yes sir.

Q Are you married to Gertrude Miller? A Yes sir.

Q Is she a citizen? A No sir.

Q What proof have you got of your marriage, is your wife dead?

A Yes sir.

COMMISSIONER: Applicant presents a certificate certifying that he was married to Lucy Miller, a citizen of the United States, on the 6th day of January, 1896. Certificate is recorded by Joe M. Lantry, on the records of the Cherokee Nation.

Q Are these children living at this time? A Yes sir

Q Your wife isn't living now? A No sir.

Q Have you married since? A No sir.

MR. DAVENPORT: The representative of the Cherokee Nation object to the introduction of the marriage certificate for the reason that at the time it purports to have been executed there was no law of force in the Indian Territory in the Cherokee Nation, requiring a party who was not a recognized citizen of the Cherokee Nation to procure a marriage license from the Clerk of the

- 6 -

United States Court for the Northern District.

COMMISSIONER: DAVID MAYES applies for the enrollment of himself and two children, Jennetta C. and Richard H. He cannot be identified upon the authenticated roll of 1880, or the census roll of 1896. He is identified upon the Kern-Clifton roll and the Wallace rolls. He avers that he was the slave of one Johnson Whitmire, a Cherokee citizen; He avers and the testimony shows that he returned to the Cherokee Nation with his father while he was a child, about the month of January, 1867, he at the time of said return being a miner. He makes satisfactory proof of his marriage to one Gertrude Miller in 1896, by whom he avers he has the two children for whom he applies. He avers and the testimony shows that he has been a citizen of the Cherokee Nation from the date of his return until the present; He avers that his two children are now living, consequently, David Mayes and his two children, Jennetta C. and Richard H. Mayes, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. It will be necessary for him to file satisfactory proof of the birth of the two children. He will be notified by mail of their action at the premises at his post-office address.

-----000000-----

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

Witnessed and subscribed before me this the 13th of July, 1901.

(signed) T. B. Needles
Commissioner.

- : : : : : :-

File with David Mayes et al., CFD-981.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 16, 1901.

SUPPLEMENTAL TESTIMONY in the case of BEN ADAMS, C.F.D.715.

Appearances:

James S. Davenport for the Cherokee Nation
Mellotte & Smith for the applicants, in CFD-722, but not in the present case, being present in this case simply in order to cross-examine the witnesses for the benefit of C.F.D.722.

BEN ADAMS called three times and appears not either in person or by attorney. Satisfactory proof of notice filed that this testimony would be taken on this day by the Cherokee Nation.

Witnesses placed under the rule.

C. L. LYNCH, being first duly sworn by Com'r T. B. Needles, testified as follows on part of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A C. L. Lynch.
Q Where do you live? A In Flint District, Cherokee Nation.
Q How old are you? A 61.

- Q Where were you living at the breaking out of the war?
A In Saline District, Cherokee Nation.
Q How far from Grand river? A About a mile in some places, the closest point.
Q What was your father's name? A Joe M. Lynch.
Q Did you go away during the war?
A Yes sir, in '62, and I come back in February of '67.
Q When you came back to what point did you come in the Cherokee Nation? A To our old place on Grand river, Saline District.
Q When was that? A '67.
Q Who was living there on the old place when you come back?
A Mr. Scraper, he was living there then.
Q What was his first name? A George.
Q Did you then know a colored man named Warren Adams?
A I don't know him by that name.
Q Had you ever know a colored man named Warren?
A Yes sir, he belonged to the Martin's.
Q Did you see him after the war? A No sir.
Q Was he or his family living on your old place when you come back?
A No sir.
Q Did they move there after that to your knowledge? A No sir.
Q Do you know Ben Adams, the applicant in this case?
A No sir, never saw him to know him.
Q How long did you stay at this old place?
A Often and on during the year '67.
Q This man Warren was not living there at that time? A No sir.

BY MELLETTE:

- Q This man Warren was a slave before the war? A Yes sir.
Q Who owned him? A Dick Martin.
Q Were you well acquainted with this slave? A Yes sir, some of them.
Q You never have seen him since the war? A No sir.
Q Don't know what country he has lived in since the war?
A I have lived on Grand river.
Q I say he? A Oh, no sir,
Q You don't know if he was in the Cherokee Nation or not? A No sir.
Q Don't know if he was in the Cherokee Nation in '66? A No sir.

BY DAVENPORT:

- Q You do know that he was not on your father's old place in '67?
A No sir, he was'nt there, I was there and he was'nt there.

GIBBIE CLARK, being first duly sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation:

BY DAVENPORT:

- Q What is your name? A Gibbie Clark.
Q What is your post-office address? A Vinita.
Q How old are you? A 58.
Q Where did you live before the war broke out?
A I have lived in the Territory all my life.
Q Did you go away during the war? A Not much, I was a soldier in this country.
Q After the war closed in '65 where did you locate?
A In Saline District.
Q How far is that from the old Joe Lynch place? A I located within 4 or 5 miles from it, my father-in-law was living on that place then.
Q Who was he? A G. W. Scraper.
Q Did you ever know a colored man named Warren Adams? A Yes sir.

Q Did you know him before the war? A No sir.
 Q You know him after the war? A Yes sir.
 Q When did you first get acquainted with him? A In the 70's.
 Q Were you ever on your father-in-law's place in '67?
 A Yes sir, I was there often, I visited my wife's folks.
 Q Did Warren Adams and his family live on the old Joe Lynch place in '86 and '87? A No sir.
 Q Do you know of your own knowledge if he lived there after that?
 A I don't think Warren ever lived there; his father came there and bought, his father lived in one of the negro out-houses and made four or five crops there on the Spring branch.
 Q What year was that in? A I think he staid there three or four years after that, I think he went there in '68.
 Q They didn't live there at all while Mr. Scrapper was there?
 A No sir.

BY MELLETTE:

Q Did you say that Warren Adam's father moved there in '87 or '88?
 A I think it was in '68.
 Q Do you think your recollection is positive on that point?
 A Yes sir.
 Q It was either in '67 or '87? A Yes sir.
 Q What time in '68? A He went in one of those out-houses in '67 I think, but he never made a crop there until '68.
 Q You can't tell if Warren Adams moved there in December of '67 or not? A No sir, not positive as to the month.
 Q You didn't pretend to keep the dates? A No sir.
 Q You don't know where Warren Adams was in '66? A No sir.

BY DAVENPORT:

Q Do you know the applicant, Ben Adams? A Yes sir.
 Q Have you known him for the last few years? A Yes sir, for several years, he is a relation of the Beans and lived right there.

-----000000000000-----
 This will be filed in Cherokee Freedmen cases D-715, D-722, D-726 and D-881.
 -----000000000000-----

Chas. vonWeise, being 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.

(signed) Chas. VonWeise.

Subscribed and sworn to before me this the 18th of October, 1901.

(signed) T. B. Needles
Commissioner.

File with David Hayes et al., CFD-881.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October, 26th 1901.

In the matter of the application of Martha Virgel, C.F.D. 726.

Supplemental Testimony.
Witness placed under the rule.

Appearances:

W. W. Hastings for the Cherokee Nation
A. S. McRea, for the applicant.

WILLIAM RAY, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation.

BY HASTINGS:

Q What is your name? A William Ray.
Q What is your age? A 63 past.
Q What is your post-office address? A Garnett, Kansas.
Q How long has that been your post-office? A Since '67 or '8.
Q Did you know a colored man and woman there names Warren and Ibbie Adams? A Some acquaintance with him, saw her, not much acquainted with her.
Q Where were they living when you first knew them? A East of Garnett.
Q On a farm? A Yes sir.
Q How long did they live there after you come to Garnett? A Not long.
Q Well about how long? A They must have left here in '69 or '70.
Q Were they living there when you come? A Yes sir.
Q Did they have any children that you remember?
A They had some children, I don't know exactly their names.
Q How long after you come there until you got acquainted with them?
A It was just before they went away I saw them at church, I don't know just when I did get to say acquainted with them.
Q Whose place was it that they had lived on? A At that time I didn't know, I know who owns it now.
Q Who? A A man named F. G. Branns.
Q About how far from town was it? A Right around about two miles, one and a half or two miles.

BY McREA.

Q You don't know who owned Warren and Ibbie Adams? A No sir.
Q You don't know when they first came to this particular place you speak about? A No sir.
Q You don't know where they were in '66? A No sir.
Q Or in '67? A In the early part of '67 I don't know where they were.
Q When did you say your acquaintance first commenced with these two people? A I can't tell when exactly or at what place it was, just before they left to come back here though.
Q Your acquaintance with them wasn't very intimate was it? A No sir, they lived quite a ways from town and I didn't get out very often.
Q You don't know the applicant in this case, Martha Virgel, the reputed daughter of Warren and Ibbie Adams? A No I don't know her.
Q And you don't know if that Warren and Ibbie Adams that you know in Kansas is the reputed mother and father of this applicant, Martha Virgel, or not? A I do not.
Q You have no acquaintance with the applicant whatever?
A No sir, if I does I don't know it at this time.

W. A. JOHNSON, being called and sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation-

BY HASTINGS:

Q What is your name? A W. A. Johnson.
Q Your age? A 71.
Q Your post-office address? A Garnett, Kansas.
Q How long has that been your post-office? A Since '58.
Q Mr. Johnson, did you know a colored man up at Garnett, Kansas, by the name of Warren Adams, who had a wife named Ibbie?
A I know Warren Adams, I don't remember his wife's name.
Q When did you first begin to know Warren Adams?
A Soon after the close of the war.

Q About how long did you know them there after the war?
 A I don't remember when Warren Adams was last at Garnett — it was — no was there about three or four years, is my judgment about it.
 Q After the war? A Yes sir.
 Q You are not distinct as to the date, but you think it was three or four years? A No sir, I cannot tell exactly about the date, as there is no fact about Warren Adams' leaving that calls to my mind when I last know him.

BY MURKIN:

Q Colonel, where did you say you first became acquainted with Warren Adams? A Garnett, Kansas.
 Q What year? A It must have been in 1868.
 Q What time in '68? A I can't be positive about that.
 Q Do you know when he came there? A I do not, these colored people were there while I was away in the army, I found them there when I returned to my home along in the fall of '65, or the winter of '66.
 Q Do you remember under what circumstances you met him, Colonel?
 A I do not.
 Q Now, Colonel, are you willing to swear positively that the Warren Adams you met in Garnett, Kansas, is the Warren Adams who is the alleged father of the applicant, Martha Virgel? A No sir, I can't be positive about anything of that kind, I don't know who the father of this applicant was.
 Q You can't answer it? A No sir.
 Q You wouldn't swear that? A No, I wouldn't swear who her father was.
 Q You don't know the mother? A No sir, I didn't know any of Warren Adams' family except himself.
 Q Well, now, Colonel, did you keep tab on Warren Adams' movements from the time you first met him until he left there?
 A No sir, I had no occasion to.
 Q He may have returned to the Cherokee Nation in '66, or the early part of '67 without your knowledge?
 A He could have done it but I don't think he did.
 Q You wouldn't swear positively that he didn't tell you?
 A No sir, I wouldn't.
 Q How did he leave Garnett, Kansas, this Warren Adams, do you know?
 A Well, it would only be a matter of judgment with me about that, I would say it was about 1870.
 Q You think he left about 1870? A Yes sir, it might have been earlier, but that would be my judgment about it according to my recollection.
 Q Do you know where he went to? A No sir, and I don't know exactly when he left; I knew him there as I knew the other colored men that were there; he disappeared from my observation and I don't know where, when, or how he left; it is a difficult matter to say when anyone leaves a country unless there is some fact to fix the time.
 Q Did you ever see him next there any more?
 A I don't recollect seeing him any more.
 Q And you don't know what became of him? A No sir, I don't.

This will be filed in Cherokee Freedmen cases: B-720, B-715, B-81 and B-722.

Chas. von Weise, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the above, and that the foregoing is a true and complete transcript of his stenographic notes therein.

(signed) Chas. von Weise.

Subscribed and sworn to before me this 28th of October, 1901.

(signed) C. R. Breckinridge
Commissioner.

-----0000000-----0000000-----

I, Mattie E. Dewitt, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes I copied the foregoing testimony and proceedings in the above stated case, and the same is a true copy from the original.

Mattie E. Dewitt

Sworn to and subscribed before me this 11th day of August, 1902.

Bruce Jones
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T. May, 13, 1902.

In the matter of the application of Elizabeth Heigs for the enrollment of herself as a Cherokee Freedman.

Cherokee Nation appears by W. W. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows:

MR. HASTINGS: What is your name? A Mrs. Lydia Barton.

Q What is your postoffice? A Fort Scott, Kansas.

Q Do you hold any official position at the present time? A Yes, sir.

Q What is it? A County Clerk.

Q Of the county in which Fort Scott is located? A Yes, sir.

Q Have you an official paper? A Yes, sir.

Q What is it? A Our official paper at the present time is the Republican but that changes you know from time to time.

Q Do you know what your official paper was in December, 1866, and up to and including March of 1867? A Yes, sir.

Q What was it? A The Fort Scott Monitor.

Q Are you required to keep files of this paper in your office? A Yes, sir.

Q Have you a file of the official paper including December 22, 1866, up to and including March of 1867? A Yes, sir. (Here presents files.)

MR. HASTINGS: The Cherokee Nation offers in evidence the account found in the Fort Scott Monitor of date Wednesday, December, 20, 1866, found on the second column of the editorial page, headed "Another Murder."

MR. BROWN: Comes now the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.

COMMISSION: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder.

Shooting of D. Hayford.

Testimony given before the coroner.

On Saturday night, the 22nd inst., after dark, Mr. Dyer Hayford, of this city, was found murdered. A colored man, named Eli Mackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Rigler Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these:

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Being missed almost immediately, and learning that Mackey had taken it, and was then on his way home with it, (Mackey resides near Fort Scott Mills,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mills, where Mr. Hayford was found on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

suspicion was at once directed to Mackey and he was arrested. As the news spread through the city, the excitement and the indignation was great, and many threats of lynching Mackey were made; but wisdom and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Harravon was called on to hold a coroner's inquest. A jury was empanelled, consisting of Messrs. C. F. Drake, Joseph Ray, Frank Clough, Porter Williams, Jos. Warden, and D. L. Phillips. The body of Mr. Hayward having removed to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Drs. J. S. Redfield and B. F. Herler had a post-mortem examination, and testified that they found four pistol or ball-shot wounds on the body and face of Dyer Hayward, then lying dead before them. One shot entered the region of the stomach which came out over the liver, in the side of the back. This wound bears witness that the pistol was held close to the body when discharged. The other wounds found on the body were about two inches above the left hip and about an inch and a half apart - one ball passing through, coming out below the left shoulder, the other ranging downward, and was found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chin, not fracturing the bone, and lodged in the right shoulder, (evidently fired, we think, after he was on the ground.) The surgeons testified that any of the three wounds found on his body would have been mortal.

Alonso Gullia, (colored) sworn - Was at Hayward's store, on Sunday, just after six o'clock, Hayward came on horseback, left by horse at the door, went in and found Hayward alone and coming toward him. Mackey, colored, was standing on the walk when I went into Hayward's; a sack of flour was standing on the box at the door when I went in; Hayward came out and the flour was gone; he asked me if I was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides and was blowing right smart; I inquired if he had seen a steer with a rope on his neck; he said no; I rode back toward Hayward's and told him Mackey had the flour and where it was; Hayward said he would go and get the flour, and asked me for my pony; he got on my pony down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot, before I heard the firing. When I saw Mackey at Hayward's he had on a soldier's coat; it was off when I found him with the flour. Didn't notice that at any time whether Mackey had any arms or weapons with him; saw him again after he was arrested a short time after Hayward was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked who had seen him with the flour; he was then told he had shot Hayward, and he said he knew nothing to shoot with. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayward started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayward was shot, is about one hundred yards. I heard three shots distinctly.

Harry Lender, (colored) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not; he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek; looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

E. C. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed; a man came to my house and inquired for me; I heard him and knew by his voice that it was Mr. Hayford; have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots. From the sound thought they were about 150 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Looney, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Alonzo Cullin told me he saw Mackey on the road towards home, and that Mackey heard the call, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's frock coat; he had a revolver on him then; it was a big navy revolver. When I saw him after he was arrested, I think he had on a different coat.

Daniel O'Neil, sworn - Saturday night I was at Kirby's and heard a shot fired, and soon after heard a man halloo; ran out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Westly Dickey and myself run down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the sound I know it was a pistol that was fired. Came to town to find Mr. Jones, Deputy Marshal.

The coroner's jury returned to the justice their inquisition, stating that Dyer Hayford came to his death by gun-shot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Margrave, and will no doubt be committed for trial at the next April term of the district court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having assassinated two men in the Nation, before he came to Fort Scott,

and he was once before arrested here, for shooting at a man; but before his trial came off the prosecuting witness left for parts unknown, and Mackey was discharged without trial. Let him be tried for the offence with which he now stands charged, and if guilty he should expiate his crime on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February 27, 1867, as follows:

"Eli Mackey, colored, accused of the murder of Dyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, has not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers in evidence the following from the Fort Scott Monitor of Wednesday, March 27, 1867:

"A Chapter of Horrors.

Murderer of Hayford Captured and Hung.

Tragical events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Dyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 26th inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started in company with his son, Charles T. Wheaton, Edward Gee - who were on police duty in this city - and Benj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Gee and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Gee, being nearest, received the first shot that was fired. He stepped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charley Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon was empty. Finally, when nearly dead from his wounds he received a blow on the back, he signified his readiness to surrender, but when they approached his bloodthirsty spirit showed rebellion, and he fired the two remaining shots in his revolver at the officers. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer ran several rods he was taken to the house from which he had fled and hung by the neck to the gallows. Before his death he tried to implicate some of the neighbors in the murder of Mr. Hayford, but having been caught in the act of doing so, he was killed side other men, and also to having shot at Major Hart's son, sister. - All reports indicate that he has always been a character with scarcely a parallel in the annals of history for depravity.

and his father-in-law. He was informed that at one time, in the
Innocent Nation, 25 men attempted to arrest him but failed on
account of his desperation. The colored people, who knew him, were
terrible afraid of him. History has seldom presented a character
so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of
life except by due process of law, as dangerous to the peace and
well-being of the community and to the best interests of society. We
have always found that nothing but the most extreme necessity would
justify it, but we believe in this instance that necessity existed;
for every moment this desperado was allowed to live, endangered the
lives of good citizens. We learn that the house he occupied was since
buried in the ground. The sufferers from their attempt to arrest
him were among the best of our young men. As members of the police
force of this city they have performed their duties faithfully.
The death of one and the danger to
others creates a spirit of sadness that cannot soon be eradicated.
The body of Mr. Gee was brought into the city, and on Friday
a funeral sermon by Mr. Irwin was escorted by a large process-
ion of the members of the Grand Army of the Republic, to
the place where it was interred.

Sequel.

On the night a crowd of about fifty men, still laboring under
the excitement growing out of the tragedy of Wednesday, entered the
city and having possessed themselves of the keys took Jackson Mackey
to their home - on the brother who harbored the murderer and the
brother charged with furnishing provisions and aiding in his conceal-
ment in the ravine near the poorhouse and hung them to a tree where
their lifeless bodies were found next morning. So quietly was this
done that few in the city except those who participated knew of
it until the next morning.

Benjamin Files, being first duly sworn, testified as follows:

Q What's your name? A Benjamin Files.

Q What is your postoffice? A Fort Scott.

Q Where? A Kansas, yes, sir.

Q Were you living there at the close of the war? A Yes, sir.

Q Were you living there in '66, December? A I have lived there ever
since '62.

Q Did you know Dyer Hayford? A Yes, sir.

Q Had you known him before December '66. A Yes sir, I had known him
in the neighborhood of two years before that and knew him up until that
time.

Q Was he killed? A He was killed at Fort Scott.

Q Was he killed in the town? A He was killed just at the brink of
the hill along in the mouth; yes, sir he was killed in the city just
about the brink of the hill.

Q About what time of the day was he killed? A He was killed just after
dark, just dark.

Q Do you know who killed him, who was said to have killed him, who was
accused of killing him? A Yes, sir.

Q Who? A Eli Mackey.

Q Was he a colored man? A Yes sir, he was.

Q Did you assist in his arrest? Yes, sir.

Q Who arrested him? Myself and a man we called Deacon Jones.

- Q That this other man here with you? A Yes, sir.
- Q About how long after this reported killing? A I heard the shots fired, then run down there and run over him; I lit a match and this man drew his breath twice. From the time the shots fired I wouldn't it was more than twenty minutes.
- Q Twenty minutes? A Yes, sir.
- Q Had it become generally known at the time of the arrest? A No, sir.
- Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.
- Q And a few people know that the killing had taken place before he was arrested? A Yes, sir.
- Q And the excitement then, was that after that? A Yes, sir, they didn't have time to know it.
- Q Was he put in jail? A Yes, sir.
- Q You remember how long he remained in jail? A Till about the twentieth, sometime in February, 26th I think it was.
- Q Of February following, of '67? A Yes, sir.
- Q Well, did he make his escape? A He got away.
- Q He got away? A Yes, sir, he got past the turkey, Ed Coe.
- Q Ed Coe was the turkey was he? A Yes, sir.
- Q I will ask you then if there was any searching parties out for this man? Yes, sir.
- Q For how long? I think he was killed on the 20th of March.
- Q From then about the 26th of February until the 20th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.
- Q Well were there quite a number of people out searching for him? A Yes, sir.
- Q Considerable excitement at that time? A Yes, sir.
- Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched lands, they looked around for him, but failed to find him.
- Q Up until that time? Yes, sir.
- Q You say that was for about three weeks? A Yes, sir, something over three weeks.
- Q From the 26th of February up until about the 20th of March? A Yes, sir.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee darkey or not? A Yes, sir, he was.
- Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.
- Q What I want to get particularly from you was whether there was any search made for him at the time he was killed or whether search was made for him after his escape, after the 26th of February? A There was no search made for Mackey until he broke jail.
- Q No houses searched, nor no wagon, nor no nothing when he was first captured? A He was in jail. I don't think it was much over a half an hour, I don't think it was any; he was in jail in not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.
- Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a match and he was too far gone to speak.
- Q You had known Hayford prior to that time? A Yes, sir, him and me was friends.
- Q You was a friend of his? A Yes, sir.

H. C. Jones, being first duly sworn, testified as follows:

- MR. HASTINGS: What is your name? A H. C. Jones.
- Q What is your postoffice? A Fort Scott.
- Q Kansas? A Kansas, yes, sir.
- Q What is your age, please sir? A 66.
- Q Were you holding any office in the town of Fort Scott, Kansas, in December of '66? A I was.
- Q Well were you holding any office at the time a man by the name of Hayford was killed by Eli Mackey? A I was.
- Q What office was that? A City Marshal, called town constable.
- Q You was a city policeman? A Yes, sir.
- Q Did you assist in his first arrest? A I did.
- Q Who assisted you in the arrest? A Mr. Benjamin Files.
- Q This man that's present here? A Yes, sir.
- Q Did you hear the shots that killed Hayford? A I did.
- Q How soon after Hayford was killed was Mackey arrested, Eli Mackey?
- A 20 or 25 minutes, inside of a half hour at most.
- Q Very short time? A Yes, sir.
- Q Had any houses or wagons or anything of that kind been searched in the mean time? A No, sir, there was no knowledge.
- Q People didn't generally know it up to that time? A No, sir.
- Q Put in jail then? A He was taken right to the jail as soon as he was arrested, he was hurried off to jail for fear of any mob violence.
- Q Well how long did he remain in jail, do you remember? A Well I think something like six weeks or more.
- Q Well the Fort Scott Monitor puts it about February 20th? A I presume that was right, it was correct. It was hard for me to remember exactly.
- Q Well he remained in jail up to that time? A Up till that time, he was not out of jail except while he was under guard.
- Q He made his escape then? A He made his escape, yes, sir, at the time.
- Q You know how long he was at large? A Well I put it something like three weeks.
- Q I will ask you if there was any searches at that time made for him?
- A You mean after?
- Q Then he got away after February 20th? A Oh yes, sir, there was considerable hunt for him at that time.
- Q Reward offered for him? A Yes, sir, reward offered.
- Q People searched around in the country for him? A There was quite a number of both officials and independent searches, they would search for him for the first couple of weeks of his escape from there.
- Q He was afterwards captured? A Yes, sir, he was located afterwards, he hadn't been out of the country of probably ten miles from there after he got away, he was captured.
- Q Do you know whether this Eli Mackey was reported to be a Cherokee colored man? A He was called a Cherokee refugee, yes, sir, had the reputation, that is his name, of being a Cherokee Negro.
- MR. HASTINGS: You are positive that Mackey was out? A To the best of my knowledge now, I would have put it, that is, a week before the holidays, and I know it was only a few days before Christmas when the killing was done.
- Q '67? A In '66 the killing was done.
- Q For days before Christmas of '66? A Yes, sir.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced in the case of Aaron Walker, D-216, with reference to the return of the Webber detachment, be introduced and made a part of the record in this case.

MR. BROWN: Come now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, immaterial and not the best evidence, it being purely hearsay.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedman cases: No. D-394, D-396, D-397, D-401, D-402, D-404, D-407, D-775, and in D-391, the same being the case at bar.

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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 14th day of May, 1907.

(Seal)

(Signed) Phillip G. Bentler,

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and correct copy of the original now on file with the Commission at the New York office of me.

Arthur G. Evans

Subscribed and sworn to before me this 23rd day of July, 1907.

Pruce C. Jones

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Josiah Hayes for enrollment as a Cherokee Freedman; said Hayes being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is x APPEARANCES:

Mr. L. T. Brown, Agent for Applicant.
Mr. J. S. Davenport, for Cher. Nation.

Q What is your name? A Josiah Hayes .

Q How old are you? A 44

Q What is your post office address? A Centralia.

Q What district do you live in? A Coowescoowee.

Q Do you apply to be enrolled as a Cherokee Freedman?

A Yes, sir.

Q Who do you want to enroll besides yourself? A Myself.

BY MR. BROWN:

Q Where were you born, Mr. Hayes? A I was born in Going Snake District.

Q Do you know to whom you belonged at the beginning of the war?

A Yes, sir .

Q What was your father's name? A Johnson Whitmire.

Q Was Johnson Whitmire a Cherokee citizen? A Yes, sir.

Q Did you go out of the country during the war? A Yes, sir.

Q When did you return? A Come back in '66.

Q Where have you lived since you returned to the Cherokee Nation in 1866? A Yes, sir.

Q Have you ever voted in the Cherokee Nation? A Yes, sir.

Q Own a farm or improvements upon the public domain of the Cherokee Nation? A Yes, sir.

Q You say you have lived here ever since you returned in 1866?

A Yes, sir.

BY COM'R NEEDLES:

Q Is your name on any of the rolls of the Cherokee Nation?

A Yes, sir, on the Clifton roll and Wallace roll.

The 1880 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 137, #3418, Josiah Mays, Coowescoowee.

APPLICANT: I think you will find it signed J. S. Hayes probably on the Wallace roll.

BY MR. DAVENPORT:

Q Josiah, where did you go during the war? A Kansas.

Q What part of Kansas? A Fort Scott.

Q How long did you stay there? A I don't know exactly how long I stayed there.

Q Well, when you returned to the Cherokee Nation when did you come with? A I come back with my father.

Q And mother? A No, my mother didn't come down that trip; my father brought me down and one of my sisters, when we came to locate and left us here.

Q Where did he leave you? A He left us on Big Creek with my brother.

Q What time of the year was it you came? A It was along in kinda cold weather.

Q When you came on Big Creek who was living there?

A My Wobbers and grandpa.

Q Was Wobber? A Yes, sir.

Q Lewis Whitmire? A Yes, sir.

Q Was Harry still there? A Yes, sir.

Q Did they have any houses built at that time? A No, I didn't see any houses .

Josi ah Mayes.--2.

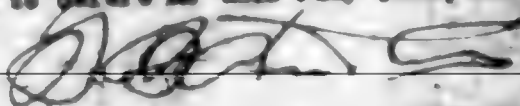
Q Where were they living? A They was li ving there on Big Creek.
Q What were you living living in? A Camps where we went to.
Q Was it before or after Christmas you got there?
A I don't recall ot whether it wa after Christmas or before.
Q You don't remember anything about that? A No, sir.
Q When was the first time you saw Harry Still after you got
down there? A I hadn't been there but a little while.
Q When was the first time you saw Sam Webber? A Right away after
I got down here.
Q Did you know Sam Webber up in Kansas? A Yes, sir.
Q How long did you stay down before you went back to where your
mother was in Kansas? A I never went back at all.
Q You never have went back? A No, sir.
Q Never lived in Kansas? A No, sir, I have been there since.
Q Have you ever lived in Arkansas? A No, sir.
Q Texas? A No, sir.
Q Where were you living when the wallace roll was made?
A There in the Cherokee nation, on Big Creek.
Q When was that? A That was in, I believe it was in '89.
Q Well, where were you living when the Kern-Clifton roll was made?
A Right there on Big Creek.
Q Where were you living when the 1880 roll was made?
A On Big Creek.
Q Are your father and mother on any of the rolls? A My father is
on the Wallace roll and my mother is on the Kern- roll.
Q When did your mother come back? A She come back in '67 along
in the winter of '67.
Q The winter of '67? A Yes, sir.
Q Did yo' r father go back and move her down? A Yes, sir.
Q That was in '67? A Yes, sir.
Q How long after you claim to have come first was it your father
moved your mother down? A I don't know just how long it was.
Q Well, six months or a year? A No, it wasn't that long.
Q Two or three months? A Yes, sir, somewhere along there.
Q Your father came first to prospect? A Yes, sir, got him some
logs and took him a claim.
Q That was after the ~~Webbers~~ Webbers had come? A Yes, sir, they
had been down here.
Q They had moved their family down here? A When father come
down?
Q Yes. A I don't know whether they had moved their families down
or not.
Q Was their family down here on the Creek when you moved down
here? A Yes, sir.
Q Was Sam Webber's with him? A Yes, sir.
Q Harry Still's family were they with him?
A No, he didn't have any family.
Q His mother wasn't there? A No, he didn't have any family.
Q Where were you married? A I was married over here about
Bluejacket.

Remainder of Application taken by Stenographer Bruce C.
Jones.

---000000000---

J. W. Reason, being first duly sworn, states that as stenog-
rapher to the Commission to the Civilized Tribes, he correctly
recorded the testimony and proceedings in t his case, and that the
foregoing is a true and complete transcript of his stenographic
notes thereof.

Subscribed and sworn to before me this July 15th, 1901.



Commissioner.

Josiah Mays

July 1, 1901. Continued from testimony taken by Stenographer
J. O. Mason.

Harry Still, being duly sworn by Commissioner Needles, testified as follows:

- Q. H. Brown: State your name? A Harry Still.
Q. How old are you?
A 34.
Q. Postoffice address? A Hayden.
Q. Recognized citizen of the Cherokee Nation? A Yes, sir.
Q. How long have you known the applicant, Josiah Mays? A I knowed him all his life, yes, sir.
Q. How long did he belong at the commencement of the civil war?
A I joined Whitwire.
Q. How long did you know Whitwire a citizen of the Cherokee Nation? A Yes, sir, a member of my master, Johnson Whitwire.
Q. How long did you know Josiah Mays went out of the country during the war?
A Yes, sir.
Q. How long did he return? A Came back in the fall with the balance of these people on Big Creek, in '66.
Q. How long have you known him? A Ever since, yes sir.
Q. How long did he come back with, Harry? A He came back with some of these fellows, no he came back with his father, his father came down and I think one of his sisters, I am not certain, I think he was with them, but when we were over to Lightening Creek I went up there and found old man Dave Mays there and this boy with him.
Q. What was that, with reference to the time you all came back?
A It was the same fall.
Q. How do you know who came with you him? A No, old man Dave was up there and he had Joe with him and a daughter, but he had Joe.
Q. You were down in what time in the fall? A Yes, sir, I came first in the spring, and next in the fall.
Q. What month in the fall? A Along about the first of August or the first of September, when I came the last time.
Q. You had been down here how long before you saw these people?
A I had been down here in the spring of '65 or '66.
Q. Well, the last time you came? A It was along in the fall some time in September.
Q. How long had you been there before you saw old man Dave Mays?
A I had been on Lightening Creek I guess maybe two or three months before I went up there.
Q. You had made some arrangements with reference to building a cabin, or something to live in, when they came? A Yes, sir, we all were going to build about the same time, they were over on Big Creek and we were over to Lightening Creek.
Q. Where was Sam Webber when they came? A Sam Webber was up there.
Q. How long had he been there? A I don't know just when Sam came, I think he came along about the same time.
Q. You remember distinctly about seeing Uncle Dave there? A Yes, sir, I know him all my life, I know him good, and I saw him there.

Sam Webber, being duly sworn by Commissioner Needles, testified as follows:

- Q. H. Brown: State your name? A Sam Webber.
Q. How old are you?
A 34.
Q. Postoffice address? A Nowata.
Q. You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q. How long have you known the applicant, Josiah Mays? A Yes, sir.
Q. How long have you known him? A He was quite a small boy when I

Josiah Mays - 2.

knew him.

Q To when did he belong at the beginning of the Civil war? A Well, he claimed Johnson Whitwire, I guess, I don't know that.

Q When did you see him the first time after the close of the war?

A I saw him during the war and then just after the close.

Q Where did you see him for the first time after the close of the war? A Up here on Big Creek in the Cherokee Nation.

Q Where has he lived ever since his father brought him? A About a mile or three quarters from where his father first settled.

Q In the Cherokee Nation? A Yes, sir.

Q In what year was it his father brought him here? A It was in the fall of '66.

Q Lived there ever since? A Yes, sir, right up there.

Mr. Davenport: How long had you been back when his father came?

A I hadn't been back many days.

Q You came back about what month in the year, the last time? A I don't know exactly just what month, it was a'long in the first part of the fall.

Q You have testified once or twice it was in November? A No, sir, I never decided on any certain month, because I don't know certainly.

Q What is your best judgment as to the time when you came back in the last time in '66? A I don't remember, in ~~plenty~~ plenty of time to put up hay, but it was burned up.

Q You mean when you brought your family down you came there before the hay season was over? A We could put up hay, it was kinder dry but we put it up to feed on there.

Q What were you doing down there on July when you first came down there? A Building houses.

Q Are you the man that came down with Peter Meigs and Nelson Murrell, and put up hay? A I didn't put up any hay, we built houses in August.

Q You had your houses built when this man Josiah Mays' father came? A Yes, sir.

Q Not living in camps then? A We had some houses up and some was camping.

Q Well, you were living in a house, wasn't you? A Yes, sir, I had a house.

Q And you came down there in the fall, whenever you came, and put up hay? A Yes, sir, when we moved down.

Q Have you any idea at all how long after you had come down there in the fall until this party came? A Oh it wasn't a great while, it wasn't long.

Q A month or two months? A It was three or four weeks after we came there.

Q You had got through putting up hay in the fall before he came?

A We didn't put up much hay in those days, just a little.

Q You had put up some hay that fall? A Put up what little we needed for our horses.

Q Had you quit haying before they came? A I don't know whether we had or not, really, I can't just answer that.

Q Well, it was getting cold weather when they came, or winter?

A It was getting late.

Q He never come down there for some months after you came, did he?

A Oh not some months.

Q Who was with the old man when he come; old man Dave Mays, this boy, and who else? A That come with him; why him and his other daughter.

Q Who else? Q Why he had two daughters.

Q And his wife? A His wife didn't come that trip.

Q About how old was his daughters when they come with him?

Josiah Mayes - 3.

- A One of them was grown and the other was a good size girl.
- Q Well, did you see Blue Albert up where when he came? A No, sir, I didn't see him then.
- Q Eli Dougherty? A I didn't see him.
- Q Bill McGracken? A I didn't know him then.
- Q Tuck Bryant? A I didn't know him then.
- Q Alex Rider? A I didn't know him.
- Q Did you see them on the Verdigris River in the fall of '66, or either of those men I have named? A No, sir, I didn't.
- Commissioner: That is, you didn't know them? A I didn't know them, I didn't see them to know them of course.
- Mr. Davenport: When did this man's mother come to the Cherokee Nation? A She came along just a short while after Christmas when the old man went back and moved them down; his mother and another young boy stayed with her, and he went back and brought the things in and brought them.
- Q That was in '67 sometime? A Yes, sir, sometime the early part of '67 he brought his things here and brought them with him.

Josiah Mayes, recalled, testified:

- Commissioner: What was your father's name? A Dave Mayes.
- Q Is he living? A No, sir.
- Q What is your mother's name? A Susan Mayes.
- Q She living? A No, sir.
- L. T. Brown: Have you a brother, Mr. Mayes? A Yes, sir.
- Q What is his name? A Dave Mayes.
- Q Has he ever applied? A No, sir.
- Q Did he return to the Cherokee Nation at the same time you did? A No, sir, he came with my father when he moved last along in the early part of '67.
- Commissioner: You married? A Yes, sir.
- Q What is your wife's name? A Malissa.
- Q She a citizen? A No, sir.
- Q Got any children? A No, sir.

Commissioner: Josiah Mayes applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. He is fully identified upon the Kern-Glifton roll. He swears that he was a slave and owned by one Johnson Whitwire, that he left the Cherokee Nation during the war and returned in the year '66. He will now be listed for enrollment as a Cherokee Freedman upon a doubtful card and for the further consideration of the Commission. He will be notified by mail of the action of the Commission in the premises.

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.

Sworn to and subscribed before me this the 13th of July, 1891.


Commissioner.

TESTIMONY ON BEHALF OF THE CHEROKEE NATION.

File with C.F.D-976, Josiah Mayes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 3, 1901.

In the matter of the application of Josiah Mayes for enrollment
as a Cherokee Freedman.

Appearances:

Mr. Mellette, of Mellette & Smith, Att'ys for applicant;
Mr. W.W. Hastings, of attorneys for Cherokee Nation.

SAMUEL H. MAYES, being sworn by Commissioner Needles, testified
as follows:

BY MR. HASTINGS:

Q What is your name? A Samuel H. Mayes.

Q What is your age? A 56.

Q What is your post-office? A Pryor Creek.

Q Are you a Cherokee citizen by blood? A I am.

Q Where did you live before the war? A I lived down on Grand
River not far from what is known as Pryor Creek.

Q What was your father's name? A Mased Sam.

Q Did you or did your father own a slave by the name of David
Mayes? A Yes sir.

Q When the war come up? A Yes sir.

Q Which one did he belong to, your father's? A He belonged
to my father.

Q Your father was a citizen of the Cherokee Nation? A Yes sir.

Q You know whether this man, David Mayes, was a colored man for
a wife before the war? A Yes, he had a wife; she belonged to
one of the Whitmires.

Q You know whether he had any children by her or not? A Yes, he
had a good many children, I don't remember the number of children;
there were several children though in the family?

Q Do you remember any of their names? A I have heard the name
but I don't remember them now; I knew their names but I don't
remember them now.

Q Did you ever own any other slave by the name of David other
than this one? A No sir.

Q What became of David Mayes during the war? A Well he went up
into Kansas, during the war.

Q When did you first see him after the war? A I saw him in the
fall of 1868.

Q Where? A I saw him down on the bank of the Grand River.

Q Where had he been? A He had been down to Tahlequah.

Q Did he tell you his business down there? A Yes sir.

Q Now go ahead and tell that. A -

BY MR. MELLETTE: I object to the testimony of this witness,
on the ground that a declaration of David Mayes is not mater-
ial inquiry in the present case. The applicant here is Josiah
Mayes, and is not the person with whom the witness claims to
have had the conversation in '68.

COM'R NEEDLES: Note the objection.

A Well he came across the river, I thought I knew him when I saw
him; I was standing up on the bank of the river, and I recognized
him before he got to the bank, and I hailed him and spoke to him.
That was David Mayes; and I asked him where he had been; said he had
been down to Tahlequah to enroll; I talked with him quite a little
bit and he told me he didn't enroll and I told him he ought to
have come back sooner, and he said he couldn't get back; got back
as soon as he could. That is about all the conversation particular
that I remember.

Q Did he say why he didn't enroll? A No, he didn't state why he
didn't enroll; said he didn't enroll.

Q Did he say where he was from? A Yes sir, said he come from Kansas;
I asked him how long; I don't remember, but he hadn't been here very
long.

Josiah Mayes 2

Q Hadn't been very long at that time? A No sir, that was in '68.

Q About what time in '68 do you think? A Well it was in the fall, I think, time council was in session, in November.

Q Did you ever see him after that? A Yes sir, I was at his house in 1862 on Big Creek.

Q Did you have any conversation with him then with reference to his citizenship? A Yes, I talked with him some about it.

He asked me what I thought the Cherokee Nation would do with them, said they always lived here and didn't know no other place to live, felt him this was their home and wanted to live here. I told him I didn't know what the Nation might do, they might be some provision made for them coming too late. Said he hoped they would.

Q He never contended then that he came in time? A Oh he admitted that he came too late.

Q Do you know this Josiah Ross, his son? A No sir, I don't know him; expect I would know him if I would see him; I have seen the boy.

Q Do you know whether he had a boy named Josiah? A No, I don't remember the names, I know he had several boys; I don't remember the names.

Q When you first saw him down here in 1863 did he say where he came from? A No sir, I don't remember of him saying anything about that.

BY MR. BELLETTTE:

Q When David Mayes was ~~xx~~ quite an ignorant man wasn't he? A Yes sir, he was quite an intelligent darkey.

Q When did you first make a statement, Mr. Mayes, about what David Mayes told you? At what time before any authority or before any commission? A It seems to be I made a statement in his case before the circuit at Fort Gibson.

Q You don't pretend to know the applicant, Josiah? A No sir, I don't know him.

Q You are talking about a conversation you had with his father? A Yes sir.

Q This applicant claims to be 41 years old. A Well I have seen all the children, but I don't know their names.

Q If that is correct he was born before the war, you say you recognized him before the war? A Old man David.

Q No, Josiah? A No sir, I don't say that.

BY MR. BELLETTTE: Applicant asks to have the testimony of Mr. Mayes stricken from the record, on the ground that it is incompetent.

BY MR. HASTINGS: The Cherokee Nation contends that this is competent and relevant, for the reason that David Mayes, through whom this applicant claims, is his father; and the testimony and the record shows that this party claims to have come back, returned to the Cherokee Nation with David Mayes, his father.

BY MR. BELLETTTE: The applicant says that the testimony does not show that Josiah Mayes is the son of the David Mayes that the witness has been talking about.

BY MR. HASTINGS: The Cherokee Nation contends that it does show that he was a son of David Mayes, and that David Mayes was a slave of Samuel W. Mayes, the father of the witness who left the stand.

WILLIAM MARTIN, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A William Martin.

Q What is your age? A 71 years old.

Q Where do you live? A I used to live on Big Creek, I live on Snow Creek now.

Q When you first came to the Cherokee Nation after the war where did you live? A I lived on Big Creek.

Josiah Mayes 3

Q In the Cherokee Nation? A Yes sir.

Q When did you come to Big Creek? A I came there in the fall of '67.

Q Did you ever know a colored man by the name of David Mayes, who located on Big Creek? A I know him now; I didn't know him then, when I come there.

Q How far did he locate from you? A His father, about nearly a mile.

Q You mean David Mayes himself? A Joe Mayes.

Q David Mayes? A David Mayes was about nearly a mile back, I think.

Q Did you know Josiah Mayes, the applicant? A Yes sir.

Q Is he a son of this David Mayes you are talking about? A Claims to be.

Q Was David Mayes there on Big Creek when you came in the fall of '67? A No sir.

Q When did he locate there? A I saw him sometime in '68, I don't remember just what time; I know they kept moving in there; I was busy, I never went to see; sometime in '68 I think I saw him there, the family.

Q What kind of country was that where you lived then, prairie or timber? A All prairie, some timber on the creeks, it is all prairie only on the creeks.

Q He settled within a mile of you? A About one mile I guess.

Q You moved there in the fall of '67? A Yes sir.

Q Are you positive that David Mayes was not living there when you located there? A He was not in that country right there; I never saw him there; there was but very few families there when I come there.

Q Was he there near your place where he claims to have located?

A No sir, he was not there.

BY MR. MELLERTE:

Q Well now, you don't know but what David Mayes was located on Big Creek when you came there? A Well it looks like I might have seen him.

Q ~~Make me right~~ Well you might have seen him and then might not have seen him? A Well I had a bunch of cattle around in the timber there and I headed them around there and I was in a circle of 5 or 6 miles, and I never saw him.

Q You don't mean to say that David Mayes couldn't have been in that country there and you not have seen him, do you? A He was not right there.

Q But I say you don't pretend to say that David Mayes was not in that Big Creek country when you came there do you? A Oh I don't know where he might have been; it was a big place.

Q Who was in there when you came there? A Dick Sanders, Peter Meigs, old man Sanders and old man Sam Webber, four families there on the north side of the creek, right north of me, was old William Foreman and Aaron Wright.

Q What time did you come in there, in '67? A About September or October.

Q Now you have named all the people that you knew? A That's all I know.

Q Was there anybody else in there? A Not that I know of.

Q You are talking about one neighborhood? A Yes sir.

Q How long is Big Creek? A 15 or 20 miles long.

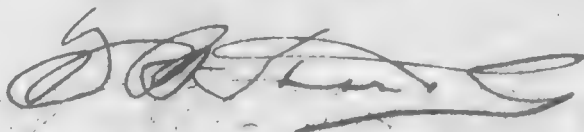
Q It runs that far in the Cherokee Nation? A It runs east and west in the Cherokee Nation for about 15 miles.

Josiah Hayes &

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 October 10th, 1901.



Commissioner.

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number **P. D. 976**

ATTORNEYS:

W. W. HASTINGS, Tahlequah, I. T.
J. L. BAUGH, Chouteau, I. T.

STENOGRAPHER:

J. C. STARR, Vinita, I. T.

MARSHALS:

JOHN PARKS, Vinita, I. T.
W. B. WYLY, Tahlequah, I. T.

Muskogee, I. T., Feb. 8, 1902.

Clerk of the United States District Court,

Fort Smith, Arkansas.

Dear Sir:

John Carter, a colored man, applies to be enrolled as a colored citizen of the Cherokee Nation. He claims that his father was Mese Carter. We are advised that Mese Carter was killed by Jesh Lowrey more than twenty years ago and that Jesh Lowrey was tried in the United States District Court there at Fort Smith. Jesh Lowrey was a colored citizen of the Cherokee Nation and so recognized, and in order to give the United States Court there jurisdiction, Mese Carter must have at that time been recognized as a citizen of the United States, and if so his son must be a citizen of the United States; and I therefore write you for a copy of the indictment against Jesh Lowrey in this case, provided, same shows upon its face that Mese Carter was a citizen of the United States, and if this does not, we would like to have a copy of any of the proceedings in this case which does disclose this fact.

Yours very truly,

Attorney for the Cherokee Nation.

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
SAMUEL BECK as a Cherokee freedman; introduced on part of the
Cherokee Nation:

Appearances:

L. T. Brown, Vinita, I. T., Agent for Applicant;
J. S. Davenport, Cherokee representative.

L. B. BELL, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A L. B. Bell.
Q Where do you live, Mr. Bell? A Vinita, Indian Territory.
Q How long have you lived in and near Vinita? A Oh, since '67,
including most of '67.
Q Was there any railroad running in or through Vinita when you
first moved into that community? A No, sir.
Q When did the railroad first come through that country, Mr. Bell?
A In 1871.
Q You know this applicant, Sam Beck? A No, I don't know him.
Q Don't know anything about him? A No, sir.
Q Was you living in that country before the railroad started from
Kansas through the Indian Territory; that is, the M. K. & T.
A Well, I will tell you what I know about the railroad; The rail-
road come through the country in 1870, and on the application of
the Cherokee Nation, a complaint to the Secretary of the Interior,
they stopped building and during the session after 1870 of the
National Council of the Cherokee Nation, they passed an Act there,
it is dated the 14th of December, 1870, authorizing the furnishing
of cross-ties to the railroad, and agreeing that the railroad could
go through. The secretary hadn't determined which had the right-of-
way. They had begun it in 1869 and the M. K. & T. got the right-of-
way, and then they authorized the selling of cross-ties, and I went
to Chatopa and made a contract with the Company for cross-ties
enough to build from the Kansas line to Pryor Creek and sublet it.
Mr. Martin was one I sublet to, that was in 1870 that contract
was made, I don't recollect the exact date. Well, just a few days
following that we began getting cross-ties and then worked on down
to the Creek Nation. That was the first railroad built in the
country and first cross-ties was put on the railroad in this
country.
Q You don't know anything about the wife of Beck or anything about
them? A No, I don't.

C. D. MANKIN, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A C. D. Mankin.
Q Where do you live? A At Tahlequah.
Q How long have you lived in the Cherokee Nation?
A I was born and raised here; never was out except during the war.

Q Where did you live before moving to Tahlequah? A Lived on Grand river east of Choteau about ten miles.

Q Do you know Samuel Beck, the applicant in this case, or his family? A No, sir.

Q Where were you living along the latter part of the sixties or early part of the seventies? A On the Grand river.

Q Do you know about the year the M. K. & T. railroad built from Chetopa, Kansas, down through the Territory? A It must have been the latter part of '71 or '2.

Q Had you any connection with it any way that makes you remember it? A Yes, sir, I had a contract on the road, beginning at Bryant's Lake, down this way.

Q And that was in what years it built down there? A The ties was put in there in the spring, latter part; it was in the spring of '71.

BY ATTORNEY BROWN:

Q You don't know the applicant, Mr. Markham? A No, sir, I don't.

Q You don't know to whom he belonged before the war or when he returned to the Cherokee Nation? A No, sir.

Commission: This testimony will also be filed in and made a part of the record in Cherokee freedman case No. D.391.

---oooOOooo---

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 February 27, 1902.

(signed) T. B. Needles,
Commissioner.

...

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I correctly copied the original of this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

[Signature]
Notary Public.

To be filed with F. D. 276.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May, 13, 1902.

In the matter of the application of Elizabeth Meigs for the enrollment of herself as a Cherokee Freedman.

Cherokee Nation appears by F. W. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows:

- MR. HASTINGS: What is your name? A Mrs. Lydia Barton.
Q What is your postoffice? A Fort Scott, Kansas.
Q Do you hold any official position at the present time? A Yes, sir.
Q What is it? A County Clerk.
Q Of the county in which Fort Scott is located? A Yes, sir.
Q Have you an official paper? A Yes, sir.
Q What is it? A Our official paper at the present time is the Republican, but that changes you know from time to time.
Q Do you know what your official paper was in December, 1866, up to and including March of 1867? A Yes, sir.
Q What was it? A The Fort Scott Monitor.
Q Are you required to keep files of this paper in your office? A Yes, sir.
Q Have you a file of the official paper including December, 22, 1866, up to and including March of 1867? A Yes, sir. (Here presents a copy of the Fort Scott Monitor of date Wednesday, December, 27, 1866, found on the second column of the editorial page, headed "Another Murder.")
MR. BROWN: Come now, the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.
COMMISSION: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder.

Shooting of D. Hayford.

Testimony given before the coroner.

On Saturday night, the 22nd. inst., after dark, Mr. Dyer Hayford of this city was found murdered. A colored man, named Eli Mackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Fisher Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these.

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Gettin missed almost immediately, and learning that Mackey had taken it, and was then on his way home with it, (Mackey resides near Fort Scott mill,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mill where Mr. Hayford was found, on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

Suspicion was at once directed to Mackey and he was arrested. As the news spread through the city, the excitement and the indignation was great, and many threats of lynching Mackey were made; but wiser and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Mayhew was called on to hold a coroner's inquest. A jury was empanelled, consisting of Messrs. C. F. Drake, Joseph Ray, Frank Clough, Porter Williams, Jos. Varden, and R. L. Phillips. The body of Mr. Hayford having removed to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Dr. J. S. Redfield and B. F. Seyler made a post-mortem examination, and testified that they found four pistol or gun-shot wounds on the body and face of Dyer Hayford, then lying dead before them. One shot entered the region of the stomach which came out over the liver, in the side of the back. This wound bears evidence that the pistol was held close to the body when discharged. Two other wounds found on the body were about two inches above the left nipple and about an inch and a half apart - one ball passing through, coming out below the left shoulder, the other ranging downward, and was found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chin, not fracturing the bone, and lodged in the right shoulder, (evidently fired, we think, after he was on the ground.) The surgeons testified that any of the three wounds found on his body would have been mortal.

Alonzo Cullip, (colored) sworn - Was at Hayford's Saturday evening, just after six o'clock, came on horseback, left my horse at the door, went in and found Hayford alone and coming toward the door. Eli Mackey, (colored), was standing on the walk when I went into Hayford's; a sack of flour was standing on the box at the door when I went in; Hayford came out and the flour was gone; he asked me who was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides and was blowing right and left; I inquired if he had seen a steer with a rope on his neck; he said no; I rode back toward Hayford's and told him Mackey had the flour and where it was; Hayford said he would go and get the flour, and asked me for my pony; he got on and rode down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot, before I heard the firing. When I saw Mackey at Hayford's he had on a soldier's coat; it was off when I found him with the flour. Didn't notice that at any time whether Mackey had any arms or weapons with him; saw him again after he was arrested, a short time after Hayford was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked me how soon after with the flour; he was then told he had shot Hayford, and he said he had nothing to do with it. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayford started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayford was shot, is about one hundred yards. I heard three shots distinctly.

Harry Lender, (colored) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not, he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek; looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

E. J. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed; a man came to my house and inquired for me; I heard him and know by his voice that it was Mr. Hayford; have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots. From the sound thought they were about 150 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Looney, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Alonzo Cullin told me he saw Mackey on the road towards home, and that Mackey heard me call, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's frock coat; he had a revolver on him then; it was a big navy revolver. When I saw him after he was arrested, I think he had on a different coat.

Daniel O'Neil, sworn - Saturday night I was at Kirby's and heard a shot fired, and soon after heard a man halloo; ran out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Festly Liokey and myself ran down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the sound I knew it was a pistol that was fired. Came to town to find Mr. Jones, Deputy Marshal.

The coroner's jury returned to the justice their inquisition, stating that Dyer Hayford came to his death by gun-shot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Hartman, and will no doubt be committed for trial at the next April term of the district court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having assassinated two men in the Nation, before he came to Fort Scott.

and he was once before arrested here, for shooting at a man; but before his trial came off the prosecuting witness left for some unknown, and Mackey was discharged without trial. Let him be tried for the offence with which he now stands charged, and if guilty he should expiate his crime on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February, 27, 1867, as follows:

"Eli Mackey, colored, accused of the murder of Dyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, has not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers in evidence the following from the Fort Scott Monitor of Wednesday, March 27, 1867:

"A Chapter of Horrors.

Murderer of Hayford Captured and Hung.

Tragical events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Dyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 20th inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started, in company with his son, Charles W. Wheaton, Wagoner Lee, who here on police duty in this city - and Benj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Doe and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Doe, being nearest, received the first shots that were fired. He stopped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charley Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon became empty. Finally, when nearly dead from his wounds he received from his pursuers; he signified his readiness to surrender; but even after they approached him his bloodthirsty spirit was not satisfied, and he fired the two remaining shots in his revolver at the crowd. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer was secured he was taken back to the house from which he had fled and hung by the neck until he was dead. Before his death he tried to implicate an innocent negro in the murder of Mr. Hayford, but having been caught in the falsehood, he confessed to having committed the deed himself. He also confessed to having killed five other men, and also to having shot at Major Hayford last winter. - All reports indicate that he was a character with scarcely a parallel to be found in this or any other part of the State.

and bloodthirstiness. - We are informed that at one time, in the Cherokee Nation, 25 men attempted to arrest him but failed on account of his desperation. The colored people, who knew him, were terrible afraid of him. History has seldom presented a character so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of life except by due process of law, as dangerous to the peace and quiet of the community and to the best interests of society. We have always found that nothing but the most extreme necessity would justify it, but we believe in this instance that necessity existed; for every moment this desperado was allowed to live, endangered the lives of good citizens. We learn that the house he occupied was since burned to the ground. The sufferers from their attempt to arrest him, were among the best of our young men. As members of the police force of this city they have performed their duties faithfully. Generous and brave to a fault, the death of one and the danger to the other creates a spirit of sadness that cannot soon be eradicated.

The body of Mr. Cox was brought into the city, and on Friday after a funeral sermon by Mr. Irwin was escorted by a large procession, headed by the members of the Grand Army of the Republic to the cemetery where it was interred.

Sequel.

On Thursday night a crowd of about fifty men, still laboring under the excitement growing out of the tragedy of Wednesday, entered the jail and having possessed themselves of the keys took Jackson Maskey and Harry Vann - on the brother who harbored the murderer and the other charged with furnishing provisions and aiding in his concealment to the ravine near the poorhouse and hung them to a tree where their lifeless bodies were found next morning. So quietly was this done that few in the city except those who participated knew of it until the next morning."

Benjamin Files, being first duly sworn, testified as follows:

Q MR. HASTINGS: What's your name? A Benjamin Files.

Q What is your postoffice? A Fort Scott.

Q Kansas? A Kansas, yes, sir.

Q Were you living there at the close of the war? A Yes, sir.

Q Were you living there in '66, December? A I have lived there ever since '62.

Q Did you know Dyer Hayford? A Yes, sir.

Q Had you known him before December '66? A Yes sir, I had known him in the neighborhood of two years before that and knew him up until that time.

Q Was he killed? A He was killed at Fort Scott.

Q Was he killed in the town? A He was killed just at the brink of the hill close to the mouth; yes, sir he was killed in the city just about the brink of the hill.

Q About what time of the day was he killed? A He was killed just after dark, just dark.

Q Do you know who killed him, who was said to have killed him, who was accused of killing him? A Yes, sir.

Q Who? A Eli Maskey.

Q Was he a colored man? A Yes sir, he was.

Q Did you assist in his arrest? Yes, sir.

Q Who arrested him? Myself and a man we called Deacon Jones.

- Q That this other man here with you? A Yes, sir.
- Q About how long after this reported killing? A I heard the shots fired, then run down there and run over him; I lit a match and this man drew his breath twice. From the time the shots fired I wouldn't it was more than twenty minutes.
- Q Twenty minutes? A Yes, sir.
- Q Had it become generally known at the time of the arrest? A No, sir.
- Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.
- Q And a few people knew that the killing had taken place before he was arrested? A Yes, sir.
- Q And the snaiterment then, was that after that? A Yes, sir, they didn't have time to know it.
- Q Was he put in jail? A Yes, sir.
- Q You remember how long he remained in jail? A Till about the twentieth, sometime in February, 26th I think it was.
- Q Of February following, of '67? A Yes, sir.
- Q Well did he make his escape? A He got away.
- Q He got away? A Yes, sir, he got past the turnkey, Ed Coe.
- Q Ed Coe was the turnkey was not? A Yes, sir.
- Q I will ask you then if there was any searching parties out for this man? Yes, sir.
- Q For how long? I think he was killed on the 20th of March.
- Q From then about the 26th of February until the 20th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.
- Q Well were there quite a number of people out searching for him? A Yes, sir.
- Q Considerable excitement at that time? A Yes, sir.
- Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched lands, they looked around for him, but failed to find him.
- Q Up until that time? Yes, sir.
- Q You say that was for about three weeks? A Yes, sir, something over three weeks.
- Q From the 26th of February up until about the 20th of March? A Yes, sir.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee Carney or not? A Yes, sir, he was.
- Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.
- Q That I want to get particularly clear you was whether there was any search made for him at that time he was killed or whether search was made for him after his capture, after the 20th of February? A There was no search made for Mackey until he broke jail.
- Q He was searched, did he escape, did he nothing when he was first captured? A He was in jail. I don't think it was much over a half an hour. I don't think it was any; Mackey in jail at not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.
- Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a match and he was too far gone to speak.
- Q You had known Hayford prior to that time? A Yes, sir, him and me was friends.
- Q You was a friend of his? A Yes, sir.

H. C. Jones, being first duly sworn, testified as follows:

- MR. HASTINGS: What is your name? A H. C. Jones.
- Q What is your postoffice? A Fort Scott.
- Q Kansas? A Kansas, yes, sir.
- Q What is your age, please sir? A 66.
- Q Were you holding any office in the town of Fort Scott, Kansas, in December of '66? A I was.
- Q Well were you holding any office at the time a man by the name of Hayford was killed by Eli Mackey? A I was.
- Q What office was that? A City marshal, called town constable.
- Q You was a city policeman? A Yes, sir.
- Q Did you assist in his first arrest? A I did.
- Q Who assisted you in the arrest? A Mr. Benjamin Files.
- Q This man that's present here? A Yes, sir.
- Q Did you hear the shots that killed Hayford? A I did.
- Q How soon after Hayford was killed was Mackey arrested, Eli Mackey?
- A 20 or 25 minutes, inside of a half hour at most.
- Q Very short time? A Yes, sir.
- Q Had any houses or wagons or anything of that kind been searched in the mean time? A No, sir, there was no knowledge.
- Q People didn't generally know it up to that time? A No, sir.
- Q Put in jail then? A He was taken right to the jail as soon as he was arrested, he was hurried off to jail for fear of any mob violence.
- Q Well how long did he remain in jail, do you remember? A Well I think something like six weeks or more.
- Q Well the Fort Scott Monitor puts it about February 26th? A I presume that was right, it was correct. It was hard for me to remember exactly.
- Q Well he remained in jail up to that time? A Up till that time, he was not out of jail except while he was under guard.
- Q He made his escape then? A He made his escape, yes, sir, at the time.
- Q You know how long he was at large? A Well I put it something like three weeks.
- Q I will ask you if there was any searches at that time made for him?
- A You mean after?
- Q When he got away after February 26th? A Oh yes, sir, there was considerable hunt for him at that time.
- Q Reward offered for him? A Yes, sir, reward offered.
- Q People searched around in the country for him? A There was quite a number of both officials and independent searches, they would search for him for the first couple of weeks of his escape from there.
- Q He was afterwards captured was not? A Yes, sir, he was located there after he got away, he was captured.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee colored man? A He was called a Cherokee refugee, yes, sir, had the reputation, that is his name, of being a Cherokee nigger.
- COMMISSIONER: You are positive about those dates? A To the best of my knowledge now, I would have put it, that is, a week before the holidays, and I knew it was only a few days before Christmas when the killing was done.
- Q '67? A In '66 the killing was done.
- Q Few days before Christmas of '66? A Yes, sir.

MR. HASTINGS: The Cherokee Nation ask that all the testimony introduced in the case of Aaron Webber, D-216, with reference to the return of the Webber detachment, be introduced and made a part of the record in this case.

MR. BROWN: Comes now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, and immaterial and not the best evidence, it being purely hearsay.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-394, D-395, D-396, D-401, D-402, D-404, D-407, D-795, and in D-151, the same being the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he has 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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 14th day of May, 1902.

(Seal)

(Signed) Phillip G. Rowler,

Notary Public.

I, Arthur G. Croninger, a stenographer to the Commission to the Five Civilized Tribes, do hereby certify that the foregoing is a true and perfect copy of the testimony and proceedings as the same was made by me.

Arthur G. Croninger

Subscribed and sworn to before me this 14th day of May, 1902.

P. Rowler

F. D-678.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 27, 1902.

In the matter of the application of Samuel Whitmore for the enrollment of himself as a Cherokee Freedman.

SUPPLEMENTAL TO D-678.

APPEARANCES:

Hallette & Smith for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that the testimony of Aaron Vebber together with that introduced by the Cherokee Nation in Freedman Doubtful 816, also the testimony introduced by the Cherokee Nation in Freedman Doubtful 818, also the testimony of Reuben Sanders, together with the testimony introduced by the Cherokee Nation in Freedman Doubtful 891, and the testimony introduced by the Cherokee Nation in 881, be introduced and made a part of the record in this case.

MR. SMITH: The applicant objects because the testimony offered was not taken in accordance with the rules of this Commission relative to notice to the applicants and opportunity for cross-examination, and because the said testimony was not taken with reference to this case, and because it is immaterial and does not tend to prove any issue in this case, and because it is not the best evidence, and because it is hearsay, and because it is incompetent in the manner and form offered.

COMMISSION: The request of the nation will be complied with and the testimony filed.

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 cases, 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 July, 1902.

Seal!

H. H. Ruster
Notary Public

File with F. D. 976.

F. D-574.

Department of the Interior.
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 27, 1902.

In the matter of the application of Nancy Smith et al for
enrollment as Cherokee Freedmen.

Supplemental to D-574.

APPEARANCES:

Kellette & Smith for applicants.
W. W. Hastings for the Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced by the Cherokee Nation in the case of F. D-518, together with the testimony of Aaron Webber and the testimony introduced by the Cherokee Nation in the case of F. D-216, also the testimony of Reuben Sanders, together with the testimony introduced by the Cherokee Nation in Freedman Deedful 391, be introduced and made a part of the record in this case.

MR. SMITH: The applicant objects to the introduction of the said matter for the reason that the testimony of the witnesses mentioned is immaterial and incompetent and as to this case hearsay, and to the introduction of the alleged documentary evidence for the reason that the same is not the best evidence; that it is incompetent in the manner and form offered and is hearsay.

MR. HASTINGS: The testimony is introduced by the Cherokee Nation for the purpose of showing the time that the Webbers and Whites returned to the Cherokee Nation, and that no women whatever returned with them, and that none were living in that section of the country in the winter of '66, and that none came earlier than the spring of '67, and to contradict the witnesses who testified for this applicant.

MR. SMITH: The applicant makes especial objection that it is incompetent to contradict any witness by evidence of contradictory statements made at another time or place unless the proper foundation is laid by asking the witnesses when upon the stand in this particular case whether or not they made such statement, which the record in this case shows was not done.

COMMISSION: This testimony will also be filed with and made a part of the record in the application of Ballie Crump, D-575, and in the case of Jackson Smith, D-576, in addition to the case at bar; also in the case of Josiah Hayes, D-976, and David Hayes, D-981. All the applicants in the above named cases are represented by Kellette & Smith.

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 correct transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 7th day of July, 1902.

(Signed) P. G. Reuter,

(Seal)

Notary Public.

James H. Carr, being sworn, deposed that he is a commissioner of the Commission on the Free Will Contribution Fund, and that he has been going to a work and carrying out of the original proposals of said proceedings.

James H. Carr

Subscribed and sworn to before me this 1st day of January, 1934.

Wm. C. Jones
Notary Public

Supp. U. S. G. A. 1908, 1909.

Department of the Interior,
Commission to the 1907 Oil-Field Tithe,
Washington, D. C., March 4, 1908.

MEMORANDUM FOR THE SECRETARY OF THE COMMISSION OF
OIL-FIELD TITHE, DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C.

RE: [Illegible text]

representatives of the Cherokee Nation tending to disapprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 2nd day of March, 1902, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation represented by its representative, L. B. Bell.

G. V. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name? A G. V. Rogers.
- Q Age? A 63 years old.
- Q Place of residence? A Claraville.
- Q Are you a citizen of the Cherokee Nation? A Yes, sir.
- Q How long have you been such? A All my life, a little over 63 years.
- Q Did you go out of the country during the war? A Yes, sir.
- Q When did you return? A '66.
- Q Where did you come to? A Come to Fort Gibson.
- Q And stayed there did you? A Yes, sir.
- Q Well what was your business? A After I come back?
- Q Yes? A I followed freighting for something over three years.
- Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
- Q Were you ever acquainted with a Freedman by the name of Moses Whitire? A Yes, I know him.
- Q Where did he belong before the war? A He belonged in Coles, Snake District.
- Q Do you know what particular Whitire he belonged?
- Q I don't remember whether he belonged to George Whitire or Lee Whitire.
- Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
- Q As well as I can remember it was in February, '63; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 26 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I knew in the outfit.
- Q Did you have any conversation with them, stop and talk with them?
- Q Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
- Q Did you ask them where they was going to? A They said they was moving back.
- Q Well this 25 or 30 or 26 wagons was loaded with people?
- Q Yes, mostly every one had household goods in them.
- Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
- Q Well now that was where you say it was? A It was right on this side of the Neosho River; between the old Malvern place and Neosho River.
- Q How far from the Neosho River? A I suppose half a mile.

Q How far is on the north line of the Cherokee Nation?

A I think the river is the line, about half a mile.

Q And how far is that from the Lantz line? A The Neosho is the line, way I understand it.

Q You had reference to where the military road crosses the Neosho river? A Yes, sir.

Q At Jack Holain's ferry? A They called it Hudson ferry at that time.

Q Hudson lived there? A Yes, sir, in about a half mile.

Q And this Moses Whitire you met and talked with is the same one you knew in Going Snake and belonged to the Spitzer family there?

A Yes, sir.

Q About how old a man was he when you met him? A He is an older man I think than I am.

Q And you saw other with him you knew? A I think Moses Whitire and Moses Whitire and old Major Wright is the old ones I knew.

Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.

Q Do you know where this man Whitire lives now, Moses Whitire you met?

A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know thought where he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

—00000000—

I hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly reported 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.

(Signed) J. O. Boston.

Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 20, 1902.

In the matter of the application of Edward Wright for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Scoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Chambers Commission on citizenship as found on page 57 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Pocket of the Chambers com'n on citizenship," as follows:

"No. 85 Edward Wright
vs
Cherokee Nation.

(Ex. 7th of June.
(Answer filed.

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 89. Major Wright
vs
Cherokee Nation.

(Ex. June 7th. Statement filed
on the 25 of June,
1st July not, 1st Aug.
set for trial.

Judgment against claimant June 27th, 1879."

The Cherokee Nation offers in evidence the Application made for citizenship in the Cherokee Nation by Lewis Whitmore on the 26th day of June, 1878, as found on pages 184 and 5 of book 2, entitled, "Citizenship record 1874," as follows:

"Before the Commission sitting at Tahlequah to pay claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmore

vs

Cherokee Nation

respectfully presents the following statement of his claim according to the requirements of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person claiming a claim owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they would subsist without discomfort and exposure and until a removal of that was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his home in the spring of 1867.

Claimants rights have been called in question by constant authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.
This June 26, 1878.

Lewis Whitmire,
By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship.

In case of Moses Whitmire
vs
Cherokee Nation,
claiming Cherokee citizenship.

Claimant claims under the first specification of the classes of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,
Moses Whitmire.

June 30, 1878.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Cherokee Court, Book A," page 239, case No. 60, as follows:

Case 60.

Moses Whitmire

vs.

Cherokee Nation.

Tahlequah,

July 3, 1878.

Niko fields a witness for claimant called and sworn.
I am I think I am about 47 years old. I live in Illinois District, C. N. An citizen of the Nation. I have been on the doubtful side but had my rights proven at before the court.

As a result under the treaty of 1865. I went north to the state of Kansas in 1865. I returned in August - 21st or 22nd, 1866. I left my family in Fort Scott when I came. I came down to get me a claim. I stayed about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmire were of that number. The claimant was one of them. They returned to Fort Scott before I left. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. The first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of them came with the Whitmire who piloted the Whitmire party. They were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Whitmire, John Sanders, Tom Sanders.

The first claim I got was Aaron, Lewis, Moss, Dennis and Nelson. They were all claims that I do not recollect. The object of this party was for the purpose of erecting houses. When I got down here I stayed on Fryors Creek at Mrs. Alberty's and remained there for some time. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of timber. As I was coming down the first time we were overtaken by the Cherokee delegation. They were sore who come here were afraid to be taken to locate claims for them, one was by McKay requesting the fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1866. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Grand River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left there when I left. It was reported when they returned to the nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself what it was the month of Aug. When I come down first, but I was told it was that time.

Re Direct.

It was in December following the time I first came down that the Whitmires came down first to select and improve claims.

Nick x Fields.

his mk.

Aaron Whitmire

Cherokee Nation called and sworn.

August 1, 1878.

Blufford Alberty, witness for claimant.

I reside in Coosawadee District, C. H. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Coosawadee District.

of the 3rd of September, 1866. I had occasion some time in the last of Oct., or the first of Nov, or probably it might have been as late as the first of November, to go to the Verdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crouches. I did not go to the camp. They were colored people. I knew most of them. Their names were old Sam Hobbs, Aaron Whitire, and a younger brother and Lewis Whitire.

They were not the person whom I was told was a Lardrum. I do not recollect any of the others and can not identify them. The only ones were Johnson and George Whitire, Aaron, Lewis and his brother belonged to George. In conversation with Sam Hobbs he asked me if I knew anything about the treaty and if Jim McDaniel had got there. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves horses or make claims and that he was the leader of the company and the reason why he had come down to work for him and take him a claim. He then asked if it was possible there was to get provisions over on the river; I told him there was none there, but that there was a lot of condemned flour at Gibson and if they could go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build them horses and so fourth. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I camped out at night, did not see any of these parties after this time, May, 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare to go for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this party of them went back to Kansas. At the time I saw them I do not know whether their families were with them. I think I saw Dennis Whitire with this party, but am not certain of seeing Dennis or Nelson. I know there was four of the Whitire boys. They were owned in the Nation and resided here up to the breaking out of the war.

R. W. Alberty.

ARMA WITNESS
vs
Cherokee Nation.

I know Melissa Ratliff. She was twelve or thirteen years old at the close of the war. She was living with her hen and still lives in my family. Jack Lardrum was one of the band above referred to, also Ransom Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at McLane's Ferry in 1866. The chief ferryman who crossed us was a Will Martin. While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him, but Sam Webber had in my presence.

True and Correct

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitire, Louis, Dennis and Nelson are also my brothers. Mariah Whitire is my sister. Major Wright is my stepfather. The names of the party that came with me to the Nation are as follows: Mike Sanders, Sam Weber, Prior Hedge, Bill Foreman, Buck Sanders, Hanson Daniels, Sam Webber, Jr., Louis Whitire, Nelson Whitire, Dennis Whitire, Aaron Whitire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Texas. Dennis made a claim for Major Wright. I can't name any other. Witness was a son of family in 1866 given us care as first family. My family was at Fort Scott. Melissa Rattiff, Mr Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1866 to Kansas after coming to the Nation. Then witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Hanson Daniels, Buck Sanders, Peter Hedge and the families of those who had families all came as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Rattiff was owned by one Alec Rattiff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Liberty as a witness in this case.

Be Direct.

Mariah's family at the close of the war was a separate family. Harry Whitire, her son, represented his father on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitire had been back to the Nation before 1866.

Attest

D. L. Nicholas,
Clerk.

his
Nose Whitire,
Mark.

Case 63.

Aaron Whitire & family
vs
Cherokee Nation.

claiming citizenship.

Now comes defendant by attorney before the Commission sitting at Tallahassee to say certain claims for citizens in the Cherokee Nation and make his statement of his grounds for said claims to wit-

Claimant in a colored person and claims as a slave under privilege of the fifth specification of the clause of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizenship.

Claimant belonged to Geo. Whitire a Cherokee citizen at the commencement of the war of the rebellion and was then living in said

... he began to build a cabin and lived to on the
vicinity of Fort Scott with his family at which location he resided
until the summer of 1866 when he returned to this Nation and proceeded
to select and improve a home on the Verdigris River for himself and
family's permanent residence.

While he was thus making preparations for the removal of his family
by providing for their habitation and subsistence at the place
mentioned they his family remained where they had been sojourning
prior to the war.

Claimant was compelled by unfavorable circumstances and the
action of the war obliged to locate upon his family to rent his
land and to improve on Verdigris River for the early fall
of 1866 to the early winter of the same year, upon the removal of labor
from his improvement, after which he removed his family as soon as
feasible to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation as
a representative of his family with a view to
the wife or by treaty, in that having no residence to go to &
other former citizens he did ever this feeling to constitute a
return consistent with the duty he owed to his family by laboring
as far as his means allowed to provide a home in this Nation.

Respectfully submitted,
Aron Whitaine,
by A. J. Martin.

Aron Whitaine
vs
Shawnee Nation.

August 1st, 1871.

A. J. Martin, witness for claimant, called and sworn.

I live on Big Creek, Coconino Co., A. T. in a section of the
Nation. From August up to Christmas 1866 I was at the ferry on the
Neosho River on the old military road leading from Fort Scott,
Kansas to Fort Gibson, C. K. I am acquainted with claimant and his
brother, Lewis, never saw Aron until I met him at the river.
Lewis I knew prior to that time. While I was in charge of the ferry
I recollect having met claimant and Mose, Lewis, Lewis and Nelson,
Whitaine, Peter Meigs, Mike Sanders, Sam Webster, and Young Set,
Bill Foreman and others but I do not recollect anything about them.
They were traveling. They stated they were coming from Fort Scott,
Kansas, they were traveling from the direction of Fort Scott. I
crossed them from the Shawnee side of the river into the Cherokee
Nation, they inquired the road to Big Creek. Nelson gave them the
directions to the head of Big Creek. They stated the reason they
they were coming was that the Cherokee Delegation had invited them
to come back under the treaty. They mentioned Jim McDonald as
the principal one who had invited them and they were then on their
way to select themselves homes.

It was after the Delegation returned that I met claimant and
the others spoken of it was pretty cold weather when I crossed them.
It was as near as I can recollect about the last of October, 1866.
I am positive it was before Christmas at I left them at Christmas
or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others
named previous to the war.

I do not know who owned before the war, I do not know whether
they had lived in the Nation previous to the war. I do not recollect
of seeing any of the families of the parties named at the time.

I crossed them over the river. I got some of this war party back over the river a short time after they had gone in. Lewis, Nelson and Dennis Whitmore and Little Sam better and I think they were two, who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam better though I would not be quite positive that there was a woman along or not. I was positive there was no children as I never saw any. They had camped there long enough that were they any women and children I would have known it. The next time I got claimant over in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Be Direct.

At the present time the distance between any two settlements is about .5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I got them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was frost.

William Martin.

Aaron Whitmore
Vs
Cherokee Nation

July 4th 1873.

Wm. McCracken for claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the Ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McCracken.

D. L. Nicholson, Clerk.

Aaron Whitmore
Vs
Cherokee Nation.

Bluford Alberty.

George Whitmore before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Ariz.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was across there claimant now resides. I would say the distance from where George Whitmore resided prior to the war, and claimant's present residence is 80 or 100 miles. Witness states that he had a conversation with the father in which father assigned the reason for settling there he had was that Agent Jones advised the aboriginal people after the war to settle in colonies on an initial of it was recommended that in an unoccupied part of the country.

This was thought best for the colored and as they were to have their own schools so until matters were more settled.

The first conversation was in the fall of 1867. I saw several of the families in May, 1867 on Big Creek at Lightning Creek in the Nation.

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this Colored Party told witness that they returned in March 1867 to the Nation.
Re Direct

I learned from John Coker that most of this colored party returned to Kansas after their families had a few remained. I was at General convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug, 1866 is my information. It might have been July 19, 1866.

Witness went South during the war. J. S. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. F. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitire

vs

Cherokee Nation.

Tahlequah May 10, 1878.

This one takes John K. Lyons Atty for Cherokee Nation and denies all and singular the allegations of plaintiff contained in the above named case.

John F. Lyons,
Atty for C. N.

Arthur Q. Croninger, being first 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.

(Signed) Arthur Q. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1868.

(SEAL)

(Signed) P. G. Foster,

Notary Public.

I, Arthur Q. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, and the same was sworn to by me.

Subscribed and sworn to before me this 15th day of Aug., 1868.

Arthur Q. Evans
Notary Public

Department of the Interior,
Commission to the Five Civilized Tribes,
Washoe, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F D 498, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be
deemed necessary that a copy of the said decree be filed in this
case and in the following cases, to-wit:

Josiah Hayes, D 976;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning of
the war, nor that he returned within the time specified in the
treaty of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commissioner:

The motion of the attorney for the applicant will be
entertained and the decree of the Court of Claims filed in the
case of Mariah Hayden will be made a part of the record by reference
in all the cases above named with the exception of those which come
within the purview of the temporary injunction recently granted
by Judge Calkins of the United States Court, of the Northern District
of Texas.

By Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that evidence for the appli-
cant be allowed within thirty days to file any of the proof of
any or all of the cases other than the decree already referred to

in the case of Moses Whitmore, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled case as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 22, 1902.

P. G. Reuter
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 24, 1908.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of JOSIAH MAYNE as a Cherokee Freedman.

Appearance:

J. S. Davenport and L. B. Bell, Attorneys for Cherokee Nation.

JOSIAH MAYNE, being first duly sworn, and being examined, testified as follows:

- BY COMMISSIONER: What is your name? A Josiah Mayne.
Q How old are you? A Forty-six.
Q What is your post office? A Centralia.
Q What district do you live in? A Coowessacoosa.
Q Who was your father? A David Mayne.
Q Is he dead? A Yes sir.
Q Who was your mother? A Susan Whitmore.
Q Or Susan Mayne? A Yes sir.
Q Is she dead? A Yes sir.
Q Were you the slave of a Cherokee citizen at the commencement of the war? A Yes sir.
Q Who did you belong to? A Johnson Whitmore.
Q Was he a Cherokee citizen? A Yes sir.
Q How old were you when the war commenced? A I don't know exactly, about six, five or six, somewhere along there. I was small.
Q Were you taken out of the Cherokee Nation during the war?
A Yes sir.
Q When did you return? A I don't know exactly the date. Of course I was small and didn't know anything about dates then.
Q Who did you come back with? A My father and my brother-in-law, Santa Ann Nivens, and three of his children. They said it was in the fall of '66, the time we first came down, that is. They left us and went back and brought my mother and the smaller child, David Mayne.
Q You say you came back the same time your father, David Mayne, did?
A Yes sir.
Q Who else came with you besides your father? A Santa Ann Nivens, my brother-in-law.
Q Anybody else? A No sir.
MR. DAVENPORT: You came back with your father? A Yes sir.
Q Who else? A Santa Ann Nivens.
Q Where did you go to when you first came to the Cherokee Nation?
A Right where I am living now, in Coowessacoosa District, on Big Creek.
Q Your mother didn't come with you that time? A No sir, she didn't come that first trip we made.

JOHY LANNIN, being first duly sworn, testified as follows on behalf of applicant:

- BY COMMISSIONER: What is your name? A John Lannin.
Q How old are you? A Well I am about sixty-four, not quite that, but will come to that.
Q What is your post office? A Maynes, Big Spring Creek.
1.

Q In what district do you live? A I live in Coconino.

Q Do you know Josiah Hayes? A How Josiah? I don't know him by that name. I know Jo Hayes.

Q The man that was just in here? A That aint his name, it aint Josiah. It is Joe Hayes.

Q Who is the father of Joe Hayes, as you call him? A Dave Hayes.

Q Who is his mother? A Her name was Sakey Hayes.

Q Was she ever known as Susan Hayes? A Not that I know of.

Q You always knew her by the name of Sakey? A Yes sir.

Q Are both parents of Joe Hayes dead? A Yes sir, both dead.

Q Was Joe Hayes born before the war? A Couldn't tell you about that. Couldn't tell you about him being born before the war.

Q Did you know David Hayes before the war? A Yes sir, you mean the son?

Q The father of Joe? A The old man, I saw him once before the war.

Q When did you first see David Hayes after the war? A I saw him - what year, you mean?

Q Yes? A It was in '67, I think I saw him, in the fall of '67. It was in the fall.

Q You never saw him after the close of the war until the fall of '67?

A No sir.

Q You couldn't state of your own knowledge as to just when he returned to the Cherokee Nation? A No sir, couldn't do anything like that, because I wouldn't tell the truth.

Q Do you know whether David Hayes was the slave of a Cherokee citizen at the commencement of the war? A It was so said that he was a slave.

Q You didn't know him before the war yourself? A No sir.

MR. DAVENPORT: You went to Kansas during the war, didn't you?

A Yes sir.

Q What part of Kansas did you go to? A I went -- I stopped at a town way above Leroy, they call it. I forget the name it is way the other side of Leroy.

Q When the war closed did you continue to live at that town?

A Yes sir.

Q Was that Neosho Falls? A It was the other side of Neosho Falls.

Q That was the town you stopped at wasn't it? A No sir, I never stopped at Neosho Falls until I returned back.

Q You lived at Neosho Falls just after the close of the war, didn't you? A No I lived the other side of Neosho Falls at Leroy.

Q You lived east of Neosho Falls on the farm for awhile didn't you, or northeast? A No sir.

Q You lived on old man Learned's farm for awhile just at the close of the war? A No sir, that ain't the question that you have to ask me, that is outside of your line. They asked me to witness for old man Dave and that is what I have come to do. I am not going to answer all these questions.

Q How long after the war closed until you came back to the Cherokee Nation? A Just right after - after the peace, but I couldn't tell you just what day and month and year it was, it was just after the peace.

Q You came the same year peace was made, did you? A No sir, just awhile after peace was declared.

Q You didn't come the next year there did you? A I came the second year I reckon, I don't know just exactly, it has been so long, and that's outside your line anyhow.

Q I ask you to answer my question? A That ain't right, you ain't treating me right at all.

BY COMMISSIONER: Answer the question. He wants you to tell where you
A I have told him.

MR DAVENPORT: I will ask you this question, didn't you in 1868, with your family move upon and live on the farm of a Mr. Learned within about two miles of Neosho Falls, in the State of Kansas?

A No sir, I didn't, I am telling you the truth.

Q Wasn't your brother Jim living there at the same time?

A At that time? Yes sir, of course, I won't tell you no lie about that, he didn't live there I did. He and him was apart. I lived there on Neosho right up th e river.

Wm. Hutchinson, 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.

Wm Hutchinson

Sworn to and subscribed before me this 29th day of October , 1903.

Edward McCorick
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., OCTOBER 6, 1903.

In the matter of the application for the enrollment of David Mayes, et al., as Cherokee Freedmen.

JOSIAH MAYES, being first duly sworn, testified in behalf of the applicant as follows:

BY THE COMMISSION:

- Q What is your name? A Josiah Mayes.
Q How old are you? A I am 46.
Q What is your postoffice address? A Centralia, I. T.
Q In what district do you live? A Coowescoowee.
Q Do you know David Mayes? A Yes, sir.
Q Who is his father? A David Mayes.
Q Is his father dead? A Yes, sir.
Q Who is his mother? A Susan Mayes.
Q Is she living or dead? A She is dead.
Q What relation is this applicant, David Mayes, to you? A Brother.
Q Was he born before the war? A Yes sir.
Q Was he a slave before the war? A Yes, sir.
Q He was born in slavery? A Yes, sir.
Q Who was his master? A Johnson Whitmire.
Q Did he belong to Johnson Whitmire at the commencement of the rebellion? A Yes, sir.
Q Is Johnson Whitmire a Cherokee citizen? A Yes, sir.
Q Where did Johnson Whitmire and this applicant, David Mayes, live at the commencement of the rebellion? A In the Going Snake District.
Q In what Nation? A In the Cherokee Nation.
Q Did David Mayes, your brother, go out of the Cherokee Nation during the rebellion? A Yes, sir.
Q Whom did he come back with? A With his father, David Mayes.
Q Were you in the same crowd? A Yes, sir.

Henry M. Vance, 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.

Henry M. Vance

Sworn to and subscribed before me this the 6th day of October, 1903.

Edward M. Merrick
Notary Public.

My commission expires

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MURKOGEE, I. T., OCTOBER 6, 1903.

In the matter of the application of Josiah Mayes for enrollment as a Cherokee Freedman.

APPEARANCES:

Applicant, Josiah Mayes, appears in person.
No one appears for the Cherokee Nation.

ANN SANDERS, being first duly sworn, testified in behalf of the applicant as follows:

By the Commission:

- Q What is your name? A Ann Sanders.
Q How old are you? A I am going on 51 now.
Q What is your postoffice address? A Hayden.
Q In what district do you live? A Cooweescoowee.
Q Do you know Josiah Mayes who is an applicant for enrollment as a Cherokee Freedman? A Yes, sir.
Q Who was his father? A David Mayes.
Q Who was his mother? A Sukey Mayes.
Q Was she also known as Susan Mayes? A Yes sir, we called her Sukey Mayes.
Q Susan and Sukey were the same person? A Yes, sir.
Q When did you first know David Mayes, the father of Josiah Mayes? A Why, in '67.
Q What time of the year? A Along the first of September as well as I can tell.
Q You never knew David Mayes, this applicant's father, before September, 1867? A Yes, sir, I seen him in Fort Scott.
Q When? A It was in the winter of '66.
Q When was the next time you saw him after the time you saw him in Fort Scott? A I saw him on Big Creek, in '67.
Q That was in September, '67, when you saw him on Big Creek? A Yes, sir, either the last of August or the first of September.
Q You don't know of your own knowledge whether he was ever in the Cherokee Nation before September, 1867, or not, do you? A I did not see him; I went out on a visit from Tahlequah and they had a small patch of corn in when I come up there on a visit; they said they had raised it that spring.
Q Do you know of your own knowledge whom David Mayes come down with from Kansas? A Yes; no, sir, I could not really swear who he come with. When we come through Fort Scott my uncle was camped, and they come; there were several parties. I think one was Peter Mayes and Sam Webber, said they had been down in Cooweescoowee and built some houses, and come back after their families; that is what I heard them tell my uncle. I was young, and I could not tell who they come back with, because I was at Tahlequah.
Q How long did Dave Mayes, this applicant's father, stay in the Cherokee Nation after the time you saw him in September, 1867. A I went back to Tahlequah to my home. I did not stay there only about two weeks. I stayed at Tahlequah a year, and so when I come back they were still living at the same place, and I suppose had remained there, because they were building and making a farm. They were on the same place where I first saw them.

Joseph Hayes--8.

Henry M. Vance, 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.

Henry M. Vance

Sworn to and subscribed before me this the 31st day of October, 1903.

Edward Mervin
Notary Public.

My Commission expires

COMMISSION TO LIVE 1898-2
OCT. 8, 1903
E. M. V.

Cherokee Freedman # F 976.

Tahlequah I. T. October 15th 1903.

Commission to the Five Civilized Tribes,

Muskogee I. T.

Gentlemen:

I am in receipt of copies of testimony taken before the Commission at Muskogee Indian Territory, on October 8th, 1903 in Cherokee Freedman cases F. D. # 976 Josiah Hayes and F. D. 981, David Hayes et al., and to say the least I am very much surprised at the Commission taking this testimony in the absence of a representative of the Cherokee Nation.

The Representatives of the Cherokee Nation can not be at all times present at the different places where the Commission has offices but it has been our understanding that testimony in these contested citizenship cases would only be taken at the town of Tahlequah, Indian Territory, where the Cherokee Citizenship division of the Commission is located unless special notice was given us.

Only a few days ago we were notified to be present at Vinita when these same applicants were required to present themselves and introduce additional testimony in their cases. During the whole week a representative of the Cherokee Nation was present during the sittings of the Commission at that place and we desire to say that we do not believe that it is fair to the Cherokee Nation to take testimony in these contested cases without an opportunity first being afforded us of being present. We are not allowed to take a line of testimony in a single doubtful freedman case unless we first serve notice upon the applicant that we intend to take testimony upon that date in his case and we do not believe that it is fair to the Cherokee Nation that the commission take this testimony of these applicants many of whom are known to be disreputable by the representatives of the Cherokee Nation without the representatives of the Cherokee Nation being present to hear the testimony and to cross examine the witnesses. It is not sufficient that the Cherokee Nation be given an opportunity to introduce rebuttal testimony but the opportunity should be afforded the representatives of the Cherokee Nation to be present and to cross examine these witnesses introduced by these applicants.

Respectfully,

Atty for the Cherokee Nation

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

In the matter of the application of Josiah Mayes, and others,
for enrollment as Cherokee Freedmen, consolidating the applications
of--

Josiah Mayes, Cherokee Freedmen D-976,
David Mayes, et al., Cherokee Freedmen D-981.

--:0:--

--: DECISION :--

The record herein shows that applications for enrollment as Cherokee freedmen were made to this Commission by Josiah Mayes for himself, and by David Mayes for himself and his two minor children, Jennetta C. and Richard E. Mayes. Copies of the testimony taken at various times in the cases of Ben Adams, Edward Wright and Aaron Webber are made a part of the record herein.

The evidence in this case shows that the applicants, Josiah Mayes and David Mayes, were the slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they left the Cherokee Nation, and when they returned thereto, one Sam Webber and his family were living in said Nation. The Commission has found in the case of Sam Webber, et al., Cherokee Freedmen 269, that the family of the said Sam Webber did not return to the Cherokee Nation until after February 11, 1867; therefore, the applicants, Josiah Mayes and David Mayes, did not return to the Cherokee Nation and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation. The applicants, Jennetta C. and Richard E. Mayes, are the minor children of the said David Mayes and have no right to enrollment except such as they may derive through their father.

It does not appear that the name of any of the applicants herein is identified on the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Josiah Mayes, David Mayes, Jennetta C. Mayes and Richard E. Mayes as Cherokee freedmen 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

Tamr Birby,
Chairman.

Signed

T. B. Needles,
Commissioner.

Signed

C. R. Breckinridge,
Commissioner.

Muskogee, Indian Territory,

this APR 20 1904

MS9

COMMISSIONERS
TAMM BIXBY.
THOMAS D. NEEDLES.
C. R. BRACKINRIDGE.
W. E. STANLEY.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D 976-981.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 8, 1903.

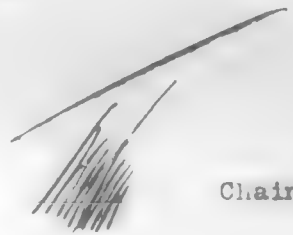
W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There are herewith enclosed copies of testimony taken before the Commission at Muskogee, on October 6, in Cherokee freedmen D 976, Josiah Mayes, and D 981, David Mayes et al.

You are hereby advised that should you desire to submit rebuttal testimony in these two cases, you will be permitted to do so before the Commission at its offices in Muskogee, on October 30, 1903. You will be required to give the applicants fifteen days notice of the time and place of submitting such testimony.

Respectfully,



Chairman.

Enc. D-55.

ms

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 Freedmen
D-976 & D-981.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 4, 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 April 20, 1904, in the consolidated case of Josiah Mayes et al., rejecting the applications for the enrollment of Josiah, David, Jemetta C. and Richard H. Mayes as Cherokee freedmen.

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,



Enc. D-151.

Chairman.

(COPY)

DEPARTMENT OF THE INTERIOR,

Refer in reply
to the following:

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, September 24, 1904

Land.

31042-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated, May 14, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen by Josiah Mayes for himself; and by David Mayes for himself and his two minor children, Jennetta C. and Richard H. Mayes.

April 20, 1904, the Commission decided adversely to the applicants.

The record shows that the principal applicants were the slaves of a Cherokee citizen at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war; that they were miners at the close of the war of the rebellion; that their father, Dave Mayes, was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that he left the Cherokee Nation during the war and returned to the Nation prior to February 11, 1867, and established a home for himself and wife and the principal applicants. That the names of the principal applicants are not identified on the 1868 authenticated Cherokee roll but are

found on the Wallace and Kern-Clifton rolls.

The applicants, Jesnetta C. and Richard H. Hayes are the minor children of the said David Hayes and have no right to enrollment except such as they derive from their father.

In view of the record it is recommended that the decision of the Commission adverse to the applicants be reversed and that all the applicants be enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tenner

Acting Commissioner.

H.M.H.
W.

(COPY)

W. C. F.
Y. P.
THE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, October 24, 1904.

D. C. 41176-1904.
I. T. D. 7720-1904.

SIR:

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

Gentlemen:

May 4, 1904, you transmitted the record in the consolidated Cherokee freedmen case of Josiah Hayes, et al (F.D-976 & D-981), including your decision of April 20, 1904, rejecting the applications for the enrollment of Josiah, David, Jennetta C. and Richard F. Hayes.

Reporting in the matter September 24, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be reversed and that all the applicants be enrolled.

You are requested to advise the applicants and the attorney for the Cherokee Nation of the Acting Commissioner's recommendation, and allow said attorney thirty days within which to file any argument he may desire in the matter, and the applicants ten days within which to reply to same.

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

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

1 inclosure.

(COPY)

D.C. 41176-1904
I.T.D. 7720-1904.

W.C.P.
J.P.
L.H.S.
P.H.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON .

October 24, 1904.

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

Gentlemen:

May 4, 1904, you transmitted the record in the consolidated Cherokee freedman case of Josiah Hayes, et al (F.D. 976 & D-981), including your decision of April 20, 1904, rejecting the applications for the enrollment of Josiah, David, Jennetta C. and Richard H. Hayes.

Reporting in the matter September 24, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be reversed and that all the applicants be enrolled.

You are requested to advise the applicants and the attorney for the Cherokee Nation of the Acting Commissioner's recommendation, and allow said attorney thirty days within which to file any argument he may desire in the matter, and the applicants ten days within which to reply to same.

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

Respectfully

E. A. Hitchcock
Secretary

1 inclosure.

The applicants, Jennetta C. and Richard H. Hayes are the minor children of the said David Hayes and have no right to enrollment except such as they derive from their father .

In view of the record it is recommended that the decision of the Commission adverse to the applicants be reversed and that all the applicants be enrolled as Cherokee freedmen.

Very respectfully

A. C. Tonner
Acting Commissioner

M.M.M.
W.

COMMISSIONERS:
TAMM HENRY,
THOMAS B. HENKLE,
C. R. WICKLIFF.
Wm. O. BEALL,
Secretary.

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

CHEROKEE FREEDMEN D-975 - D-981.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, November 8, 1904.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Josiah Hayes, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of October 24, inclosing the Commissioner of Indian Affairs' letter of September 24, in which letter it is recommended that the Commission's decision rejecting said applications, be reversed and that the applicants be enrolled as Cherokee freedmen.

In accordance with the Department's instructions, you are hereby advised that you will be given thirty days from date hereof within which to file with the Commission, for transmission to the Secretary of the Interior, any argument which you may desire to make in the matter of said applications, a copy of which you will be required to furnish the principal applicants.

For your information there is herewith inclosed a copy of the Department's letter above referred to.

Respectfully,

Encl. 2-69.

D.C.51684

JESr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON."

LCS

I.T.D.7720-1904.
274-1905.
8635- "

November 22, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On September 24, 1904 (Land 31042), the Indian Office transmitted a report from the Commission to the Five Civilized Tribes dated May 14, 1904, forwarding the record in the consolidated applications for enrollment as Cherokee freedmen of Mesiah Mays for himself and of David Mays for himself and his two minor children, Jennetta C. and Richard H. Mays, together with its decision, adverse to all of said applicants.

The Indian Office recommended that in view of the record the decision of the Commission, adverse to the applicants, should be reversed and the applicants enrolled as Cherokee freedmen.

On October 24, 1904, the Department directed the Commission to advise the applicants and the attorney for the Cherokee Nation of the recommendation of the Indian Office, and requested it to further inform them that the attorney for the nation would be allowed thirty days within which to file such argument as he might desire and the applicants ten days within which to reply to the

same. Said argument and reply were duly forwarded by the Indian Office on January 9, 1905 (Land 502).

On September 7, 1905, the attorneys for the applicants filed a motion for review in this case. Said motion upon examination presents no proper reason for favorable action, and is hereby denied.

The Commission in its decision in this case stated that the evidence shows that when Josiah and David Mays returned to the Cherokee Nation, one Sam Webber and his wife were living in said nation, and that as it had found in the case of Sam Webber that the applicants therein had not returned to the Cherokee Nation until after February 11, 1867, Josiah and David Mays could not have returned within the period set by the treaty of 1866. It also appears from the records of the Department that on May 31, 1906, in the consolidated Cherokee freedman case of Etta Manley et al., said Sam Webber was declared entitled to enrollment.

These facts, together with the arguments mentioned, have been considered by the Department in connection with the record, and it is considered that the preponderance of evidence clearly shows that the applicants, Josiah and David Mays, did not return to and take up their residence within the Cherokee Nation prior to February 11, 1867.

The decision of the Commission to the Five Civilized Tribes

dated April 20, 1904, denying the applications for the enrollment of Josiah Nays for himself and of David Nays for himself and his two minor children, Jennetta C. and Richard H. Nays, as Cherokee freedmen is hereby affirmed.

The papers have been returned for the files of the Indian Office.

Respectfully,

(Signed) Theo Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

8 inclosures.

REFER IN COPY TO THE ORIGINAL.
Cherokee Freedmen
D976.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

CFB
Muskogee, Indian Territory, December 8, 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 April 20, 1904, rejecting the applications for the enrollment of Josiah, David, Jennetta C. and Richard H. Hayes, as Cherokee freedmen, was affirmed by the Secretary of the Interior, November 22, 1906, and the motion for review of said case, filed September 7, 1906, denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

W. O. Beall

Acting Commissioner.

Encl. N-42.
JMM

N 8119:6

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

8 day of Sept. 1901.
M. C. Littlejohn

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. 1901

Subscribed and sworn to before me
this day of A. D. 1901

Notary Public

W. A. Littlejohn

NOTICE!

IN THE MATTER OF the application of **Josiah Hayes**
for enrollment as a Cherokee citizen:

Case No. D **876**

To ~~**Josiah Hayes or Mellette & Smith**~~ his Attys.

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 **Vinita, Indian Territory.**
Indian Territory, on **Oct. 7th** 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 on the respective days above named, 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 **Sept. 10th 1901.**

 L. B. Bell
 W. W. Hastings

Attorneys for the Cherokee Nation.

Cher. Fr. D. 477

Cher. Fr. D. 977

File with Cherokee Freedman D- 177, Robert Moore

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 27, 1901.

In the matter of the application of Winnie Mackey for the enrollment of herself and one child as Cherokee Freedman.

Winnie Mackey, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Winnie Mackey.
Q How old are you? A I don't know how old I am.
Q How old are you? A I don't know my age.
Q About how old? A I am fifty something.
Q What is your postoffice? A My postoffice is Wagoner now.
Q In the Creek Nation? A Yes, sir.
Q Where do you live? A Cooweescoowee.
Q You apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child.
Q What is the child's name? A Andrew.
Q How old is Andrew? A Andrew is about 18.
Q Andrew Mackey? A No, sir, Andrew Moore.
Q Have you any witnesses? A Yes, sir.
Q Who are they? A John Baldrige, Ester Grimmett and Polly Mivens.
Q Is your name on any of the rolls of the Cherokee Nation? A It ought to be.
Q Yet, but is it? A Yes, it is on the Clifton roll.
Q Your name isn't on the roll of 1880? A It ought to be.
Q Well is it? A I don't know whether it is or not.
Q What was your father's name? A Robert Davis.
Q Is he living? A No, sir, he is dead.
Q What was your mother's name? A ~~Robert~~ Margaret Davis.
Q Is she living? A No, sir, she is dead.
Q How many times have you been married? A I have been married but once, I lived with a man once, I wasn't married to him.
Q What was his name? A Stewart.
Q Is he living? A No, sir, he is dead too.
Q What was his first name? A His first name was Meelie.
Q What was the next man you lived with? A Roswell Mackey.
Q Is he living? A Yes, sir.
Q Are you living with him? A No, sir, I am in Wagoner and he is in Braggs.
Q This Andrew Moore, is he your child? A Yes, sir.
Q You were not married to the father of that child? A No, sir.
Q Now what name are you on the roll by? A I have got five children: I am just telling you the ones I am enrolling on.
Q You don't ask to enroll anybody but Andrew Moore? A No, sir, the rest is of age.
Q What name are you on the Kern-Clifton roll by? A Moore.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Jack Moore.
Q Was he a Cherokee citizen? A Yes, sir.
Q Where were you born? A I was born in the Cherokee Nation.
Q Were you taken out of the Cherokee Nation during the Civil war?
A Yes, sir.
Q Where to? A Jack Moore taken us down to Texas.
Q Jack Moore took you himself? A Yes, sir.
Q When was that; that while the war was going on? A Yes, sir, I don't know the numbers now, I can't tell one year from another.
Q You know the war was going on, you know about that? A Yes, sir.

Q How long did you stay in Texas? A I can't tell that neither.

Q When did you come back to the Cherokee Nation? A Well I came in here they said it was '88, not that I know of.

Q They told you it was '86? A Yes, sir.

Q Where did you come to? A Came to Fort Gibson.

Q That is the first place you recollect after you came from Texas, of being in Gibson? A Yes, sir.

Q Were you married then? A No, sir.

Q Have you lived in the Cherokee Nation ever since? A Well, I have been out since that working around and about in places in the states.

Q Kansas? A No, sir, never been to Kansas.

Q Arkansas? A Yes, sir.

Q Where were you married? A Where was I married, I was married in Braggs.

Q Cherokee Nation? A Yes, sir.

Q When were you married? A Married about five or six years ago.

Q That was the first time you were lawfully married? A Yes, sir, I lived with a man and had children but I wasn't married to him.

Q You lived with Stewart? A Yes, sir.

Q Where were you when you lived with Stewart? A Part of the time I was in the Cherokee Nation and part of the time I was in Fort Smith.

Q How many children did you have by Stewart? A A. I got I got by him.

Q Please give us the names of them? A Joe.

Q Joe Stewart? A No, all of them goes by Moore.

Q Joe Moore? A No, sir.

Q How old is Joe? A I don't know, he is twenty something.

Q Where was he born? A Joe was born down at Uncle Billy Edwards.

Q Arkansas? A No, sir, Cherokee Nation.

Q What is the next one named? A Bob.

Q Where was Bob born? A He was born there too.

Q What is the next one? A Amelia.

Q Where was she born? A Down on Elk Creek.

Q Was that in Arkansas or the Cherokee Nation? A If it wasn't in the Cherokee Nation, it was close by, close by Checotah.

Q It might have been in the Creek Nation? A It might have been, I don't know.

Q What is the next one named? A Maggie.

Q Where was Maggie born? A She was born at Edwards.

Q That in the Cherokee Nation? A Yes, sir.

Q Same place Amelia was born? A No, sir.

Q What is the next one named? A Andrew.

Q Born in the Cherokee Nation? A Yes, sir.

Q All your children then were born in the Cherokee Nation, were they, except Amelia might have been born in the Creek Nation down there close to the line? A Yes, sir.

Q You have been living in the Cherokee Nation ever since you took up with Stewart? A No, sir, I went in the states some.

Q Well, what state? A Worked around in Arkansas, in Fort Smith.

Q Were you married when you were over there? A No, sir.

Q You work in any other state besides Arkansas? A No, sir.

Q Work anywhere else in Arkansas besides Fort Smith? A To Van Buren.

Q Right along the line there? A Yes, sir.

Q Sometimes in the Cherokee Nation and some times over in Arkansas? A Yes, sir.

Q Is that as far as you have ever been out of the Cherokee Nation? A No, sir.

Q How much further out did you get? A I went just about there.

days before Christmas, I went in Kansas City, this last Christmas.

Q How long did you stay there? A Stayed there a little over a month.

Q Work there? A No, sir, I wasn't working.

Q Visiting up there? A Yes, sir.

Q And then come back? A Yes, sir.

Q Last the only time you were in Kansas? A Yes, sir never was there in my life before.

Q How long were you in Oklahoma? A Never was there, don't know anything about Oklahoma.

Mr. J. S. Harvort, Cherokee attorney: Do you know to what point you went when you left the Territory during the war? A Yes when I left the Territory I went down in Texas.

Q At whose place did you go to? A They hired me out when I went down there.

Q Don't you remember any one's name where you went? A They hired me to one man, I can't think of his name now to save my life, I am old and I can't remember things.

Q Who did you belong to now did you say? A I said I belonged to Jack Moore.

Q Well now where did Jack Moore live? A He lived down in Sequoyah district.

Q What kind of a house did he have? A He had a log house, hewed log house.

Q Who were your neighbors there, can you think of their names?

A There was a man lived close to us named Youngblood.

Q Anybody else you remember? A No, sir, I don't remember, I don't remember his given name.

Q Will you remember anything about John Gunter? A Well he might have been somewhere up there, I don't know, I forget.

Q You know what year you came back? A No, sir.

Q How you lived on Elk Creek how long? A On Elk Creek, how long I lived on Elk Creek?

Q Yes? A I don't know, I lived there, I can't tell how long, I was just from one place to another.

Q When you came back to Elk Creek was there any railroad near there? A Any railroad there or not?

Q How long was it until you saw the railroad built near there?

A Well, I don't know, I will not tell it for the truth how long it was, because I can't tell you, I can't remember things like a young person.

Mr. F. S. Hastings, Cherokee attorney: I want to know where Jack Moore, your owner, lived in Sequoyah District, what part of the district, on what Creek.

Q What part, what Creek? I don't know: it was a branch we lived close by a branch.

Q Well, what was the name of that branch? A I forget the name of the place.

Q Jack Moore have a family? A Yes, sir.

Q What was his wife's name? A Nancy.

Q Was Jack a Cherokee himself? A Yes.

Q Was his wife a Cherokee? A Well I don't know that.

Q Did he have any children? A Well I believe, yes there was two boys.

Q What were their names? A One was named Bill I think.

Q What was the other one named? A I can't think of the other one's name to save my life.

Q Was Bill or the other one the older: which was the older of the two? A That is more than I can tell, I don't know which was the older.

Q Were they good size boys at the opening of the war? A Yes.

Q About grown? A They were good sized, I don't know how old

they were.

Q Were you living in the hills or in the prairie? A I was living in the hills like.

Q What was your nearest town at that time? A I never went to town none, I don't know which was the nearest.

Q You never heard of any town? A I didn't say I never heard of any town.

Q Did you? A I don't know whether I did or not.

Q Was there any stores around there or anything around there? A I never went to any stores.

Q Do you know who had one? A No, sir, I don't know about the store part.

Q And this man Moore had a double log house did he, a hewed log house? A He had a log house, yes, sir.

Q Was it a double log house? A Yes, sir, I believe it was.

Q You have mentioned Mr. Youngblood, I want to know some of the others of your neighbors at that time? A I can't tell them, it has been so long and my head has been so confused I can't tell them.

Q You don't know any rivers or streams around there? A There was one river not so powerfully far.

Q Do you know in what direction it was? A It was this way (indicating.)

Q Was it north or south or east or west of your place, the river?

A Like here was the house and that would be the river, what would you call it?

Q I am asking you? A I can't tell you, I am showing you.

Q What sort of a farm did he have, big farm or little one?

A Wesh't a very big farm.

Q Have any more slaves besides you? A Yes, sir.

Q What was their names? A Had an old man named Tom.

Q Tom what? A Named Tom.

Q Have any other name? A That is all the name he went by then.

Q That the only one he had? A Had one named Nancy.

Q Do you know of any other neighbors of Moore's except Youngblood?

A No, I can't think of none right now.

Q Do you know of any town? A No, sir.

Q You can't think of any stream? A I told you where the river was.

Q How far from your place? A What, the river? I don't know how many miles it was out there.

Q Was it a short distance or a long one? A It was a tolerably long distance, not so very far.

Q Well, was it 15 miles? A No, sir, not quite 15.

Q Ten? A I don't know how far, I am not going to tell you how far the river was when I don't know.

Q I am trying to get you to tell the facts about it; I want a sufficient description of the place you lived before the war, we are disputing your ownership and I am trying to get you to testify as near as you can where you lived at? A Well, I lived in Sequoyah.

Q Now I want to know what part of Sequoyah district, if I can find out; want to know whether it was north or south, in what part of the district, east or west, or near some spring or some family so we can locate you? A Well I can't call it, I don't know; you say east or west you want to know?

Q What part of the district, tell that in your own way? A We lived out in that way (indicating) and I can't describe it exactly.

Q Did you ever see any of these witnesses of yours before the war?

A Yes, sir.

Q Who did you ever see? A I seen all of them.

Q Down at your place? A They have lived all around there.

Q Were they there at your place before the war? A No sir, some

of them at the place where I lived, John Baldridge, I had met him at a dance once.

Q Before the war? A Yes, sir.

Q At whose house? A At his aunt's house.

Q What was her name? A Her name, I forget her name, he can tell you.

Q How far was that from where you lived? A It was a good ways.

Q Twenty miles? A I don't know whether it was 20 miles or not.

Q How old do you say you are now? A I say I am fifty something, I never did know my age, that is what I said.

Q Who did you come back to the Nation with after the war? A Why I came back here in the Cherokee Nation with the Mayes and Sanders and Mackeys.

Q You came to Fort Gibson first? A Yes, sir.

Q Was your mother with you? A No, sir.

Q Where did you take up with this man Stewart? A I found him down in the Choctaw Nation.

Q Was that before you came up there? A No, it was afterwards.

Q Then you went back to the Choctaw Nation after you came up here? A I went back a little while and stayed there.

Q Who went back with you? A Who went back with me; I forget now who did go back with me.

Q You met him down there then? A Yes.

Q Near what place? A Why we went to an old man's house by the name of John.

Q And you commenced living with him there, did you? A Well I took him.

Q And he came up with you then? A Well we came back again.

Q How long did you live with him there before you came back again?

A Stayed down there a good little bit.

Q Eight or ten years? A No.

Q Five years? A Didn't stay that long.

Q About how long? A About two I reckon, however it might have been longer than that, I don't know just exactly how long.

Q Your oldest child was born down there was he? A No, he was born in the Cherokee Nation to Uncle Peter Edwards.

Q Where is that Edwards place that those children you say were born?

A It is over close to Fort Smith.

Q How far from Fort Smith? A Well, not far.

Q About how far? A Well, it is about three miles I reckon.

Q What direction from Fort Smith? A Back that way, they always called back that way north, it is about north.

Q Edwards a white man? A No, sir.

Q Colored man? A He was an Indian, mixed with negro.

Q What side of the river did he live on, do you know? A He lived on this side, on the north side of the river, just some side his place was.

Q He farmed down there, did he? A No, he never had a farm, he was a doctor.

Q What sort of a house did he live in? A A little log house.

Q Did he have a family? A He had had a wife.

Q Didn't then? A No, sir.

Q Any children? A No, sir, no children.

Q Who were your neighbors around Edwards? A Why the closest neighbor we had there was an old lady by the name of Phoebe.

Q Phoebe what? A I don't know what her other name was, Phoebe Walker I think her name was.

Q You lived down there till six or eight children were born?

A No, I never had that many children.

Q Well, all but one? A Yes.

Q And that is the only neighbor you knew? A No, I would go away and come back there.

Q What did you go down there for a living? A I done nothing.

Q Didn't you find out the first name of either of them? A No, sir.
Q Mrs. Bowers wanted some one to help with the kitchen and asked me to look out for someone among the refugees that was coming around there and I went down into the camp where these people were and hired this one who was the Mrs. Bowers you speak of, Joe Bower's wife? A Yes sir.
Q You never saw this woman Winnie Mackey before that? A No sir.
Q How old was she then? A 18 or 19 years old.
Q Was she married then? A No sir.
Q Set living with a man at that time? A No sir.
Q Had no children then? A No sir.
Q Was her mother there? A I don't know, I just went there and said I wanted to hire some one to work at the hotel and that there was three dollars a week for a good worker and she said she was a good worker and wanted to hire out and I took her, but she wasn't much good around there and Mrs. Bowers let her go.

By the Commission:

Q Were the Moores Indians? A Yes sir.

By Hastings:

Q What became of them? A I don't know, they all scattered out.

Q Did you witness for this woman before the Kern-Clifton Commission?

A No sir.

Q What are you doing up here? A What are you doing up here yourself?

Q That is my business, you are a witness and I want you to tell me what you are doing up here? A I come up here to look after my kin folks friends and acquaintances just as far as I know and no farther, I am doing what is right and am telling the truth just as I know it.

EASTER WILLIAMS, called and sworn as a witness for applicant-
By Commission:

Q What is your name? A Easter Grinnett or Williams.

Q How old are you? A About in the 50's.

Q What is your postoffice address? A Ruby.

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Do you know this applicant? A Yes sir.

Q How long have you known her? A It has been so long, I met her in Fort Gibson when she was a young girl and then she never had any children.

Q Did you see her in '66? A I didn't see her until I seed her at Gibson and then I never seed her any more until I seed her at this enrollment.

Q You never saw her any between those times? A No sir.

Q Who did she belong to before the war? A She said she belonged to the Moores.

By Hastings:

Q Was the war still going on when you first saw this girl? A Yes sir.

Q With whom was she living there? A She was working out.

Q Who for? A I don't know just who she said she was working out for.

Q You didn't see her owners yourself? A No sir.

Q You saw her after she was freed did you? A Yes sir, about that time.

Q You don't know what year it was? A I don't know the year, but it was the time the war was going on, just about time of peace.

Q Where did you next see her? A I seed her at Gibson at the enrollment - I remember now I seed her then.

Q Was that 2 or 3 months ago? A You know there has been several enrollments at Gibson? A No sir it was at the Kern Clifton court.

JOHN BALDRIDGE, called and sworn as a witness for the applicant-
By the Commission:

Q What is your name? A John Baldrige.

Q How old are you? A I was born in 1856, born and bred there.

Q How and bred in the same year? A Yes sir.

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Is your name on the roll of 1880? A No sir these fellows knock-
ed us off, only on election times they say I am all right.

Q When they want you to vote for them? A Yes sir.

Q Do you know the applicant here? A Yes sir.

Q When did you first know her? A I got well acquainted with her
in '66.

Q Was she a slave? A So said she was.

Q Do you know her to have been a slave? A I say, so said, I dont
know myself.

Q Was she taken out of the Cherokee Nation during the war? A I dont
know.

Q Where did you first see her after the war? A In Fort Gibson in '65
and then I have seen her off and on in Sequoyah district 2 or 3 times.

Q Was she married when you first saw her? A No s'r.

Q Who was she with? A Some Cherokees.

Q Do you know their names? A Some of the Mayfields.

Q Are you satisfied this is the same woman you saw there? A Yes sir

Q You didn't know her father and mother? A No sir.

Q Where does she live now? A In Cooweescoowee district near Langsah

Q Is she married now? A Yes sir, she was married to Roswell Mackey

Q Do you know her children? A I know Bob and Joe and Maggy and
one girl I disremember.

Q Was she ever married before she married Roswell Mackey? A I dont
know.

Q Is Roswell Mackey the father of these children? A I dont know.

Q Do you know Roswell Mackey? A Y's sir.

Q Were they living together as husband and wife when you knew
them both? A Yes sir.

Q You was in Fort Gibson in '66? A Yes sir from '65 and was
discharged as a soldier right there.

Q Was you a United States soldier or a Rebel? A I was with the
Union I was fighting them other fellows.

By Hastings--

Q And they made it pretty hot for you too didn't they? A Yes
sir sometimes.

Q You have been on a visit to Detroit Michigan haven't you? A Yes sir.

Q You were with the United States that time too? A (No response)

Q What did they give you that trip up for up there? A That is my
business and it is your business to tend to these freedmens court
and to ask things that is right.

Q Well that is what I am doing, now you were sent to the peniten-
tary up there? A I went answer nothing that is not lawful, you has
not got the constitution to ask that.

Q You refuse to answer that do you? A Yes sir, I will answer
anything that you had a right to ask, but you has no' got the con-
stitution to ask that.

Q When did you come back from Detroit? A I am here aint I?

Q Well how long have you been here? A All my days.

Q Well you say you saw this applicant at Fort Gibson in '66? A Yes
sir.

Q What was she doing there? A Just working at the hotel where
Follie Devins was staying.

Q What time of the year was that? A Long in the spring.

Q You never saw her owners? A No sir.

Q Was she living with her mother then? A I never seed her mother.

Q At whose place in Sequoyah did you see this woman? A At Mayfields

Q Which one? A They used to live in the road going to Fort Smith.

Q When did you next see her? A Off and on ever since.

Q When did you next see her? A I cant give the day, week and year.

Q Can some know her to keep house in the Cherokee Nation did you?

A Yes sir.

- Q Where? A Lempah and HBeaks.
- Q How long ago was that? A More than five years go.
- Q Was that the first time you ever knew of her keeping house in the Cherokee Nation? A Yes sir.

Applicant not found on the 1880 and 1896 rolls.

Kenn Clifton roll examined and the name of the applicant found thereon as follows-

Page 133 No. 3312, Winnie Moore, Illinois district.

Page 133 No. 3315, Andrew Moore, Illinois district.

By Gen'l Needles-

Winnie Mackey applies for herself and a son named Andrew Moore; they are not identified on the authenticated roll of 1880 or the census roll of 1896; they are identified on the Kenn Clifton roll, the applicant being there listed as Winnie Moore and her son as Andrew Moore; she avers that she was a slave of one Jack Moore and went to Texas and returned in 1866; she avers that she has found older children; she also avers that she is now married to one Mackey; she will be listed for enrollment as a Cherokee freedman on a doubtful card and the Commission will notify her by mail of its final decision in her case.

Chas. von Weise, being 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.

Signed, Chas. von Weise.

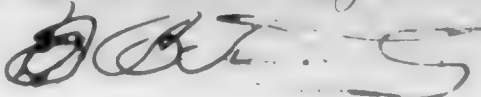
Subscribed and sworn to before me this the 11th of July, 1901.

Signed, T. B. Needles,
Commissioner.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 23rd of August, 1901.



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, T.C., July 2, 1901.

In the matter of the application of Robert Moore for enrollment as a Cherokee Freedman.

Robert Moore, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Robert Moore.
Q How old are you? A I am about 24 I guess.
Q What is your postoffice address? A Why I am stopping in Muskogee now, I live at home.
Q Well, where will your mail be sent? A Muskogee.
Q What district do you live in? A In this district.
Q What is its name? A Coconawocoochee.
Q You want to be enrolled as a Cherokee Freedman? A Yes, sir, my mother enrolled here the other day.
Q Who do you want to enroll besides yourself? A My two ^{sisters} ~~brothers~~ and my brother.
Q What are their names? A Why Mary Hiram.
Q Is she married? A Yes, sir.
Q Well, she can enroll herself. Have you got any sisters or brothers that are not of age? A Why my mother enrolled my younger brother.
Q You have got no brothers or sisters under 21 years of age?
A No, sir.
Q Are you married? A No, sir.
Q Have you been married? A Yes, sir.
Q Got any children? A Yes, sir, one.
Q Do you want to enroll it? A Yes, sir.
Q What is its name? A Gess Moore.
Q How old is it? A A little over four months old.
Q Where is it? A It is in Muskogee.
Q Who has got it? A Its mother has got it.
Q Well, its mother can enroll it; is its mother a citizen?
A No, sir.
Q You living with your wife there? A Why yes sir, my wife died, this child isn't by my wife.
Q This child is by another woman? A Yes, sir.
Q Not a citizen? A No, sir.
Q Don't you know that child isn't entitled to be enrolled? A No, sir.
Q Well you know it now then. A I supposed this was the place to find out.
Q You see if you were never married to the mother, you can't enroll it unless she was a citizen. A Yes, sir.
Q What is your father's name? A Stewart Neely.
Q Is he living? A No, sir, he is dead.
Q What is your mother's name? A Fannie Moore.
Q Is your mother living or dead? A She is living.
Q Do you claim your citizenship through your mother? A Yes, sir.
Q Has your mother been enrolled? A Yes, sir, she was enrolled here the other day.
Q Where were you born? A There in Nowatah district.
Q Cherokee Nation? A Yes, sir.
Q Well where have you lived all your life? A Well I have lived over there to Neale Peter Edwards, and we lived there a while and we moved from there to Fort Smith, and lived there a while.
Q Fort Smith, Arkansas? A Yes, sir.
Q How long did you live there? A I don't know, I guess about three months or maybe two months and a half, my mother is married to Neely now.
Q Then where did you go to from Fort Smith? A We lived at the

Robert Moore - 2.

Bureau for about two or three years I believe, as near as I can remember.

Q Well, where a so? A I can't tell about that, I wasn't raised with my mother all the time.

Q Have you got a brother named Andrew? A Yes, sir, the baby boy

Q Your name on any of the rolls of the Cherokee Nation? A Yes, sir.

Q What rolls? A Why it is on the Kern and Clifton roll and it is on the Wallace roll I think.

Q Did you draw the strip payment money? A Yes, sir.

Q You never drew that money; if you did your name isn't on the roll? A Yes sir, I did, my name is on the roll as Bob Moore.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.

The Kern-Clifton roll examined, and the applicant identified thereon, Page 153, No. 3317, Illinois district, as Bob Moore.

Mr. J.S. Davenport, Cherokee attorney: About where were you living when you can first remember? A Why we were living at Uncle Peter Edwards when I first remember.

Q Where was that? A Sequoyah district.

Q How far from the Arkansas line? A I guess about maybe about thirty miles from the Arkansas line.

Q In Sequoyah district? A Yes, sir, up near Webbers' Falls.

Q Well, how long did you live at Fort Smith when you went there?

Q Lived there about six or eight months.

Q How your mother was with you over there? A Yes, sir.

Q Are you the same boy that she spoke of having lived at Van Buren Arkansas? A Yes, sir.

Q How long did you live there? A I don't know just how long she lived there, I stayed there I guess about eight months and went from there to Elk Creek and stayed with Uncle Andrew Sullivan.

Q Where is that? A That is in the Creek Nation; ever since I have been big enough to work, I have been making my own living; I stayed with him more than a year.

Q When was it you lived at Van Buren, Arkansas? A I don't remember, I was quite small then.

Q How long since you lived there? A I don't remember just how long.

Q Been a year? A Oh my God, I guess about --; well I don't know how long it has been.

Q For whom did you work at Van Buren? A Why I worked for Mr. Hosstetter in a barber shop.

Q You have never lived in the Cherokee Nation since you were big enough to remember, have you? A Well, I haven't been out of the Cherokee Nation for years.

Q I thought you said you lived in Muskogee right now? A I do.

Q You went to Elk Creek? A Yes, sir, I stayed on Elk Creek a while.

Q How long did you stay with your Uncle on Elk Creek? A He is no kin to me, I stayed with him I guess about three months.

Q When was that? A I don't know just what year it was in, I was I guess about 14 years old.

Q You went now, as I understand, from Van Buren to Elk Creek?

A Yes, sir.

Q You lived there a while? A Yes, sir, with Uncle Andrew Sullivan.

Q Where did you go when you left Uncle Andrew Sullivan? A Stayed around Muskogee a while and came back to my mother at Gregg Station.

Q Who was your mother living with at Gregg Station? A Living by herself.

Robert Moore - 3.

- Q How far from J. J. Patrick? A I don't know just how far it was from him.
- Q How far did she live from Levi Cookson? A I don't know Levi Cookson.
- Q How far does she live from B. L. Cookson, another man who runs a store there in Trapps? A I don't know him, I know Mr. Madson by name.
- Q How far did she live from him? A I don't know where Mr. Tom Madson lives at now.
- Q Did she live in town or out of town? A No, sir, she was living in the country.
- Q Over in the Creek Nation, is that over in the Creek Nation?
- A No, sir, lived in the Cherokee Nation.
- Q Between the Valley Road and the river? A No, sir, do you have any idea where the school house is there? Well she lived right close to that.
- Q She is near Charlie Pierce then? A Well, I don't know Mr. Pierce.
- Q How long did you live at Trapps? A I was there a week visiting, I don't know how long she lived there.
- Q Where did you go when you left there? A I came back up here to Fort Gibson.
- Q How long did you stay in Fort Gibson? A I stayed at Fort Gibson I guess about four or five months.
- Q Then you went back to Muskogee in the Creek Nation and been living there ever since? A No, I didn't go back to Muskogee in the Creek Nation, this is the first time I have stayed in Muskogee to amount to anything for years.
- Q Well, where have you been living since that time? A I have stayed up here on Lightning Creek a while, and stayed at Clarence a while.
- Q When were you at Lightning Creek? A I was there just before the last census taking.
- Q From the time you left Fort Gibson up to that time where have you been? A I enrolled at Fort Gibson and when through across the country to Chelsea and from there to Lightning Creek.
- Q Who did you work for at Lightning Creek? A Nobody, I came from Fort Gibson from the census taking to Pryor Creek to the enrollment and went from there across to Lightning Creek with Joe New.
- Q What did you do after you left there? A I came back to Feather Creek and set up a candy stand at the enrollment.
- Q After the enrollment what did you do? A I went to Fort Gibson and cooked for Mr. Morrice and cooked for Mrs. Trent a while; I am a cook by trade, I came from there - - -

Commissioner: Robert Moore applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1860 or the census roll of 1866. He is identified upon the Kern-Glifton roll according to year and number of the roll as indicated in the testimony. He swears that he is the child of Winnie Mackay, who is listed for enrollment on 3 card 899. The testimony taken in the matter of the application of Winnie Mackay will be made part of the record in the case at bar and a copy thereof will be filed herewith. Said Robert Moore being identified upon the rolls as the child of Winnie Mackay, will now be listed for enrollment as a Cherokee Freedman on a doubtful card. He will be notified by mail of the action of the Commission in the premises.

him in South Carolina and married.

Q When you first come here ten or 12 years ago, did she have them children that she claims to have? A Yes, sir.

Q Do you know anything about any of them; that is, where they were born? A They was born in South Carolina.

Q CO. B NEEDLES: You say you knew this woman, Winnie Mackey, in South Carolina? A Yes, sir.

Q When was that? A It was before the war.

Q Was she a slave there? A Yes, sir.

Q Who did she belong to? A I could not tell you she she belonged to.

Q How old was she when you knew her there? A I could not tell.

Q Well, about how old? A She was, I guess about ten or 12 years or maybe older.

Q You knew her in South Carolina before the war? A Yes, sir.

Q That was ten or 12 years old then? A Yes, sir.

Q But you don't know who belonged to? A No, sir, I do not know who she belonged to.

Q When did you come to the Cherokee nation; where do you live now? A I live in Arkansas.

Q When did you come from South Carolina to Arkansas? A I have been here 12 years, in Arkansas.

Q You left South Carolina and come to Arkansas 12 years ago? A Yes, sir.

Q Was Winnie Mackey in South Carolina then? A No, sir, she left before I did.

Q About how long before that? A I don't know.

Q Do you know whether she left there before the war or not? A She was there then, she was freed there.

Q Who did she belong to? A I told you I didn't recollect her owners, I could not tell you that.

Q Did you ever know a man by the name of Jack Moore? A No, sir.

Q He ever knew a man, Jack Moore? A No, sir.

Q Did you ever know anything about this applicant being in the State of Texas, this Winnie? A No, sir.

Q Do you know that the Winnie Mackey you saw in South Carolina is the same Winnie Mackey that applies to be enrolled here as a Cherokee Freedman? A Yes, sir.

Q How do you know it? A It is, if it is Steward Moore's husband, if that is the one I know her.

Q How long after you left South Carolina did you see her, Winnie Mackey? A Well, I didn't know her by that name; she wasn't no Mackey when I knowed her.

Q What was she when you knew her? A She was Winnie Moore, Steward Moore's wife.

Q Where, South Carolina? A Yes, sir.

Q Was she Steward Moore's wife when you saw her and knew her in South Carolina? A Yes, sir.

Q He was married to her? A Yes, sir.

Q This Winnie was married to a man by the name of Steward Moore in South Carolina? A Yes, sir.

Q And had children there? A Yes, sir.

Q How many children? A There was two girls and three boys, if I make no mistake.

Q Do you know their names? A Yes, sir, I think so.

Q Please give their names? A Joe and a Bob and a Melia and tag.

Q Now, that was Winnie's children you know in South Carolina? A Yes, sir.

Q And her name there was Winnie Moore? A Yes, sir.

Q She was a grown woman and had children? A Yes, sir.

Q For you come from South Carolina to Arkansas? A Yes, sir.

- Q You left Winnie there? A No.
- Q She came first? A Yes, sir.
- Q Then when did you see her after you came from South Carolina, when did you first see Winnie? A It was her at Van Buren the first place I seen her after I came here.
- Q How long was it from the time you saw her last in South Carolina until you saw her in Arkansas, at Van Buren? A I could not recollect.
- Q Well, about how long? A I would not be positive about that.
- Q Well, you ought to know about how long; you know how long you lived in South Carolina and how long you lived in Arkansas, approximate as near as you can? A I had been out here I think about two years before I seen her, as near as I can get at it.
- Q And how long had she been gone from South Carolina before you left South Carolina? A That's what I don't recollect now; not sir, she stopped, I think.
- Q But I know you saw her in South Carolina and she left before you did? A Yes, sir.
- Q Now, how long was it from the time you saw her in South Carolina the last time until you left South Carolina? A Several years, because she didn't live in the settlement.
- Q And then you were here two years before you saw her? A Yes, sir.
- Q Now, when you saw her did you recognize her as the same woman you saw in South Carolina? A Yes, sir, I talked with her.
- Q Had she any more children than she had when you saw her last? A No, sir.
- Q Some number of children? A Yes, sir.
- Q Were her children living with her when you saw her at Van Buren? A Yes, sir.
- Q Married? A Yes, sir.
- Q Was her husband with her? A Yes, sir.
- Q The same husband she had in South Carolina? A Yes, sir.
- Q They were both there? A Yes, sir.
- Q His name was Steward Mack? A No, sir.
- Q You didn't know Jack Moore you said? A No, sir.
- Q Now, when you saw her at Van Buren was that after the war or before? A After the war.
- Q Do you know where she was during the war? A She was in South Carolina.
- Q During the war? A Yes, sir.
- Q Were you there? A Yes, sir, I was freed there.
- Q You saw her during the war? A Yes, sir.
- Q She was freed there? A Yes, sir.
- Q You didn't know her owner's name? A No, sir, I could not be positive about her owners.
- Q Did you know a man by the name of Mackey? A No, sir.
- Q Do you know how Winnie came to be named Mackey? A No, sir.
- Q You don't know then that Winnie Mackey is the same person you knew in South Carolina as Winnie Moore? A As I said a while ago I never knew her by that name.
- Q You never knew a Winnie called Mackey there? A No, sir.
- Q Did you ever know Winnie Mackey anywhere? A No, sir.
- MR. BASTINGS, of Counsel for Cherokee Nation:
- Q Where was this Winnie married? A She was married in South Carolina.
- Q Was that before or after the war? A She was married before the war.
- Q Did you know her there after the war? A Yes, sir.
- Q For a number of years after the war? A Yes, sir, good while; she lived in another settlement of the country in it, of course I didn't live right just two weeks to see, she lived there in the

neighborhood a number of years after the war.

Q About how many years in your judgment? A I could not be positive about the number of years, I don't recollect and if I was to say-

Q Do you know that she has lived there as much as five years after the war? A Yes, sir, I guess more.

Q Well, were these children you have mentioned here born there?

A Yes, sir.

Q COMMISSIONER NEEDLES: You lived there five or ten years after the war did you? A Yes, sir.

ALBERT LATTIMER, being sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation:

Q MR. BELL: Give your name? A Albert Lattimer.

Q Age? A Well, I am about 58.

Q Post office? A Alma, Arkansas.

Q Mr. Lattimer, this is a case of one Winnie Mackey, by that name now, that claims to be a Cherokee freedman making application here with a lot of children, children named Moore she calls them; she is the wife of one Steward Moore, or Moore Steward; I don't know which? A Steward Moore, I guess.

Q Are you acquainted with her? A Well, I have seen her of course since I come to this State.

Q Where did you come from to Arkansas? A From South Carolina.

Q How long ago? A I come here in '87.

Q Are you acquainted with her in the State of South Carolina?

A No, sir, I wasn't.

Q Where did you first see this Winnie Moore or Mackey?

A Well, I saw her at Van Buren.

Q Van Buren, Arkansas? A Yes, sir.

Q About when? A Well, it has been ten years ago, about.

Q About ten years ago? A Yes, sir.

Q What was she doing there? A Well, she was just staying there in the town at that time; I could not tell you what her occupation was, she was just staying there at that time.

Q What about her husband? A Yes, sir, he was at her house one time.

Q She was keeping house there? A Yes, sir.

Q Did she have any family? A Yes, sir, she had some children with her.

Q Have any husband? A Yes, sir, her husband was there.

Q What was her husband's name? A Steward Moore was his name.

Q Was he a freedman? A Yes, sir.

Q Do you know what became of Steward Moore? A Went to Africa.

Q About how long ago? A Well, you may say, I believe he left here in '95, as well as I can remember; I think it was in '95.

Q How long did you know that woman in Van Buren? A Well, I think I knowed her there; well I never seen her in there but about twice you see I come from the old country and stopped there a few days and I left there and went to Bira, Arkansas, that is below Van Buren, and I saw her some few times while staying around Van Buren.

Q Some few times after you left Van Buren? A Yes, sir.

Q Well, did you ever see her there about the time her husband left,

A I saw her there after that.

Q She was still there with her family with her husband gone?

A Yes, sir.

Q Did you ever have any talk with her about where she come from to Arkansas? A No, sir, I have not, no, sir.

Q You didn't come from the same part of South Carolina she did.

A No, sir, he was there I suppose in different counties.

MR. HASTINGS: Did you ever talk to her about South Carolina at all? A No, sir, of course I never knew her back there at all.

COM'R FEEDLES: All you know about this is you saw her there at Van Buren? A Yes, sir.

Q And her children? A Yes, sir.

Q You don't know whether she was ever a slave or not?

A No, sir, I don't know.

Q Don't know who she belonged to if she was a slave? A No, sir.

Q You never got acquainted with them until you came to Van Buren?

A No, sir.

LAURA LATTIMER, being duly sworn by Commissioner Feedles, testified as follows on part of the Cherokee nation:

MR. BELL: Your name? A Laura Lattimer.

Q Age? A 48.

Q Your post office? A Ahm.

Q Mr. Lattimer we have got a case up here of Winnie Mackey, or Winnie Moore, or Winnie Steward, who claims to be a Cherokee Freedman and having been living in the Cherokee nation; do you know any woman of that name? A Yes, sir, Winnie Moore, the woman's name is Winnie Moore.

Q How long have you known her? A Well, it has been about eight or ten years I guess; I know the first I seen of her she was in Van Buren.

Q When did you first see her and where? A In Van Buren.

Q In Van Buren about eight or ten years ago? A Yes, sir.

Q What was she doing there? A She was living there.

Q Have any family? A Yes, sir.

Q What was her family? A Malia and Maggie and Joe and Bob and there is another one; I didn't get acquainted with him at all; I have seen the other one.

Q Did she have a husband? A Well, at that time she had a husband, but wasn't living together exactly at that time.

Q What was his name? A Steward Moore.

Q Was she keeping house there? A Yes, sir.

Q How long did you know her after that? A After that he went off to Africa and I never seen her; she come to my house about a year; first seen her to my house on a visit and I never seen her any more, and after he went off I heard she went off; afterwards I heard she was in the Nation.

Q You saw her after her husband went to Africa? A No, sir.

Q You say she come in your house after you lived at Van Buren?

A Yes, sir.

Q Where were you living? A At first at Lawson.

Q How far is that below Van Buren? A Ten miles below Van Buren.

Q You were there when she about Lattimer? A Yes, sir.

Q Did you see her come from South Carolina together?

A Yes, sir, we was married and he come in the fall before us and I come in the January following.

Q You joined him then at Van Buren, or where? A He was married in South Carolina.

Q He come and here where you and got a place? A Yes, sir.

Q And you joined him at Van Buren?

A Yes, sir, I joined him and my family.

Q So you know whether this woman was married after

that? A I don't know it.

Q You saw her in Van Buren after Moore went to

Africa? A Yes, sir, I saw her and went to my own country.

Q Did you see her in Van Buren? A Yes, sir.

Q Do you know a man by the name of Steward Moore? A No, sir.

Q Do you know whether Winnie Moore was a slave or not?

A No, sir, I don't know at all.

Supp. Ct. D. 1901

Q. Did you ever have any talk with her about
the case? A. I never knew her until I came to the
court. I have heard she came from the old country.
Q. How satisfied are you about her being from South Carolina?
A. No, sir.

This testimony will be filed in the following cases:
D.#997, Robert Moore; D.#996, Amelia Brown; D.#982, Maggie
Daly; D.#984, Joseph Moore.

---ooo000ooo---

J. O. Reason, being first duly sworn, states that as stenog-
rapher 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. Reason

Subscribed and sworn to before me this October 5th, 1901.


Commissioner.

RECEIVED
OCT 10 1901

No. D 527

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. 1901

Given under my hand this _____ day of _____ A. D. 1901

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 _____, 1901

Attorney for applicant.

UNITED STATES OF AMERICA, |
INDIAN TERRITORY, | S S
NORTHERN DISTRICT. |

I do solemnly swear that I delivered a true copy of the within notice to

on the _____ day of _____ A. D. 1901

Subscribed and sworn to before me this _____ day of _____ A. D. 1901

Notary Public

**Proof of Service made
and original filed with the
DAWES COMMISSION
SEP 24 1901**

NOTICE!

IN THE MATTER OF the application of Robt. Moore
for enrollment as a Cherokee citizen:

Case No. D 977

To Robt. Moore Muskogee 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 **Fort Gibson, I. T.** Indian Territory, on Sept. 26th 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 on the respective days above named, 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 Sept. 17th 1901.

B. D. D. D.
M. M. M. M.
Attorneys for the Cherokee Nation.

Cher. Fr. v. 478

Cher. Fr. D. 978

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 1, 1901.

In the matter of the application of Amelia Brown for the enrollment of herself and one child as Cherokee Freedman.

Amelia Brown, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Amelia Brown.
Q How old are you? A 24.
Q What is your postoffice? A It is Wagoner now.
Q What district do you live in? A Georgeemoowee.
Q Wagoner in the Creek Nation? A I suppose so.
Q You want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child.
Q What is its name? A Robert Brown.
Q How old is he? A Seven.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Wilson Brown.
Q Is he a citizen? A No, sir.
Q Is your name on the roll of 1860? A I don't think so, it is on the roll with my mother.
Q What is your father's name? A Stewart Mealey.
Q What is your mother's name? A Winnie Mackey.
Q Are you a sister of Robert Moore? A Yes, sir.
Q The 1860 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.
Q The 1870 census roll of Cherokee Freedmen examined and the applicants not identified thereon.
Q The Kern-Clifton roll examined, and the applicant identified thereon, page 131, No. 3313, Illinois district, as Malia Moore.
Q You didn't draw money for Robert, did you? A No, sir.
Q Where were you born? A I was born on Elk Creek.
Q Where is that, what nation or state? A In Sequoyah district, isn't it; I don't know.
Q Is it in the Cherokee Nation? A Yes, sir.
Q Well, have you always lived in the Cherokee Nation? A Up until I was about 15 or 16 I think.
Q Then where did you go? A My mother taken us to Van Suren then.
Q How long did you live there then? A Two or three years.
Q Where did you go then? A I married then and my mother moved back to Bragg's.
Q You married in Van Suren? A Yes, sir.
Q You stayed there then, did you? A No, sir.
Q Did you go with your mother when she came to Bragg? A No, sir.
Q Where did you go? A I went with my husband, he took me up to Lenapeh and I lived there a while.
Q In the Cherokee Nation? A Yes, sir.
Q Well, been living in the Cherokee Nation ever since that? A No, sir, he taken me over there to Ossawatimie, Kansas.
Q How long did you live in Kansas? A Lived in Kansas about two years.
Q Then where did you go? A Then I came back to my mother and she lived at that time in Claremore.
Q Where was Robert born? A My boy was born in Ossawatimie, Kansas.
Q Your husband is a state man, is he? A Yes, sir.
Q Mr. J. S. Davenport, Cherokee attorney: Where is your husband now?
A My husband and I are parted, he is somewhere up in St. Paul I think.
Q How long since you and he separated? A Been separated for two years.

Amelia Brown - 2.

Q Where have you been living since you separated? A After we first separated I went to Lenapah and lived there a year with my mother, and then from there I went to Kansas City and stayed there three months and then I came back to my mother in Wagoner.

Q How long did your mother live at Lenapah? A I don't know sir just how long she did live there, she owns property there, she has got a home there.

Q You are mistaken about Elk Creek being in the Cherokee Nation, aren't you? A I didn't say positively it was because I don't know.

Q As a matter of fact you know it is in the Creek Nation, don't you?

A I don't know sir, I won't say.

Q You were born on Elk Creek? A Yes, sir.

Q And that is in the Creek Nation in the southwest of Choctaw?

A I think so.

Q You lived at Van Buren for a number of years, you and your mother and brothers? A No, about three or four years.

Q And you were living there in ~~1890 and '91 and '92~~ '90 and '91 and '92? A I think so, I will not be positive just what year they were.

Q What year were you married? A In '95.

Q You were living there then? A Yes, sir.

Q Your mother and brother Robert was living there at that time?

A Yes, sir, my brother Robert wasn't at home when I was married.

Q He had been home, hanging out around home? A Yes, sir.

Q And then after you and your husband married you say you came to Lenapah? A Yes, sir.

Q How long did you say about Lenapah before you went to Osawatomie, Kansas? A About a year I guess.

Q Who did you live with up there? A Mother has got a home up there.

Q Your mother moved to Lenapah from Van Buren, that was about the time of the Kern-Clifton payment? A I don't know just what time that was; no the payment hadn't come off then.

Q Well, it was about the time the Kern-Clifton roll was made that your mother moved from Van Buren to Lenapah? A No, she was up here before then.

Q How long had she been here before that? A I don't know.

Q She was living in Van Buren when you married in '95? A Yes, sir.

Q She moved up there sometime between '93 and '94? A No, my mother moved to Braggs and I moved to Lenapah.

Q Your mother didn't move to Lenapah? A No, not the time I moved there.

Q Your mother then moved from Van Buren to Braggs sometime between '93 and the Kern-Clifton enrollment? A Yes, sir, I think so.

Q After you were married then you lived something like a year at Lenapah and then you and your husband went to Kansas and you lived there until you separated? A Yes, sir.

Q Then you came back to the Territory and worked a while and went to Kansas City and worked a while? A Yes, sir.

Q And then how long since you came from Kansas City? A I have been out of Kansas City in the fall two years.

Q Where have you been living? A I have been in Lenapah, and I live with my mother in Wagoner.

Q Where else have you been living? A I have been living in Glassboro.

Q Where else? A Well, that is about all the places.

Q Been back to Kansas City since that time? A No, sir.

Commissioner: Amelia Brown applies for the enrollment of herself. She avers that she is now married to one Wilson Brown, a non citizen; that she is the daughter of Nixie Mackay.

Amelia Brown - 3.

She claims her citizenship through her mother. She cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll, and she is duly identified upon that roll. She avers that she has one child named Robert Brown. The testimony taken in the matter of the enrollment of her mother, Winnie Mackey, on D card 800, will be made part of the record in the case at bar, and a copy thereof will be filed herewith. It will be necessary for her to make proof of the birth of her child, Robert, its name not appearing upon any of the rolls of the Cherokee Nation. As to her residence, reference is made to the testimony. Said Amelia Brown and her son Robert will now be listed for enrollment as Cherokee Freedmen on a doubtful card. She will be notified by mail of the action of the Commission in the premises.

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 18th of July, 1901.



Commissioner.

File with case of Amelia Brown, C.F.-D.#978.

Supl.C.F.-D.#899.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 24, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
WINNIE MACKEY as a Cherokee Freedman, introduced on the part of
Cherokee Nation:

APPEARANCES:

Mr. L. B. Bell, of Counsel for Cherokee Nation.

Proof of service made and applicant fails to appear,
either by attorney or in person.

JOHN KEETON, being duly sworn by Commissioner Needles,
testified as follows on part of Cherokee Nation:

MR. BELL: Give me your name? A John Keeton.

Q Your age? A 66.

Q Your post office? A Alma, Arkansas.

Q Well, Mr. Keeton, this is a case of Winnie Mackey she calls her-
self, called Winnie Moore or Steward, claiming to be a Cherokee
Freedman, are you acquainted with her? A Yes, sir.

Q Where did you first know her? A In South Carolina.

Q When was that? A That was before the war, Civil War.

Q What was her name there? A Her name was Winnie.

Q How did you become acquainted with her? A Well sir, the man
that owned me was jailer at that time and I was staying there and
she was put in jail there, a small girl.

Q How long did you stay in South Carolina after you saw her there?

A I was small and so was she and I stayed until I was grown
and free, until I come to Arkansas.

Q Then did you go to Arkansas? A I have been here 12 years I
think it is I have been here now.

Q Where did you stop? A I come to Van Buren, Arkansas.

Q Have you seen this Winnie Mackey since you come to Arkansas?

A Yes, sir.

Q Where did you see her first? A Van Buren.

Q What was she doing there? A She was living there.

Q Did she have a family there? A Yes, sir.

Q Husband? A Yes, sir.

Q What was his name? A Steward Moore.

Q How long did you know Winnie Moore there? A I
knew them several years.

Q What become of her husband? A He went to Africa.

Q About when? A It has been about six years ago, there was a
great crowd and he went with the crowd.

Q Was he living there before he started? A Yes, sir. She was
there, he just worked about, sometimes up there and sometime down
about Alma.

Q How long did she stay in Van Buren, do you know, after he left
there? A I could not say positive just how long she stayed after
he left; I lived down below, Alma.

Q You missed her from there soon after he left? A Yes, sir, and
I haven't seen her since he left there.

Q Do you know when she left South Carolina? A No, sir, I don't
recollect exactly, she come before I did from there.

Q Did you learn from her whether she left there before the war or
after? A After the war.

Q She was in Van Buren when you got there? A Yes, sir.

Q And had been there sometime, you don't know how long?

A No, sir, I could not say how long.

Q Do you know where she found this Steward Moore? A She found

him in South Carolina and married.

Q When you first come here ten or 12 years ago, did she have them children that she claims to have? A Yes, sir.

Q Do you know anything about any of them; that is, where they were born? A They was born in South Carolina.

COM'R NEEDLES: You say you knew this woman, Winnie Mackey, in South Carolina? A Yes, sir.

Q When was that? A It was before the war.

Q Was she a slave there? A Yes, sir.

Q Who did she belong to? A I could not tell you who she belonged to.

Q How old was she when you knew her there? A I could not tell.

Q Well, about how old? A She was, I guess about ten or 12 years or maybe older.

Q You knew her in South Carolina before the war? A Yes, sir.

Q That was ten or 12 years old then? A Yes, sir.

Q But you don't know who belonged to? A No, sir. I do not know who she belonged to.

Q When did you come to the Cherokee nation; where do you live now?

A I live in Arkansas.

Q When did you come from South Carolina to Arkansas?

A I have been here 12 years, in Arkansas.

Q You left South Carolina and come to Arkansas 12 years ago?

A Yes, sir.

Q Was Winnie Mackey in South Carolina then? A No, sir, she left before I did.

Q About how long before that? A I don't know.

Q Do you know whether she left there before the war or not?

A She was there then, she was freed there.

Q Who did she belong to? A I told you I didn't recollect her owners, I could not tell you that.

Q Did you ever know a man by the name of Jack Moore? A No, sir.

Q Never knew a man, Jack Moore? A No, sir.

Q Did you ever know anything about this applicant being in the State of Texas, this Winnie? A No, sir.

Q Do you know that the Winnie Mackey you saw in South Carolina is the same Winnie Mackey that applies to be enrolled here as a Cherokee Freedman? A Yes, sir.

Q How do you know it? A It is, if it is Steward Moore's husband, if that is the one I know her.

Q For long after you left South Carolina did you see her, Winnie Mackey? A Well, I didn't know her by that name; she wasn't no Mackey when I knowed her.

Q What was she when you knowed her? A She was Winnie Moore, Steward Moore's wife.

Q Where, South Carolina? A Yes, sir.

Q Was she Steward Moore's wife when you saw her and knowed her in South Carolina? A Yes, sir.

Q He was married to her? A Yes, sir.

Q This Winnie was married to a man by the name of Steward Moore in South Carolina? A Yes, sir.

Q And had children there? A Yes, sir.

Q How many children? A There was two girls and three boys, if I make no mistake.

Q Do you know their names? A Yes, sir, I think so.

Q Please give their names? A Joe and a Bob and a Melia and Mag.

Q Now, that was Winnie's children you know in South Carolina? A Yes, sir.

Q And her name there was Winnie Moore? A Yes, sir.

Q She was a grown woman and had children? A Yes, sir.

Q Now you came from South Carolina to Arkansas? A Yes, sir.

- Q You left Winnie there? A No.
- Q She came first? A Yes, sir.
- Q Then when did you see her after you come from South Carolina, when did you first see Winnie? A It was her at Van Buren the first place I seen her after I come here.
- Q How long was it from the time you saw her last in South Carolina until you saw her in Arkansas, at Van Buren? A I could not recollect.
- Q Well, about how long? A I would not be positive about that.
- Q Well, you ought to know about how long; you know how long you lived in South Carolina and how long you lived in Arkansas, approximate it as near as you can? A I had been out here I think about two years before I seen her, as near as I can get at it.
- Q And how long had she been gone from South Carolina before you left South Carolina? A That's what I don't recollect now; not, sir, she stopped, I think.
- Q But I know you saw her in South Carolina and she left before you did? A Yes, sir.
- Q Yes, how long was it from the time you saw her in South Carolina the last time until you left South Carolina? A Several years, because she didn't live in the settlement.
- Q And then you were here two years before you saw her? A Yes, sir.
- Q Now, when you saw her did you recognize her as the same woman you saw in South Carolina? A Yes, sir, I talked with her.
- Q Had she any more children than she had when you saw her last? A No, sir.
- Q Same number of children? A Yes, sir.
- Q Were her children living with her when you saw her at Van Buren? A Yes, sir.
- Q Married? A Yes, sir.
- Q Was her husband with her? A Yes, sir.
- Q The same husband she had in South Carolina? A Yes, sir.
- Q They were both there? A Yes, sir.
- Q His name was Steward Moore? A No, sir.
- Q You didn't know Jack Moore you said? A No, sir.
- Q Now, when you saw her at Van Buren was that after the war or before? A After the war.
- Q Do you know where she was during the war? A She was in South Carolina.
- Q During the war? A Yes, sir.
- Q Were you there? A Yes, sir, I was freed there.
- Q You saw her during the war? A Yes, sir.
- Q How was she freed there? A Yes, sir.
- Q You didn't know her owner's name? A No, sir, I could not be positive about her owners.
- Q Did you know a man by the name of Mackey? A No, sir.
- Q Do you know how Winnie came to be named Mackey? A No, sir.
- Q You don't know then that Winnie Mackey is the same person you knew in South Carolina as Winnie Moore? A As I said a while ago I never know her by that name.
- Q You never knew a Winnie called Mackey there? A No, sir.
- Q Did you ever know Winnie Mackey anywhere? A No, sir.
12. WATSON, of Counsel for Cherokee Nation:
- Q Where was this Winnie married? A She was married in South Carolina.
- Q Was that before or after the war? A She was married before the war.
- Q Did you know her there after the war? A Yes, sir.
- Q For a number of years after the war? A Yes, sir, good while; she lived in another settlement of the country there, of course I didn't live right just door neighbor to her. She lived there in the

neighborhood a number of years after the war.

Q About how many years in your judgment? A I could not be positive about the number of years, I don't recollect, and if I was to say-

Q Do you know that she has lived there as much as five years after the war? A Yes, sir, I guess more.

Q Well, were these children you have mentioned here born there? A Yes, sir.

Q COMMISSIONER NEEDLES: You lived there five or ten years after the war did you? A Yes, sir.

ALBERT LATTIMER, being sworn by Commissioner Needles, testified as follows in part of the Cherokee Nation:

MR. HULL: Give your name? A Albert Lattimer.

Q Age? A Well, I am about 58.

Q Post office? A Alma, Arkansas.

Q Mr. Lattimer, this is a case of one Winnie Mackey, by that name now, that claims to be a Cherokee freedman making application here with a lot of children, children named Moore she calls them; she is the wife of one Steward Moore, or Moore Steward; I don't know which? A Steward Moore, I guess.

Q Are you acquainted with her? A Well, I have seen her of course since I come to this State.

Q Where did you come from to Arkansas? A From South Carolina.

Q How long ago? A I came here in '87.

Q Are you acquainted with her in the State of South Carolina?

A No, sir, I wasn't.

Q Where did you first see this Winnie Moore or Mackey?

A Well, I saw her at Van Buren.

Q Van Buren, Arkansas? A Yes, sir.

Q About when? A Well, it has been ten years ago, about.

Q About ten years ago? A Yes, sir.

Q What was she doing there? A Well, she was just staying there in the town at that time; I could not tell you what her occupation was, she was just staying there at that time.

Q What about her husband? A Yes, sir, he was at her house one time.

Q She was keeping house there? A Yes, sir.

Q Did she have any family? A Yes, sir, she had some children with her.

Q Have any husband? A Yes, sir, her husband was there.

Q What was her husband's name? A Steward Moore was his name.

Q Was he a freedman? A Yes, sir.

Q Do you know what became of Steward Moore? A Went to Africa.

Q About how long ago? A Well, you may say, I believe he left here in '95, as well as I can remember, I think it was in '95.

Q How long did you hear that woman in Van Buren? A Well, I think I knowed her there; well I never seen her in there but about twice you see I come from the old country and stopped there a few days and I left there and went to Sira, Arkansas, that is below Van Buren, and I saw her some few times while staying around Van Buren.

Q Some few times after you left Van Buren? A Yes, sir.

Q Well did you ever see her there about the time her husband left,

A I saw her there after that.

Q She was still there with her family with her husband gone?

A Yes, sir.

Q Did you ever have any talk with her about where she came from to Arkansas? A No, sir, I have not, no, sir.

Q You didn't come from the same part of South Carolina she did.

A No, sir, as far there I suppose in different counties.

MR. HASTINGS: Did you ever talk to her about South Carolina at all? A No, sir, of course I never knew her back there at all.

COM'R NEEDLES: All you know about this is you saw her there at Van Buren? A Yes, sir.

Q and her children? A Yes, sir.
Q You don't know whether she was ever a slave or not?

A No, sir, I don't know.

Q Don't know she she belonged to if she was a slave? A No, sir.

Q You never got acquainted with them until you came to Van Buren?

A No, sir.

LAURA LATTIMER, being duly sworn by Commissioner Needles, testified as follows on part of the Ch. relice nation:

MR. BELL: Your name? A Laura Lattimer.

Q Age? A 48.

Q Your post office? A Alma.

Q Mrs. Lattimer we have got a case up here of Winnie Mackey, or Winnie Moore, or Winnie Steward, who claims to be a Cherokee Freedman and having been living in the Cherokee nation; do you know any woman of that name? A Yes, sir, Winnie Moore, the woman's name is Winnie Moore.

Q How long have you known her? A Well, it has been about eight or ten years I guess; I know the first I seen of her she was in Van Buren.

Q When did you first see her and where? A In Van Buren.

Q In Van Buren about eight or ten years ago? A Yes, sir.

Q What was she doing there? A She was living there.

Q Have any family? A Yes, sir.

Q What was her family? A Melia and Maggie and Joe and Bob and there is another one I didn't get acquainted with him at all; I have seen the other one.

Q Did she have a husband? A Well, at that time she had a husband, but wasn't living together exactly at that time.

Q What was his name? A Steward Moore.

Q Was she keeping house there? A Yes, sir.

Q How long did you know her after that? A After that he went off to Africa and I never seen him; she come to my house about a year, first seen her to my house on a visit and I never seen her any more, and after he went off I heard she went off; afterwards I heard she was in the Nation.

Q You saw her after her husband went to Africa? A No, sir.

Q You say she come to your house after you lived at Van Buren?

A Yes, sir.

Q Where were you living? A At Van Buren.

Q How far is that below Van Buren? A Ten miles below Van Buren.

Q You are the wife of this Albert Lattimer? A Yes, sir.

Q Did you and he come from South Carolina together?

A Yes, sir, we was married and he come in the fall before me and I come in the January following.

Q You joined him there at Van Buren, or where? A We was married in South Carolina.

Q He come out here ahead of you and got a place? A Yes, sir.

A And you come on afterwards and joined him at Van Buren?

A No, sir; at Dixie Station, we and my family.

COM'R NEEDLES: Do you know whether this woman was married after Moore went to Africa? A I heard it.

Q How long did she live in Van Buren after Moore went to Africa? A No, sir, I know she went to my own country.

Q Did you know Steward Moore? A Yes, sir.

Q Was he a colored man? A Yes, sir.

Q Do you know a man by the name of Jack Moore? A No, sir.

Q Do you know whether Winnie Moore was a slave or not?

A No, sir, I don't know at all.

File with Cherokee Freedman D-

578, 9. 11. 1901

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 27, 1901.

In the matter of the application of Winnie Mackey for the enrollment of herself and one child as Cherokee Freedman.

Winnie Mackey, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Winnie Mackey.
Q How old are you? A I don't know how old I am.
Q How old are you? A I don't know my age.
Q About how old? A I am fifty some thing.
Q What is your postoffice? A My postoffice is Wagoner now.
Q In the Creek Nation? A Yes, sir.
Q Where do you live? A Cooweescoowee.
Q You apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child.
Q What is the child's name? A Andrew.
Q How old is Andrew? A Andrew is about 18.
Q Andrew Mackey? A No, sir, Andrew Moore.
Q Have you any witnesses? A Yes, sir.
Q Who are they? A John Baldrige, Ester Grimmett and Polly Nevers.
Q Is your name on any of the rolls of the Cherokee Nation? A It ought to be.
Q Yes, but is it? A Yes, it is on the Clifton roll.
Q Your name isn't on the roll of 1880? A It ought to be.
Q Well is it? A I don't know whether it is or not.
Q What was your father's name? A Robert Davis.
Q Is he living? A No, sir, he is dead.
Q What was your mother's name? A Elizabeth Margaret Davis.
Q Is she living? A No, sir, she is dead.
Q How many times have you been married? A I have been married but once, I lived with a man once, I wasn't married to him.
Q What was his name? A Stewart.
Q Is he living? A No, sir, he is dead too.
Q What was his first name? A His first name was Meelie.
Q What was the next man you lived with? A Roswell Mackey.
Q Is he living? A Yes, sir.
Q Are you living with him? A No, sir, I am in Wagoner and he is in Briggs.
Q This Andrew Moore, is he your child? A Yes, sir.
Q You were not married to the father of that child? A No, sir.
Q Now what name are you on the roll by? A I have got five children: I am just telling you the ones I am enrolling on.
Q You don't ask to enroll anybody but Andrew Moore? A No, sir, the rest is of age.
Q What name are you on the New-Clifton roll by? A Moore.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Jack Moore.
Q Was he a Cherokee citizen? A Yes, sir.
Q Where were you born? A I was born in the Cherokee Nation.
Q Have you taken out of the Cherokee Nation during the Civil war? A Yes, sir.
Q Where to? A Jack Moore takes us down to Texas.
Q Jack Moore took you himself? A Yes, sir.
Q What was that; that while the war was going on? A Yes, sir, I can't know the numbers now, I can't tell one year from another.
Q You know the war was going on, you know about that? A Yes, sir.

Q How long did you stay in Texas? A I can't tell that neither.

Q Then did you come back to the Cherokee Nation? A Well I came in here they said it was '99, but that I know of.

Q They told you it was '99? A Yes, sir.

Q Where did you come to? A Came to Fort Gibson.

Q That is the first place you recollect after you came from Texas, of being in Gibson? A Yes, sir.

Q Were you married then? A No, sir.

Q Have you lived in the Cherokee Nation ever since? A Well, I have been out since that working around and about in places in the states.

Q Kansas? A No, sir, never been to Kansas.

Q Arkansas? A Yes, sir.

Q Where were you married? A Where was I married, I was married in Erzee.

Q Cherokee Nation? A Yes, sir.

Q When were you married? A Married about five or six years ago.

Q That was the first time you were lawfully married? A Yes, sir, I lived with a man and had children but I wasn't married to him.

Q You lived with Stewart? A Yes, sir.

Q Where were you when you lived with Stewart? A Part of the time I was in the Cherokee Nation and part of the time I was in Fort Smith.

Q How many children did you have by Stewart? A All I got I got by him.

Q Please give me the names of them? A Joe.

Q Joe Stewart? A No, all of them goes by Moore.

Q How old is Joe? A I don't know, he is twenty something.

Q Where was he born? A Joe was born down at Uncle Billy Edwards.

Q Arkansas? A No, sir, Cherokee Nation.

Q What is the next one named? A Bob.

Q Where was Bob born? A He was born there too.

Q What is the next one? A Amelia.

Q Where was she born? A Down on Elk Creek.

Q Was that in Arkansas or the Cherokee Nation? A If it wasn't in the Cherokee Nation, it was close by, close by Checotah.

Q It might have been in the Creek Nation? A It might have been, I don't know.

Q What is the next one named? A Maggie.

Q Where was Maggie born? A She was born at Edwards.

Q That in the Cherokee Nation? A Yes, sir.

Q Same place Amelia was born? A No, sir.

Q What is the next one named? A Andrew.

Q Born in the Cherokee Nation? A Yes, sir.

Q All your children then were born in the Cherokee Nation, were they, except Amelia might have been born in the Creek Nation down there close to the line? A Yes, sir.

Q You have been living in the Cherokee Nation ever since you took up with Stewart? A No, sir, I went in the states some.

Q Well, what state? A Worked around in Arkansas, in Fort Smith.

Q Were you married when you were over there? A No, sir.

Q You work in any other state besides Arkansas? A No, sir.

Q Work anywhere else in Arkansas besides Fort Smith? A To Van Hook.

Q N't along the line there? A Yes, sir.

Q Sometimes in the Cherokee Nation and some times over in Arkansas? A Yes, sir.

Q Is that as far as you have ever been out of the Cherokee Nation? A No, sir.

Q How much further out did you go? A I went just about three

days before Christmas, I went in Kansas City, this last Christmas.
Q How long did you stay there? A Stayed there a little over a month.

Q Work there? A No, sir, I wasn't working.

Q Visiting up there? A Yes, sir.

Q And then came back? A Yes, sir.

Q That the only time you ever were in Kansas? A Yes, sir never was there in my life before.

Q How long were you in Oklahoma? A Never was there, don't know anything about Oklahoma.

Mr. J. S. Davenport, Cherokee attorney: Do you know to what point you went when you left the Territory during the war? A Went when I left the Territory I went down in Texas.

Q At whose place did you go to? A They hired me out when I went down there.

Q Don't you remember any one's name where you were? A They hired me to one man, I can't think of his name now to save my life, I am old and I can't remember things.

Q Who did you belong to now did you say? A I said I belonged to Jack Moore.

Q Well now where did Jack Moore live? A He lived down in Sequoyah district.

Q What kind of a house did he have? A He had a log house, hewed log house.

Q Who were your neighbors there, can you think of their names? A There was a man lived close to us named Youngblood.

Q Anybody else you remember? A No, sir, I don't remember, I don't remember his given name.

Q Well you remember anything about John Gunter? A Well he might have been somewhere up there, I don't know, I forget.

Q You know what year you came back? A No, sir.

Q Now you lived on Elk Creek how long? A On Elk Creek, how long I lived on Elk Creek?

Q Yes? A I don't know, I lived there, I can't tell how long, I was just from one place to another.

Q When you came back to Elk Creek was there any railroad near there? A Any railroad there or not?

Q How long was it until you saw the railroad built near there?

A Well, I don't know, I will not tell it for the truth how long it was, because I can't tell you, I can't remember things like a young person.

Mr. F. W. Hastings, Cherokee attorney: I want to know where Jack Moore, your owner, lived in Sequoyah District, what part of the district, on what creek.

Q What part, what creek? I don't know: it was a branch we lived close by a branch.

Q Well, what was the name of that branch? A I forgot the name of the place.

Q Jack Moore have a family? A Yes, sir.

Q What was his wife's name? A Nancy.

Q Was Jack a Cherokee himself? A Yes.

Q Was his wife a Cherokee? A Well I don't know that.

Q Did he have any children? A Well I believe, yes there was two boys.

Q What were their names? A One was named Bill I think.

Q What was the other one named? A I can't think of the other one's name to save my life.

Q Was Bill or the other one the older: which was the older of the two? A That is more than I can tell, I don't know which was the older.

Q Were they good size boys at the opening of the war? A Yes.

Q About grown? A They were good sized, I don't know how old

they were.

Q Were you living in the hills or in the prairie? A I was living kinder in the hills like.

Q What was your nearest town at that time? A I never went to town none, I don't know which was the nearest.

Q You never heard of any town? A I didn't say I never heard of any town.

Q Did you? A I don't know whether I did or not.

Q Was there any stores around there or anything around there? A I never went to any stores.

Q Do you know who had one? A No, sir, I don't know about the store part.

Q And this man there had a small log house did he, a hewed log house? A He had a log house, yes, sir.

Q Was it a double log house? A Yes, sir, I believe it was.

Q You have mentioned Mr. Youngblood, I want to know some of the others of your neighbors at that time? A I can't tell them, it has been so long and my head has been so confused I can't tell them.

Q You don't know any rivers or streams around there? A There was one river not so powerfully far.

Q Do you know in what direction it was? A It was this way (indicating.)

Q Was it north or south or east or west of your place, the river?

A Like here was the house and that would be the river, what would you call it?

Q I am asking you? A I can't tell you, I am showing you.

Q What sort of a farm did he have, big farm or little one?

A Wasn't a very big farm.

Q Have any more slaves besides you? A Yes, sir.

Q What was their names? A Had an old man named Tom.

Q Tom what? A Named Tom.

Q Have any other names? A That is all the name he went by then.

Q That the only one he had? A Had one named Nancy.

Q Do you know of any other neighbors of Moore's except Youngblood?

A No, I can't think of none right now.

Q Do you know of any town? A No, sir.

Q You can't think of any steam? A I told you where the river was.

Q How far from your place? A What, the river; I don't know how many miles it was out there.

Q Was it a short distance or a long one? A It was a tolerably long distance, not so very far.

Q Well, was it 15 miles? A No, sir, not quite that.

Q Yes? A I don't know how far, I am not going to tell you how far the river was when I don't know.

Q I am trying to get you to tell the facts about it; I want a sufficient description of the place you lived before the war, we are disputing your competency and I am trying to get you to testify as near as you can where you lived at? A Well, I lived in Niquoyah.

Q Now I want to know what part of Niquoyah district, if I can find out; want to know whether it was north or south, in what part of the district, east or west, or near some spring or some family so we can locate you? A Well I can't tell it, I don't know; you say east or west you want to know?

Q What part of the district, tell that in your own way? A We lived out in that way (indicating) and I can't describe it exactly.

Q Did you ever see any of these witnesses of yours before the war?

A Yes, sir.

Q Who did you ever see? A I seen all of them.

Q Down at your place? A They have lived all around there.

Q Were they there at your place before the war? A No sir, none

them at the place where I lived, John Muldridge, I had met him at a dance once.

Q Before the war? A Yes, sir.

Q At whose house? A At his aunt's house.

Q What was her name? A Her name, I forget her name, he can tell you.

Q How far was that from where you lived? A It was a good ways.

Q Twenty miles? A I don't know whether it was 20 miles or not.

Q How old do you say you are now? A I say I am fifty something, I never did know my age, that is what I said.

Q Who did you come back to the Nation with after the war? A Why I came back here in the Cherokee Nation with the Mayes and Sanders and Mackays.

Q You came to Fort Gibson first? A Yes, sir.

Q Was your mother with you? A No, sir.

Q Where did you take up with this man Stewart? A I found him down in the Choctaw Nation.

Q Was that before you came up there? A No, it was afterwards.

Q Then you went back to the Choctaw Nation after you came up here? A I went back a little while and stayed there.

Q Who went back with you? A Who went back with me. I forget now who did go back with me.

Q You met him down there then? A Yes.

Q Near what place? A Why we went to an old man's house by the name of John.

Q And you commenced living with him there, did you? A Well I took him.

Q And he came up with you then? A Well we came back again.

Q How long did you live with him there before you came back again?

A Stayed down there a good little bit.

Q Eight or ten years? A No.

Q Five years? A Didn't stay that long.

Q About how long? A About two I reckon, however it might have been longer than that, I don't know just exactly how long.

Q Your oldest child was born down there was he? A No, he was born in the Cherokee Nation to Uncle Peter Edwards.

Q Where is that Edwards place that these children you say was born?

A It is over close to Fort Smith.

Q How far from Fort Smith? A Well, not far.

Q About how far? A Well, it is about three miles I reckon.

Q What direction from Fort Smith? A Back that way, they always called back that way north, it is about north.

Q Edwards a white man? A No, sir.

Q Colored man? A He was an Indian, mixed with negro.

Q What side of the river did he live on, do you know? A He lived on this side, on the north side of the river, just some side his place was.

Q He farmed down there, did he? A No, he never had a farm. He was a doctor.

Q What sort of a house did he live in? A A little log house.

Q Did he have a family? A He had had a wife.

Q Didn't then? A No, sir.

Q Any children? A No, sir, no children.

Q Who were your neighbors around Edwards? A Why the closest neighbor we had there was an old lady by the name of Phoebe.

Q Phoebe what? A I don't know what her other name was, Phoebe Walker I think her name was.

Q You lived down there till six or eight children were born?

A No, I never had that many children.

Q Well, all but one? A Yes.

Q And that is the only neighbor you know? A No, I would go away and come back there.

Q What did you go down there for? A I done something

Q Who did you work for? A I worked for the...
 Q How long did you work for him? A I was out of there
 Edward I didn't do any work
 Q Didn't work for the... of the... A Not that I
 didn't.
 Q Never had any more work for your boss? A No, sir.
 Q How far was towards from where you were born? A From where I
 was born - I don't know.
 Q Were you ever back to the old home place since the war?
 A No I haven't been back there.

Taking of testimony continued by stenographer Chas. van White.

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 10th of July, 1901.
 Signed, T. B. Needles,
 Court Officer.

Continued from Stenographer Bruce C. Jones.
 Volume 1, 2., June 27th, 1901.

FOLLIE HEVING called and sworn as a witness for the applicant:-
 By Chas. T. B. Needles-

Q What is your name? A Follie Heving.
 Q What is your age? A 36.
 Q What is your postoffice address? A Fort Gibson.
 Q Are you a recognized Cherokee freedman? A Yes sir.
 Q Do you know the applicant Winnie Mackey? A Yes sir.
 Q How long have you known her? A Just the year, the first year
 peace was made.
 Q Was she a slave during the war and before the war? A She was
 with her owners when I went to hire her.
 Q Where was she then? A At Fort Gibson.
 Q You went to hire her you say? A Yes sir for Mrs. Rogers where
 was working at the hotel.
 Q Who did you hire her from? A The Negroes, they was her owners.
 Q What year was that that you hired her? A The first year that
 peace was made - peace was made in the summer and that was in the fall.
 Q You don't know whether it was '00 or not? A That was in '00 was
 it.
 Q How long have you known her since? A I have not used her in a
 long time. She was working with me at the hotel and then we
 let her go. She had not good ground there and Mrs. Rogers let
 her go.
 Q Where did she go to? A I don't know, she was not a very good
 worker. I don't know where she did go and let her go.
 Q Did she go to the...? A She lived out in
 town.
 Q Did you ever see her after that? A I never saw her any
 more.
 Q Where did she live? A Yes sir I used her at bridge when she
 married the...
 Q Did she ever live before the war? A No sir.
 By Needles - (applicant representative)
 Q Who were those people from whom you hired her? A Negroes.
 Q What were their first names? A I don't know.
 Q Was there a man and wife there, I mean a Mr. and Mrs. Mackey?
 A Yes sir.

Q - Didn't you find out the first name of either of them? A No, sir, Mrs. Bowers wanted some one to help with the kitchen and asked me to look out for someone among the refugees that was coming around there and I went down into the camp where these people were and hired this one

Q Was the Mrs. Bowers you speak of, Joe Bower's wife? A Yes sir.

Q You never saw this woman Winnie Mackey before that? A No sir.

Q How old was she then? A 15 or 16 years old.

Q Was she married then? A No sir.

Q Not living with a man at that time? A No sir.

Q He no children then? A No sir.

Q Was her mother there? A I dont know, I just went there and saw I wanted to hire some one to work at the hotel and that there was three dollars a week for a good worker and she said she was a good worker and wanted to hire out and I took her, but she wasn't much good around there and Mrs. Bowers let her go.

By the Commission:

Q Were the Moores Indians? A Yes sir.

By Hastings-

Q What became of them? A I dont know, they all scattered out.

Q Did you witness for this woman before the Kern-Clifton Commission?

A No sir.

Q What are you doing up here? A What are you doing up here your-

self?

Q That is my business, you are a witness and I want you to tell me what you are doing up here? A I come up here to look after my kin folks friends and acquaintances just as far as I know and no farther, I am doing what is right and am telling the truth just as I know it

EASTER WILLIAMS, called and sworn as a witness for applicant-

By Commission-

Q What is your name? A Easter Grinnett or Williams.

Q How old are you? A About in the 50's.

Q What is your postoffice address? A Ruky

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Do you know this applicant? A Yes sir.

Q How long have you known her? A It has been so long, I met her in Fort Gibson when she was a young girl and then she never had any children.

Q Did you see her in '66? A I didn't see her until I seed her at Gibson and then I never seed her any more until I seed her at this enrollment.

Q You never saw her mix between those times? A No sir.

Q Who did she belong to before the war? A She said she belonged to the Moores.

By Hastings-

Q Was the war still going on when you first saw this girl? A Yes sir

Q With whom was she living there? A She was working out.

Q Who for? A I dont know just who she said she was working out for.

Q You didn't see her owners yourself? A No sir.

Q You saw her after she was freed did you? A Yes sir, about that time.

Q You dont know what year it was? A I dont know the year, but it was the time the war was going on, just about time of peace.

Q Where did you next see her? A I seed her at Gibson at the enrollment - I remember now I seed her then.

Q Was that 2 or 3 months ago? A You know there has been several enrollments at Gibson? A No sir it was at the Kern Clifton court.

JOHN BALDRIDGE called and sworn as a witness for the applicant-

By the Commission:

Q What is your name? A John Baldrige.

Q How old are you? A I was born in 1830, born and bred then.

Q How old bred in the same year? A Yes sir.

Q Are you a recognized Cherokee Freedman? A Yes sir.

Q Is your name on the roll of 1860? A No sir these fellows knock-
ed me off, only on election times they say I am all right.

Q When they want you to vote for them? A Yes sir.

Q Do you know the applicant here? A Yes sir.

Q When did you first know her? A I got well acquainted with her
in '66.

Q Was she a slave? A So said she was.

Q Do you know her to have been a slave? A I say, so said, I don't
know myself.

Q Was she taken out of the Cherokee Nation during the war? A I don't
know.

Q Where did you first see her after the war? A In Fort Gibson in '66
and then I have seen her off and on in Sequoyah district 2 or 3 times.

Q Was she married when you first saw her? A No sir.

Q Who was she with? A Some Cherokees.

Q Do you know their names? A Some of the Mayfields.

Q Are you satisfied this is the same woman you saw there? A Yes sir

Q You didn't know her father and mother? A No sir.

Q Where does she live now? A In Cooweescoowee district near Lezahpah

Q Is she married now? A Yes sir, she was married to Roswell Mackey

Q Do you know her children? A I know Bob and Joe and Maggy and
one girl I disremember.

Q Was she ever married before she married Roswell Mackey? A I don't
know.

Q Is Roswell Mackey the father of these children? A I don't know.

Q Do you know Roswell Mackey? A Yes sir.

Q Were they living together as husband and wife when you knew
them both? A Yes sir.

Q You was in Fort Gibson in '66? A Yes sir from '65 and was
discharged as a soldier right there.

Q Was you a United States soldier or a Rebel? A I was with the
Union I was fighting them other fellows.

By Hastings-

Q And they made it pretty hot for you too didn't they? A Yes
sir sometimes.

Q You have been on a visit to Detroit Michigan haven't you? A Yes

Q You were with the United States that time too? A (No response)

Q What did they give you that trip for up there? A That is my
business and it is your business to tend to these freedmens court
and to ask things that is right.

Q Well that is what I am doing, now you were sent to the peniten-
tiary up there? A I wont answer nothing that is not lawful, you has
not got the constitution to ask that.

Q You refuse to answer that do you? A Yes sir, I will answer
anything that you had a right to ask, but you has not got the con-
stitution to ask that.

Q When did you come back from Detroit? A I am here since I.

Q Well how long have you been here? A All my days.

Q Well you say you saw this applicant at Fort Gibson in '66? A Yes
sir.

Q What was she doing there? A Just working at the hotel where
Pollie Nevins was staying.

Q What time of the year was that? A Long in the spring.

Q You never saw her owners. A No sir.

Q Was she living with her mother there? A I never seed her mother.

Q At whose place in Sequoyah did you see this woman? A At Mayfields

Q Which one? A They used to live on the road going to Fort Smith.

Q When did you next see her? A Off and on ever since.

Q When did you next see her? A I cant give the day, week and year

Q You never knew her to keep house in the Cherokee Nation did you?

A Yes sir.

FD 978

INDIAN TERRITORY,
CHEROKEE NATION

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public

Proof of Service made
and original filed with the
DEPT. OF COMMISSION.
SEP 18 1901

NOTICE!

IN THE MATTER OF the application of ~~Acolin Brown~~
for enrollment as a Cherokee citizen:

Case No. D ~~378~~

To ~~Acolin Brown~~ ~~Wagoner~~ ~~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 **Fort Gibson, I. T.** at 8 o'clock A. M.

Indian Territory, on ~~Sept. 25th~~ or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, 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 ~~Sept. 27th, 1902.~~

L. B. Bell
M. W. Hastings
Attorneys for the Cherokee Nation.

Cher. Fr. D. 979

Cher. Fr. D. 979

97.7.11

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

In the matter of the application for the enrollment of
Katie Ridge, et al., as Cherokee Freedmen, consolidating the ap-
plications of:

	Cherokee Freedmen	D	295
Katie Ridge,	"	D	586
Cornelius Ridge, et al.	"	D	589
Phoebe Johnson, et al.,	"	D	638
Henry C. Ridge,	"	D	647
Ida Jones, et al.,	"	R	70 ^v
Ary Lynch,	"	R	113 ^v
Elnora Vann,	"	D	591
Maud Riley, et al.,	"	D	594
Bosa Vann, et al.,	"	D	636
William Townsend,	"	D	651 ^v
Mollie Townsend, et al.,	"	"	"
Dennis Hicks Sr., et al.,	"	D	355
Joshua Helt, et al.,	"	D	644
Sallie Miller,	"	D	648
Mary Johnson,	"	D	864 ^v
Emth Vann, et al.,	"	D	866 ^v
Frank Johnson, et al.	"	D	875 ^v
Eliza Hawkins, et al.,	"	D	358
Joseph Hicks, et al.	"	D	360
Katie Hicks,	"	D	361
James A. Hicks,	"	D	362
Frances Johnson, et al.,	"	D	678 ^v
Anna Butler, et al.,	"	D	979 ^v
Howard Bushyhead,	"	D	980 ^v
Katie Davis	"	D	953 ^v
Moses Riley, et al.,	"	D	258
Andrew Riley, et al.	"	R	260
Jesse Riley, et al.,	"	D	261
Frank Riley, et al.	"	D	262
Jerry Riley, et al.,	"	D	263
Fannie Scott, et al.,	"	D	266
Delilah Johnson, et al.,	"	D	267
Lottie Johnson, et al.,	"	D	268
Jane Riley,	"	D	600
Daniel Thompson,	"	D	606
Klick Ward, et al.,	"	D	623
Sandy Thompson,	"	D	693 ^v

Math Riley, et al.,	Cherokee Freedmen	D 579
Nannah Riley,	"	D 549
Charles Landrum,	"	D 601
Bettie McIntosh,	"	D 503
William Riley,	"	D 503
Carrie Osborn,	"	D 784
Gora J. Vagoner, et al.,	"	D 570
Arthur Riley,	"	D 571
Misabeth Milton, et al.,	"	D 441
Julius Curle,	"	D 259
Riley Curle, et al.,	"	D 270
Ophelia Thompson, et al.,	"	D 271.

DECISION.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Katie Ridge for herself; by Cornelius Ridge for himself and wife, Laura Ridge (by intermarriage), and minor children, Pearl, Jesse and Myrtle Ridge; by Phoebe (Milton) Johnson for herself and minor children, Joseph, Percy, Herbert, Serena and Pearl Milton; by Henry C. Ridge for himself; by Ida Jones for herself and minor children, Lee, Eddie and Stella Martin; thereafter, on June 27, 1902, there was filed with the Commission an affidavit showing the birth, on June 8, 1902, of Cornelius Jones, child of the applicant, Ida Jones; by Charles J. Lynch for, among others, his wife, Ary Lynch (by intermarriage), the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Walter Vann for, among others, his wife, Minna Vann; the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Maud Riley for herself and minor child, Jesse Barnett; thereafter, on April 9, 1902, there was filed with the Commission an affidavit showing the birth, on October 26, 1901, of John C. Riley, child of the applicant, Maud Riley; by Rosa Vann for herself and minor child, Josephine Vann; by William Townsend for himself; by Nellie Townsend for herself and minor children, Rosa, George, Arthur and Ethel Townsend; by Dennis Hicks, Sr., for himself (by intermarriage), and wife, Bettie Hicks and minor children, Leroy, Dennis Jr., Dolana, Habel and minor children; by Joshua Holt for himself and wife, Jane Holt, and minor children, Laura and Ella Beecher, and minor children, Jessie Willard, Clifford and Mamie (Marbelia) Holt; by Sallie Miller for herself; by Mary Johnson for herself; by Ruth Shinnott for

herself and minor children, Martha and Lillie Chinnett; subsequent to filing her application herein and prior to September 1, 1902, the applicant, Ruth Chinnett, was married to one George Vann, and she will now be listed for enrollment as Ruth Vann; by Frank Johnson for himself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 7, 1902, of Luella Johnson, child of the applicant, Frank Johnson; by Eliza Hawkins for herself and minor child, Tyndle E. Hawkins; by Joseph Hicks for himself and wife, Susie Hicks (by intermarriage), and minor child, Otto A. Hicks; by Katie Hicks for herself; by James A. Hicks for himself; by Frances Johnson for herself and minor children, Nettie Katie, Clarence and Wilda Johnson; by Anna Butler for herself and minor child, Esther Owen; by Anna Butler for her adult brother, Howard Bushhead; by Katie Davis for herself; by Moses Riley for himself and minor child, Lillie Riley; by Andre Riley for himself and minor children, Joseph, Willie Riley; by Jesse Riley for himself and minor children, Joseph, Ellie, Viola, Sabel, Elvora, Ideller and Luther D. Riley; by Frank Riley for himself and minor children, Lottie, Fannie, James, Ralph, Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth, on November 30, 1901, of Earl A. Riley, child of the applicant, Frank Riley, and on June 28, 1902, there was filed with the Commission an affidavit showing the birth, on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant, Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James M., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller, and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Ellick Ward for himself and wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Waine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant, Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth, on August 24, 1901, of Oval Wagoner, child of the applicant, Cora J. Wagoner; by Arthur Riley for himself; by Elizabeth Melton for herself and minor child, Elvora Melton; by Julius Curle for himself; by Riley Curle for himself and minor children, Willie, Edward, James, George, Stephenie and Clarence Curle; thereafter, on July 1, 1902, there was filed with the Commission an

affidavit showing the birth, on February 13, 1902, of Beatrice Curls, child of the applicant, Riley Curls; and by Ophelia Thompson for herself and minor children, Alpha, Libbie, Mischel, Harvey and Clyde Thompson.

Copies of the following testimony, decisions, and Departmental letters are filed herewith and made a part of the record in this case: Its decision rendered by the Commission on March 5, 1904, and Departmental letter of May 17, 1904 (I.T.D. 3470-04), in the case of Ed Vann, C.F.D. 560; its decisions rendered by the Commission on July 10, 1903, and June 23, 1904, and of Departmental letters of May 11, and November 12, 1904 (I.T.D. 2412 5594-04), in the cases of Jesse Vann et al., C.F.D. 284 (R 302), and Emma Purdie C.F.D. 245; its decisions rendered by the Commission on March 6, and April 20, 1904, and of Departmental letters of June 9, 23, and 25, 1904 (I.T.D. 4386, 502-5034-04), in the cases of Esther Holt, C.F.D. 645 (R 443), Tecumseh Holt, C.F.D. 653 (R 399), Willia Holt, C.F.D. 694 (R 398), and Moses Holt C. F. D. 18, its decision rendered by the Commission on March 5, 1904, and Departmental letter of June 21, 1904 (I.T.D. 4736-04); in the consolidated case of Katie Thornton et al., C.F.D. 576 et al., (R 410-R 411-R 412-R 13-R 414); of the testimony taken at Chelsea, Indian Territory, June 6, 1901, its decision rendered by the Commission on April 20, 1904, and of Departmental letter of October 31, 1904, (I.T.D. 8138-04), in the consolidated case of Katie Blackwell, et al., including, among others, the application of Mary Riley, C.F.D. 624; of its decision rendered by the Commission on November 23, 1904, in the consolidated case of Andrew L. Katie, C.F.D. 502, et al., and of the testimony taken at different times and places in the cases of Edward Derric, C.F.D. 518, Aaron Webber C.F.D. 216, Elizabeth Keige, et al., C.F.D. 391, Samuel Beck, et al., C.F.D. 775, David Johnson, C. F. D. 356, Abraham Ward, C.F.D. 607 (R 283), and of Peter Earl, C.F.D. 613, R282).

THE EVIDENCE IN THE CASE SHOWS: That the applicant, Katie Ridge, is the mother of the applicants, Cornelius Ridge and Phoebe Johnson, and of one Jesse Ridge, and one Mary Ridge (later Jones, former wife of Dennis Hicks Sr., p 355, infra.), both deceased; that the said applicants and the said Jesse and Mary Ridge, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation; that the applicants, Laura Ridge and Ary Lync, neither claim nor possess any rights to enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicant Cornelius Ridge and to the said Jesse Ridge, deceased; that the applicants, Pearl, Jesse, Myrtle and Henry C. Ridge, and Ida Jones, are children of the said

applicants, Cornelius and Laura Ridge, were born since 1866, and possess no rights to enrollment other than as descendants of their said parents; that the applicants, Joseph, Percy, Herbert, Berens and Pearl Wilton, Paul Riley, Rosa Vann, and William Townsend, are children of the applicant Phoebe Johnson, were born since 1865, and possess no rights to enrollment other than as descendants of their said mother; that the applicants, Lee, Eddie and Stella Martin and Cornelias Jones, are children of the applicant Ida Jones, were born since 1866, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said applicants Lee, Eddie and Stella Martin, possess any rights to enrollment other than as descendants of their said mother, and the applicant Cornelias Jones, possesses no right to enrollment other than as his mother's descendant; that the applicant Elmera Vann, is a child of the applicant Art Lynch, and the said Jesse Ridge, deceased, was born since 1880, and possesses no right to enrollment other than as a descendant of her said parents; that the applicant Jesse Barnett, is a child of the applicant Paul Riley, was born since 1880, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said Jesse Barnett, possesses any right to enrollment other than as a descendant of his said mother, and that the applicant John C. Riley, is a child of the said applicant Paul Riley, and one William Riley, (Said William Riley's rights to enrollment are considered below, C.F. D. 603), was born since 1860, and possesses no rights to enrollment other than as a descendant of his said parents; that the applicant Josephine Vann, is a child of the said applicant Rosa Vann, was born since 1837, and possesses no rights to enrollment other than as a descendant of her said mother (In C.F.D. 660, the Commission found that one Ed Vann, father of the said applicant Josephine Vann, possesses no rights to enrollment as a Cherokee freedman, and on May 17, 1904, Departmental letter I.T.D. 3470-04, said finding was approved by the Department); that the applicant Nellie Townsend is a daughter of one Jesse Vann, and one Emma Purdie, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 254 and 26, the Commission found that the said Jesse Vann and Emma Purdie possess no rights to enrollment as Cherokee freedmen, and on May 11, and November 12, 1904, Departmental letters I.T.D. 2412-3594-04, said findings were approved by the Department); and that the applicants, Rosa, George and Arthur Townsend, are children of the said applicants William and Nellie Townsend, were born since 1880, and possess no rights to enrollment other than as descendants of their said parents.

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicants, Dennis Ficks Sr., and Susie Ficks, neither claim nor possess any rights to enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicants Bettie and Joseph Ficks; that the applicants Bettie Ficks, Joshua Helt

and Sallie Miller, (children of one Esther Holt), and Anderson Johnson, deceased, Buck Bushyhead, deceased, and Nettie Downing, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the Whitmire decree, supra., for the return of freedmen to the Cherokee Nation; that the applicants, Leroy, Dennis Jr., Delano, Mabel, and Elmer Hicks, Jane Holt, Laura and Ella Beeson, Jessie, Willard, Clifford and Maucelia (Marcellia) Holt, Mary Johnson, Ruth Vann, Martha and Lillie Chinnett, Frank and Luella Johnson (In C.F.D. 855 the Commission found that one Charlotte Bee, mother of the applicant, Luella Johnson, possesses no rights to enrollment as a Cherokee freedman, and on July 21, 1904, its finding was approved by the Department), Eliza and Tyndie E. Hawkins, Joseph, Otto A., Katie and James A. Hicks, Frances, Nettie, Katie, Clarence and Wilda Johnson, Anna Butler, Esther Owen, Howard Bushyhead, and Yatie Davis, were born since the commencement of the rebellion, are descendants of the said applicants, Dennis Hicks Sr., Bettie and Susie Hicks, Joshua Holt and Sallie Miller, and of Anderson Johnson, deceased, Buck Bushyhead, deceased, Nettie Downing, deceased, and Mary Ridge, deceased, (In re Mary Ridge see preceding paragraph), and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

THE EVIDENCE FURTHER SHOWS: That one Riley McNair and one Maria McNair, both deceased, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah and Lottie Johnson, and of Millie McNair, deceased; that the said Riley, Maria and Millie McNair, all deceased, and the said applicants, Mose, Andrew, Jesse and Jerry Riley, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Elick and Amanda Ward and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the above mentioned Whitmire decree, for the return of Cherokee freedmen to said Nation; that the applicant, Ruth Riley, is a daughter of Henry Thornton, deceased, and Katie Thornton, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 578, 580 and 581, the Commission found that the said Katie Thornton and one Maggie Curle and one Joseph Thornton, full sister and brother of the said applicant, Ruth Riley, possess no rights to enrollment as Cherokee freedmen, and on June 21, 1904, its finding was approved by the Department); that the applicant, Hannah Riley, was born prior to the commencement of the rebellion, and was the slave of a non-citizen of the Cherokee Nation at the commencement of the rebellion; and that the applicants, Lillie

Nathaniel, Joseph, Ollie, Viola, Mabel, Minora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E., Clarence (In C. F. D. 624, the Commission found that one Mary Riley, wife of the applicant Frank Riley, and mother of the applicants, Lottie, Fannie, James, Ralph, Arizona, Inola and Earl E. Riley, and grandmother of the applicant, Clarence Riley, possesses no rights to enrollment as a Cherokee freedman, and on October 31, 1904, its finding was approved by the Department), Samuel, James, Anania, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Rebecca, Luford, Wilbert and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Beattie McIntosh, William Riley, Carrie Gibson, Cora J., and Oval Wagoner, Arthur Riley, Elizabeth and Minora Melton, Julius, Riley, Willie, Edward, James, George, Stephenia and Beatrice Curis, (One Nancy Curis, C. F. D. 429, who was denied enrollment by the Commission, is the mother of the six last mentioned applicants), Ophelia, Alpha, Libbie, Mirschel, Harvey and Clyde Thompson, were born since the commencement of the rebellion, are descendants of the said applicants, Moses, Andrew, Jesse, Jerry, Jane, Ruth and Hannah Riley, Fannie Scott, Lottie Johnson, Daniel and Sandy Thompson, and Klick and Amanda Ward, and of the said Riley McNair, deceased, Maria McNair, deceased, and Millie McNair, deceased, Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, and possess no rights to enrollment other than as such descendants.

None of the applicants herein born during or prior to the first below mentioned year, nor the ancestors of any of the said applicants herein born during or subsequent to the said first below mentioned year, can be identified on the Cherokee authenticated tribal roll of 1880, and none of the applicants herein can be identified on the Cherokee census roll of 1896.

THE EVIDENCE HEREIN FURTHER SHOWS: That the applicants Ethel Townsend and Clarence Curis, died prior to September 1, 1902. Affidavits to that effect are filed herewith and made a part of the record herein.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"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."

The applicants, Katie and Cornelius Ridge and Phoebe Johnson, testify that they, together with Mary and Jesse Ridge,

both deceased, returned to the Cherokee Nation in 1866, remained a few months, and then removed to Joplin, Missouri, where they resided for a number of years. That they returned to the Cherokee Nation in 1866 is controverted by the testimony of witnesses who were in a position to know the matters of which they testify. In view of the fact that the burden of proof is on the applicants, and they must show by satisfactory evidence that their rights to enrollment are perfect, it is considered that these applicants have wholly failed in this, and that their applications come within the rulings of the Department in the cases of Kliza Bryant, et al. I.T.D. 544-04, William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert et al., (I.T.D. 4752-04), and Moses Ross (I.T.D. 6056-04); and, granting that said above named parties did return to the Cherokee Nation in 1866, as contended, it is further considered that they did not establish such a residence in said Nation as was contemplated by the treaty of 1866, and are, therefore, within the rulings of the Department in the cases of Martha Gales and Susan Brown (I.T.D. 1250-04), and Thomas Rayfield et al. (I.T.D. 6968-04).

The testimony in re return to the Cherokee Nation, after the rebellion, of the applicants, Bettie Hicks, Joshua Holt, and Sallie Miller, and of the said Buck Bushyhead, deceased, and Nettie Downing, deceased, is contradictory in itself, and contradicted by the testimony of witnesses in behalf of the Cherokee Nation, hence, it is unsatisfactory, and the first above mentioned rulings of the Department are considered applicable. In this connection attention is called to the cases of Kather Holt, C.F.D. 648, Tecumseh Holt, C.F.D. 663, William Holt, C.F.D. 694, and Moses Holt, C.F.D. 125, mother and brothers of the three applicants first named in this paragraph. The material facts as established by the evidence in the several cases embracing this family, are practically the same, and the Commission found that the said Kather, Tecumseh, William and Moses Holt, possess no rights to enrollment as Cherokee freedmen, and its findings were duly approved by the Department. Granting that the applicants, Bettie Hicks, Joshua Holt and Sallie Miller, and the said Buck Bushyhead and Nettie Downing, deceased, returned to the Cherokee Nation during the interval between the close of the rebellion and February 11, 1867, they must have remained but a short time, as, by the testimony of the applicants themselves, and that of disinterested witnesses, it is shown that during a period beginning immediately subsequent to the year 1867, they, for a number of years, continuously lived outside the limits of the Indian Territory, consequently, the ruling of the Department in the cases of Martha Gales, Susan Brown and Thomas Rayfield, et al., supra, is also applicable to them.

Sam Webber, Lewis Whitnire, and Daniel and Reuben Sanders, testify that Anderson Johnson returned to the Cherokee Nation with them in the summer of 1866, but for reasons more fully set out below, it is not considered that their testimony is either convincing or satisfactory. That these four witnesses complied with

the treaty stipulations of 1866, there is no doubt. They were admitted to citizenship by the Chambers Court, and are identified on the 1880 roll. Without calling attention to the many cases in which the above named witnesses have been successfully contradicted and repeatedly impeached, it is considered by this office, that, after hearing the testimony of numerous witnesses, interested and disinterested, and after the examination of many exhibits filed and made a part of the record in freedman cases, it can identify each and every member of the party of freedmen known as the Webber-Whitmire-Sanders detachment, or colony, who complied with the treaty stipulations of 1866, and it is fully convinced that Anderson Johnson was not a member of that party. In support of this position attention is called to the fact that the personnel of the above mentioned party was thoroughly gone into by the Chambers Court, in 1878-9, and numerous witnesses, among others, the said Lewis Whitmire, examined on behalf of both parties, and that, too, at a time when the facts must have been fresh in their minds, and no particular advantage was to be had by misrepresenting who were included in said party, with one accord testify as to who composed this colony of freedmen, and the said Anderson Johnson is never named as one of them. By reason of changed conditions, the experience of the former Commission and of this office, in their investigations relative to the personnel of said colony of freedmen, has been somewhat different from that of the Chambers Court, but generally the conclusions reached have been the same. It seems to have been the policy of those witnesses appearing before the Commission, who were members of the above mentioned colony of freedmen, to add to said colony as occasion required, but after an examination of a great number of freedman cases in which the above named witnesses testified, it cannot be found that they ever included Anderson Johnson as a member of this colony, until they were called upon as witnesses in behalf of his descendants, although they were often asked to, and as often did, name those who returned with them in 1866.

As to the return of Riley McNair, deceased, to the Cherokee Nation after the rebellion: Moses Hardrick, in behalf of the descendants of the said Riley McNair, testifies that, after the rebellion, he and Riley McNair returned to the Cherokee Nation together. In C.F.D. 314, the Commission found that the said Moses Hardrick did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on October 13, 1904, its finding was approved by the Department. It was several months after the above indicated trip before Riley McNair moved his wife and family to the Cherokee Nation. One Emma Purtle, daughter of the said Riley and Maria McNair, removed from the Cherokee Nation during, and returned thereto after, the rebellion, with her father's family. In C.F.D. 265, the Commission found that the said Emma Purtle did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on November 12, 1904, its finding was approved by the Department. The said Columbus Rogers, deceased, returned to the Cherokee Nation after the rebellion with the said McNair-Riley family.

The applicant, Jane Riley, testifies that she returned to the Cherokee Nation in 1866, and is corroborated by her witness, Jack Landrum. No credit can be given the testimony of the said Jack Landrum, as he has been repeatedly contradicted and impeached, (See, in particular, C. F. D. 498-D 664 and D 663). In C. F. D. 578 (R 410), he swore, point blank, that Katie Thornton, applicant therein, and her husband, Henry Thornton, deceased, returned to the Cherokee Nation during the winter of 1866, and that he hauled logs to help build their house. In this case it was conclusively shown by the testimony of disinterested witnesses, that the said Katie and Henry Thornton did not leave Garnett, Kansas, after the rebellion, prior to March 1, 1871, and on this testimony the Commission denied the applicant, Katie Thornton, the right to enrollment, and its action was duly approved by the Department. Attention is further called to the fact that the said applicant, Jane Riley, and one Ben Landrum, deceased, are the parents of the applicants Charles Landrum and Bettie McIntosh, and that the said two last named applicants were born in 1866 and 1868, respectively. It is shown by the testimony of several disinterested witnesses, and a certified copy of the record of certain proceedings had before the District Court of Woodson County, Kansas, that the said Ben Landrum, continuously lived near Garnett, Kansas, during the years 1866, '67 and '68..

The applicant Daniel Thompson, testifies that on his return to the Cherokee Nation after the rebellion, he found his son, Andrew Watie, at Fort Gibson. In C. F. D. 502, the Commission found that the said Andrew Watie did not return to the Cherokee Nation after the rebellion within the time specified in the Whitaire decree. The applicants Sandy Thompson and Amanda Ward, returned with their father, the said Daniel Thompson.

In connection with those applicants herein who claim through Jess Ridge, deceased, and the applicants, Cornelius Ridge, Henry Ridge, Daniel Thompson, and Robert Foster, attention is called to the fact that the Commission on Cherokee Citizenship of 1878-9, decided that the said Jess Ridge, since deceased, and the four applicants last above named, were not entitled to Cherokee citizenship, a certified copy of the proceedings of said Commission in re above named parties, being filed herewith and made a part of the record herein.

The applicant, Klick Ward, swears that he was raised by one Peter Ward, and after the rebellion returned to the Cherokee Nation with the said Peter Ward and one Abraham Ward. In C. F. D. 613 (R 282), and D 607 (R 283), the Commission found that the said Peter and Abraham Ward did not return to the Cherokee Nation after the rebellion, within the time specified in the Whitaire decree, and on April 29, 1904, its findings were approved by the Department.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, following the ruling of the Department in the case of Lemuel Welcome (I. T. D. 5848, 11776-04), under the provisions of the Act of Congress approved June 28, 1898 (30 Stat., 495), Laura Ridge, Ary Lynch, Dennis Hicks Sr., and Susie Hicks, are not entitled to enrollment

as citizens by intermarriage of the Cherokee Nation, and their applications for enrollment as such are accordingly denied; and that under the provisions of section Twenty-one of the Act last above noted Katie Ridge, Cornelius Ridge, Pearl Ridge, Jesse Ridge, and Myrtle Ridge, Phoebe (Milton) Johnson, Joseph Milton, Percy Milton, Herbert Milton, Serena Milton, and Pearl Milton, Henry C. Ridge, Ida Jones, Lee Martin, Eddie Martin, and Stella Martin, Cornelias Jones, Elnora Vann, Maud Riley, Jesse Barnett and John C. Riley, Rosa Vann and Josephine Vann, William Townsend, Mollie Townsend, Rosa Townsend, George Townsend, and Arthur Townsend, Bettie Hicks, Leroy Hicks, Dennis Hicks Jr., Delana Hicks, Mabel Hicks and Elmer Hicks, Joshua Holt, Jane Holt, Laura Beeson, Ella Beeson, Jessie Holt, Willard Holt, Clifford Holt and Maucolia (Marcella) Holt, Sallie Miller, Mary Johnson, Ruth Vann, Martha Chinnett and Lillie C. Innett, Frank Johnson and Luella Johnson, Eliza Hawkins and Tyndie B. Hawkins, Joseph Hicks, Otto A. Hicks, Katie Hicks, James A. Hicks, Frances Johnson, Nettie Johnson, Katie Johnson, Clarence Johnson and Wilda Johnson, Anna Butler, Mather Owen, Howard Bushhead, Katie Davis, Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, and Leona Riley, Fannie Scott, Charles Wesley Miller, Beadie Scott, and Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Buford Johnson, Wilbert Johnson and Arch Johnson, Jane Riley, Daniel Thompson, Mick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward and Haine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, and Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagoner and Oval Wagoner, Arthur Riley, Elizabeth Melton and Elnora Melton, Julius Curle, Riley Curle, Willie Curle, Edward Curle, James Curle, George Curle, Stephenia Curle and Beatrice Curle, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson Harvey Thompson and Clyde Thompson, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

AND IT IS FURTHER ORDERED AND ADJUDGED: That the applications for the enrollment of Ethel Townsend and Clarence Curle, be, and the same are, hereby dismissed, in accordance with the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716).

Jame Bixby.

COMMISSIONER

Dated at Muskogee, Indian Territory,

this OCT 13 1905

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 10th, 1901.

In the matter of the application of Sallie Miller for the enrollment of herself and one grand-daughter as Cherokee Freedmen; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Sallie Miller.
Q How old are you? A I am 59 years old.
Q What is your postoffice address? A Vinita.
Q In what district do you live? A Coowasecoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anyone besides yourself? A Yes sir.
Q One grand daughter? A Yes sir.
Q What is her name? A Katie Hicks.
Q How old is she? A 20.
Q Is she an orphan? A Yes sir.
Q Have you no children of your own? A They are all old enough to apply for themselves.
Q Have you no husband? A He is a state man.
Q Did he get out a Cherokee license to marry you? A No sir.
Q How long have you lived in the Cherokee Nation? A I have lived here pretty much all my life excepting about 6 or 7 years at different times.
Q Where were you born? A In Flint district, near Stillwell.
Q Were you a slave when the war broke out? A Yes sir.
Q To whom did you belong? A William and Nellie Holt.
Q Were both of them Cherokee citizens? A Yes sir.
Q Where did they live? A They first lived in Flint and then they moved from Flint district to Webbers Falls. That was where we was living when the war broke out.
Q You were belonging to them when the war broke out? A Yes sir.
Q Where did you go when the war broke out? A From Webbers Falls we went to Baxter Springs.
Q In Arkansas? A No sir, it is in Kansas.
Q When did you come back? A I came back in the fall of '65.
Q Have you lived in the Cherokee Nation ever since you came back in the fall of '65? A Yes sir, this has been my home ever since excepting when my husband died I went out and worked and took my children to school.
Q Where did you go when you went to work? A Fort Scott.
Q When was that, in what year was that? A The first time I went out was in '68, I took my children to school, my two oldest children by Dick Whitnire.
Q How long did you stay there with those children? A About 3 months.
Q Did you leave the children there then? A Yes sir.
Q Where did you go then? A Came back and went up on Big creek, to Rachel Whitnires.
Q Did you have a home in the Cherokee Nation all that time?
A Yes sir.
Q When did you go out of the Cherokee Nation the first time? A In '75, is when I went back up to Kansas, after that.
Q What did you go up there for that time for? A I went up there to see my children they were working there then.
Q How long did you stay there then? A Went up in the fall of '75 and staid there until July '76,
Q Did you then come back to the Cherokee Nation? A Yes sir.
Q When did you go out again? A I went up there in June, my husband got sick and was unable to work; he had been an old soldier and he went up to apply for a pension, that was about the 15 or 16th of June '76.
Q Where did you go then? A To Fort Scott.
Q How long did you stay there? A I staid there until the 15th

of '78.

Q Then what did you do? A Went to my aunt Darkeys on Fourteen Mile Creek.

Q When did you go out of the Cherokee Nation the next time? A I staid with aunt Darkey and Mary Rogers a year.

Q What did you do then? A I had no husband then and went about and worked.

Q You had two children up in Kansas then? A No, sir, the boy I don't know where he was then, the girl she had come back to Big Creek with uncle Lewis Whitmore.

Q That was the two children you first took up there? A Yes sir.

Q That years was that? A That was after '80.

Q You worked that in Kansas? A Yes sir.

Q How long did you stay there that time? A About a year.

Q What kind of work did you do then? A Landry work.

Q Where did you go after you had done laundry work there for a year? A Came down on Big Creek.

Q When did you leave again? A I dont remember exactly, I want back in 83 or 4.

Q How long did you stay that time? A 5 or 6 months I guess, not longer.

Q Then what did you do? A Come back on Big Creek to my cousin Rachel Webbers.

Q When did you go out the next time? A I come back in 85, I got married in '84.

Q Where have you lived since '84? A In Vinita.

Q Ever since 84? A Yes sir I got married and my husband and my husband promised to come down here and we come and he staid here two days and one night and I never seed him for three years again.

Q And you continued to live there then until he come back again?

A Yes sir.

Q Have you lived there ever since he come back three years after he had first been there a day and two nights? A Yes sir.

Q Are you on the roll of 1880? A I dont know, I was here then.

Q Give me the name of your father? A Jack Miller.

Q Is he dead? A Yes sir.

Q Give me the name of your mother? A Easter Holt.

Q Is she dead? A No sir.

Q She is living is she? A Yes sir.

Q Where? A In Vinita.

Q Is her name Holt now? A Yes sir.

Q How long has your father been dead? A 17 or 18 years.

Q Was he a Cherokee freedman? A Nosir, a Cherokee full blood.

Q Is your mother a Cherokee freedman? A Yes sir.

Q Did your mother come back with you when you come back after the war? A No sir.

Q You were married and come by yourself? A No sir, we had separated.

Q But you had been married? A Yes sir.

Q And you wasn't with your mother? A No sir.

Q Give me the name of this granddaughter? A She goes by the name of Kate Davis.

Q You say she is 30 years old? A Yes sir.

Q Give me the name of her mother? A Nettie Holt.

Q She is dead is she? A Yes sir.

Q How long has she been dead? A She died I wasn't there with her when she died, I was down to Aunt Darkey's.

Q Well when did she die? A In '78 I guess.

Q Was Nettie Holt your daughter? A Yes sir.

Q Where was Nettie Holt born? A At Webbers Falls.

Q After the war? A No sir before the war.

Q Did she belong to the same people that you belonged to? A Yes sir.

Q Did she go out with you during the war? A Yes sir.

- Q Did she come back with you after the war? A Yes sir.
- Q Did she live in the Cherokee Nation from the time she came until she died? A No sir, she went to Fort Scott to school part of the time.
- Q How long did she go to school there? A 4 or 5 years.
- Q Did she stay in the Cherokee Nation all the time from the time she came back with you right after the war excepting the time she was out to school? A Yes sir.
- Q Give me the name of the father of this child Katie Davis?
- A She told me that Katie's father was named Douglas Putman.
- Q Yes Katie ever married to Putman? A If she was I dont know it, he was a postal clerk on the M.K. & T. Railroad.
- Q He was a state man? A Yes sir.
- Q How many times have you been married? A 3 times.
- Q Who was the first man you ever ~~marry~~ lived with as husband and wife?
- A Dick Whitmore.
- Q Did you and he take up as man and wife before the war? A No sir we were married by the district clerk of Flint district.
- Q After the war? A No sir before the war.
- Q You and he were married then when the war began? A Yes sir.
- Q How long did you and he live together? A About 8 years.
- Q When was it you parted, during the war? A Yes sir.
- Q You went north? A Yes sir.
- Q Where did he go? A He came north.
- Q But you had been parted? A No sir they took him in the army and he run off in '63.
- Q But you parted in war times? A Yes sir.
- Q Who was the next man you lived with? A Buck Bushyhead.
- Q When were you married to him? A In the winter of '65.
- Q After you got back? A Yes sir.
- Q How long did you live with him? A Until '77.
- Q Is he dead? A Yes sir.
- Q Did you live with him until he died? A Yes sir.
- Q Who did you next live with? A Stephen Miller.
- Q When did you marry him? A I think it was in '84.
- Q Is he living? A Yes sir.
- Q He is a state man is he? A Yes sir.
- Q You married him in Kansas? A Yes sir in Fort Scott.
- Q How long after you married him before you come to the Cherokee Nation? A About 5 months I come back to Fort Gibson.
- Q Did he come with you? A No sir.
- Q Where were you when he came down and staid a night and two days?
- A At Vinita.
- Q And then he left you? A Yes sir.
- Q When did he come back to you in the Nation? A About 3 years after.
- Q And you had never seen him in that time? A No, sir, he is in Vinita now.
- Q How long has he been in Vinita? A 8 or 9 years.
- Q Have you and he been living together those 8 or 9 years? A Yes sir.
- Q How did this granddaughter get the name of Davis? A She is married.
- Q Is her husband living? A Yes sir.
- Q Why dont he apply for her? A He dont know nothing about her at all.
- Q What is the name of her husband? A John Davis.
- Q When did she marry him? A Sometime in March, this last March.
- Q Is he a Cherokee Freeman? A Yes sir.
- Q What was this woman's name before she married Davis? A She went by the name of Putman.
- Q You were never married to Putman? A No, sir, this is my daughter's child by Putman, she is my granddaughter, not my child; my

daughter had her by a man named Putnam.

Q What name did you go by in 1880? A Bushyhead.

Applicant cannot be found on the 1880 or 1896 rolls.

Q Did you draw Cherokee strip money? A No, sir, only drew this bread money.

Applicant not found on the Kern Clifton or Wallace rolls.

Q You are not on any of these rolls, is your grand daughter Katie Davis in the same fix that you are? A I think she is married with her grandfather.

Q What was his name? A Dick Whitwire.

Q Is she the grand daughter of your first husband Whitwire?

A Yes sir.

Q Her mother, Nettie, was a child of Whitwire's? A Yes sir.

Q And you think this child Katie Davis is on the roll as Whitwire?

A No sir I think it is on as Putnam, but that her grandpa Whitwire enrolled her.

Q Did she draw Cherokee strip money? A No sir, I think her grandfather drew it for her.

The applicant's grand daughter not found on the Kern Clifton roll, upon examination of same.

The Wallace roll of the Cherokee Nation examined and the name of the applicant's grand daughter found as follows-

Page 146 No. 3047, Katie Putnam, Oowesscoowee district.

The applicant's grand daughter not found on the 1880 or 1896 rolls upon an examination of same.

Q Have you anyone here who knows when you got back after the war?

A Yes sir.

Q Who have you here? A Polly Nivens, Easter Grinnett, Darkey Ruffington.

The continuation of this case taken by Bruce G. Jones.

Chas. von Weise, being sworn, states that as stenographer to 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.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 22nd day of June, 1901, at Nowata, I.T.

Signed, T. B. Needles,
Commissioner.

Continued from testimony taken by Chas. von Weise; June 10, 1901.

SALLIE MILLER, recalled and examined by Commissioner, testified as follows:

Q You say you and Dick Whitwire were married before the war?

A Yes, sir, before the war.

Q Where was it that you and he parted during the war? A He lived in Going Snake district and I lived at Webbers Falls time of the war.

Q How did you happen to part, did he go one way and you go another, or did you quarrel and part? A No, sir, I was living at the Falls and he lived up in Flint District; Going Snake district, and I went out, the soldiers came and got us there and took me to Baxter Springs, and he came after that, I don't know where he came from.

Q Did he come after that while the war was still going on? A Yes, sir.

Q Had you married in the mean time? A No, sir.

Q Well, he was still your husband at that time? A Yes, sir, he

was my husband.

Q You hadn't parted then down to that time? A No, sir.

Q Were you and he husband and wife up in Kansas during the war, at Baxter Springs? A Yes, sir.

Q Well, what became of him after that? A He got away from there in '63.

Q And how long was it that you saw him after that? A I never seen him till the fall of '65.

Q Had you married again in the meantime? A No, sir, I wasn't married when I first saw him.

Q When you saw him in the fall of '65 you hadn't married? A No, sir.

Q Had he married? A I don't know, he was living with a woman.

Q Did he claim you and live with you as his wife? A No, sir.

Q That was, you say, in the fall of '65? A Yes, sir.

Q Now Buck Bushyhead, you say you married him in the winter of '65?

A Yes sir, in the winter of '65.

Q Well most of the winter of '65 was a long time before the fall of '65? A '65; now I made a mistake, I came back, that is in '65, Dick Whitmire was living with a woman.

Q Before you married Bushyhead? A Yes, sir.

Q When you married Bushyhead he didn't any longer claim you as his wife? A Yes, sir.

Q Dick Whitmire was living as man and wife with another woman, and no longer claimed you as his wife? A No, sir.

Q And then you felt free to marry Buck Bushyhead? A Yes, sir.

Q And you lived with Buck Bushyhead until he died? A Yes sir.

Q And after that you married Stephen Miller? A Yes, sir.

Q And you are living with hi now? A Yes, sir.

POLLY NIVENS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Polly Nivens.

Q How old are you? A About 56.

Q What is your postoffice? A Fort Gibson.

Q How long have you lived in the Cherokee Nation? A All my life, never was out.

Q Were you out then during the war? A Went out about five weeks.

Q Were you a slave in the Cherokee Nation when the war came on?

A Yes, sir.

Q To whom did you belong? A Joe Kivens, or Moss Nivens, it is all the same.

Q Do you know the applicant here? A Yes, sir.

Q Did you know her during the war? A Yes, sir.

Q Who was it she belonged to? A Old Mrs. Holt, at the Falls.

Q At Webbers Falls? A Yes, sir.

Q Nellie Holt, was it? A Yes, sir, Mrs. Nellie Holt.

Q How far did this woman live from you in that day? A She lived at Webbers Falls, and I lived at Fort Gibson, at Nivens Ferry.

Q How far is it apart? A I don't know exactly how far.

Q It is very far? A No, sir, it is not very far.

Q Did you know her husband back in that day? A No, sir, I didn't know him, I just knew her; when her mistress would come to our owner to see them.

Q Did you know her down to the time the war broke out? A Yes, sir.

Q Did she have any children in that day? A When I seen her she just had two.

Q Do you remember their names? A No, sir, I don't remember their names.

Q Did she ever have a daughter named Nettie, or do you know that?

A No, sir, I don't know about that.

Q Do you know anything about where this woman went during the war?

- A No, sir, I don't know where she went during the war.
- Q When did you first see her after the war? A Why I saw her right at Fort Gibson.
- Q When was that? A That was when the refugees was drawing rations, you can count back from this, I can't.
- Q Do you know what year that was in? A No, sir, I don't.
- Q It was when the refugees was drawing government rations?
- A Yes, sir, just after peace was made.
- Q Do you know how long she had been back then? A She said she had just come back a short time before that when we first met, hadn't long come back.
- Q Had peace been made then? A Yes, sir, peace was made.
- Q How long was that after peace was made before you saw her, do you know? A No, sir, I can't tell that exactly.
- Q Well, what do you know about her from that day to this, have you been seeing her all the time? A No, sir, I can't locate her all the time, she stayed a while in Gibson and said she was going away from there, and I asked her where she was going and she said I was going to take my children back to school, and said, there is nothing here for them but badness, and I said, you had better come back down here.
- Q Did you ever know this child Nettie after the war? A No, sir, she just had two children with her and I never paid no attention to them at all.
- Q Well, have you seen much of her from that day to this? A No, sir, I haven't seen her for a good while until I met her here again. I heard of her but I haven't seen her.
- Q Did you remember and recognize her distinctly? A Yes, sir.
- Q As the woman you knew before the war? A Yes, sir, knew her the minute I set my eyes on her.
- Q The same woman you knew in Fort Gibson? A Yes, sir, same woman; I was glad to meet her alive.
- Q Do you know anything about her marriages since the war time?
- A No, sir, don't know anything about her marriages at all.
- Q Now these people that this woman belonged to, the Holts, were they well known and recognized Cherokee citizens? A Yes, sir.
- Q And you knew her as their slave, did you? A Yes sir.
- Q She passed as such in the neighborhood? A Yes, sir, she called her mistress, she would be waiting on her everywhere she would go.
- Mr. Davenport: How long before the war broke out had it been that you had seen her, Aunt Polly? A I can't tell you how long exactly because they just came to my home on a visit.
- Q That was some years before the war began? A Yes, sir, some years before the war began, but not so very long, though.

EASTER WILLIAMS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your name? A Easter Williams, now.
- Q Did your name used to be Grimmett? A Yes, sir.
- Q How old are you? A I guess I am about 52, I guess.
- Q What is your postoffice? A I got my postoffice here while I am here.
- Q At Chelsea? A Yes, sir.
- Q How long have you lived in the Cherokee Nation? A I have been here all my days.
- Mr. Smith: Do you know this applicant here, Mallie Miller? A Yes, sir.
- Q How long have you known her? A Ever since the war.
- Q Did you know her before the war, or not until after? A Not until after the war.
- Q Where did you first meet her after the war? A Met her in Fort Gibson.
- Q When? A The time they brought the refugees back in there.
- Q Do you know what date that was, what year it was? A No, sir,

I can't know what date it was they brought us back to Gibson; I can't tell you just what date that was.

Q Where did you see her, where was she when you first saw her? A At Fort Gibson.

Q What was she doing there? A Working, among the refugees.

Q Do you know whose daughter she was, did you know her mother?

A Yes, sir, Raster Holt.

Q Have you known her since? A Well, I have seen her since then, of course where I saw her at Fort Gibson and I have not her here since then.

Q What do you mean by here, what place in the Cherokee Nation have you seen her since '66? A She was in Fort Gibson in '66, she went by Fishyhead at that time, she was living in Gibson.

Q Did you know her husband? A Yes, sir.

Q Do you know whether or not he died? A Yes, sir, he died.

Q When did he die? A I can't tell you just when he died.

Q Do you know whether she was married again or not? A Yes, sir,

who did she marry? A Mr. Miller.

Q Do you know who Sallie Miller belonged to before the war? A Yes sir I met her before the war, Billie Holt and Nellie Holt.

Q Were they Cherokee Indians? A Yes, sir.

Q Do you know how many children Sallie had when you saw her in '66?

A Yes, sir, she had two.

Q Do you remember their names? A Kate was one.

Q Do you remember the other? A Nettie.

Q What has become of Nettie? A She died.

Q Did Nettie have any children? A Yes, sir, Katie Putnam.

Q Was Nettie married? A I don't know that, but I know she had one child.

Q Do you know where that child is now? A In Vinita.

Q Do you know who the child lives with? A Sallie Miller.

Q Her grandmother? A Yes, sir.

Mr. Davenport: ~~Interrogation~~ How far were you living from Aunt Sallie when the war broke out? A They brought us up to Fort Gibson, we were all there during the war, and I was cooking for the officers.

Q Was Sallie brought to Fort Gibson with you? A Yes, sir, from Neesho, they brought us as refugees from Neesho.

Q Before the war broke out I am talking about now, not about the refuge time? A We lived in Flint.

Q You don't know anything about where she was living when the war broke out? A No, sir.

Q Do you know to whom she belonged when the war broke out? A She belonged to old man Holt, her mother belonged to old Holt.

Q That was before the war began? A Yes, sir.

Q You don't know anything of them after they left Flint District and went to Canadian, up to the time the war began? A I saw her in Gibson.

Q Not before the war? A No, sir, but after we came in scattered during the soldiers, we all met at Gibson, they brought us to Gibson, carried us to where we first went, to Neesho, and back.

Q Not before that never seen about Webster Falls sometime before the war began? A There is where she lived I guess before the war broke out.

Q They moved away then from where you were living? A Yes, sir.

Q Did you don't know anything more about them until after the war began, do you? A No, sir.

Q And you don't know where she went during the war, do you?

A No, sir, don't know where she went.

Q All you know about it is she came back to Fort Gibson sometime before the close of the war or about the close? A Yes, sir.

Q How long has she been living since the war closed?

A Yes, sir, I can't place here where she has been living since.

Q There would be several years at a time you didn't hear of her?
A Of course I don't know only where she went.
Q Where do you live? A I live at Big Creek.
Mr. Smith: Do you know how long Sallie Miller, the applicant, was at Fort Gibson when you saw her at the time the refugees were there?
A I was all there about three years.

Doreas Suffington, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Doreas Suffington.
Q How old are you? A I am 78 years old, according to what Mr. Bushyhead told me.
Q What is your postoffice? A Melvin.
Q How long have you lived in the Cherokee Nation? A I was born in the Cherokee Nation, in Tennessee.
Q Did you come here with the Cherokees in old times? A Yes, sir.
Q Have you lived here ever since? A I have lived here ever since; of course my folks hired me out once in a while in the state, but that was when I was small.
Q Went out during the war? A No, sir.
Q Here during the war? A Yes, sir, all during the war.
Q Were you here when the war began? A Yes, sir, right here.
Q Who was it you belonged to? A I belonged to Mr. Bushyhead, that lady's (indicating) husband's father.
Q The father of Chief Bushyhead? A Yes, sir.
Mr. Smith: Do you know this applicant, Sallie Miller? A Yes, sir, she married in my town.
Q How long have you known Sallie? A I been knowing her, I can't exactly tell you, but it has been long before the war.
Q You know her before the war? A Yes, sir.
Q You know whether she was a slave or not? A I know she was a slave, I don't know just think it, I know it.
Q Who did she belong to? A She belonged to old Mrs. Holt, old Mrs. Fannie Holt, she married a Whitmire.
Q Were the Holts citizens of the Cherokee Nation? A Yes, sir, citizens.
Q Where did they live? A They lived away down here in Flint, I can't tell you exactly the place.
Q When did you first see Sallie in the Cherokee Nation after the war? A Well, I can't tell you exactly the time I see her, but then she came to my house and stayed with me when they put out word about the negroes must come back to the old country, and she came to my house and stayed there for a week or so, and then she went off to Mr. Rogers, and I don't know how long she stayed there.
Q Where were you living? A I was living on Fourteen Mile Creek.
Q Did you go out of the Nation during the war? A No, sir.
Q Not at all? A No, sir, not at all, only when I was traveling with the army waiting on the Cherokees.
Q Do you know what year it was you saw her? A Not clear, I can't tell you that part, I never kept the dates of the years, I never thought nothing about it.
Q Where did this man Rogers that you spoke of live? A He lived between Grand River and I lived on Fourteen Mile Creek.
Q Do you know whether she had been to Fort Gibson, or whether she went to Fort Gibson after you saw her? A She went to Gibson, said she was going when she went from my house.
Q What was her name then? A Her name was Sallie Walker, Charlie Walker married her.
Q Was she ever married after that to anybody else? A I can't tell you that, I know before she married Charlie Walker she lived with a man named Dick Whitmire, one of the Whitmires, and I believe she had some children by him; I don't know, I never seen the children,

Q Did Whitacre ever go by any other name? A No, sir.

Q Who did he belong to? A He was a free man, he was a Cherokee the Whitacres was.

Q He wasn't a colored man at all? A No, sir, he owned slaves; Tempie Holt married Johnson Whitacre, and you know Tempie was a fine lady, she wouldn't want a nigger.

Q When did Sallie marry Miller, her present husband? A I don't know sir, I don't know that.

Q How many children did Sallie have, if she had any children, at the time you speak of her coming to your house? A She had two.

Q Do you know what their names were? A I think one was named Annie and the boy I disremember what that child's name was right now, but she had two children.

Q Do you know whether Sallie had been married more than once?

A No, sir, I don't, I don't know nothing about her whether she was married more than once or not, but I know she was married once and that was to Charlie Walker.

Q ~~Remember~~ What was he, a colored man? A He was a colored man, he was my sister's son, and you know I am colored.

Q Was Charlie Walker a slave? A That is what he was, a slave of the same people I was.

Q Did they sometimes call Charlie Walker Charlie Bushyhead?

A Yes, sir, got the Charlie Walker from his father.

Q His father's name was Walker and her mother's name was Bushyhead?

A No, sir, it isn't that way; after the darkies got free, he went by the name of his father, and when he was a slave we all went in the name of our masters.

Q What was that? A Bushyhead.

Q Charlie Walker, the man who married Sallie, his name was Walker?

A Yes, sir.

Q And his mother's name was Bushyhead, is that right? A No, sir, that isn't right yet; Charlie Walker he went by the name of the man that his father belonged to, after he got free, and when he lived at home when he went by the name of Bushyhead.

Q Then he went by two names? A Of course, after he got free.

Q What were they? A When he got free, he went by the name of Walker, and when he was living at home at Bushyhead's, he went by the name of Charlie Bushyhead.

Q That was this woman's husband? A That was her husband.

Mr. Smith: If the Court please, in making this record, I would like to have a reference to the case of Joshua Holt, D-544. Joshua Holt was this woman's brother.

SALLIE MILLER, recalled, testified:

Commissioner: Did you have a brother named Joshua? A Yes, sir.

Q A full brother? A No, sir.

Q Not a full brother? A No, sir, brother on my mother's side.

Q Is he older or younger than you? A Younger.

Q How much younger? A I guess he must be 10 years younger, I am 37 and I think he is 27 or 28.

Q Was he with you during the war? A Yes, sir.

Q Did he come back with you when the war closed? A No, sir.

Q You didn't come back with him? A No, sir.

Q Did you and he ~~know~~ belong to the same people when the war broke out? A Yes, sir.

Mr. Deavenport: Now Sarah, did you ever apply to the Bob Daniels, or ~~anybody~~ to establish your right after you returned to the Cherokee Nation? A No, sir, I never was but once, went to Tahlequah, I think it was somewhere in ninety, when I didn't get the Wallace money.

Q You applied to the Kern-cliffen Commission? A Yes, sir.

- Q Now where were you living when your husband Dick Bushyhead died?
A Bush Bushyhead you mean; why he died in Fort Scott.
Q Where were you living at that time? A On Big Creek.
Q You were down on Big Creek when he died in Fort Scott? A Yes, sir.
I went up there to apply for his pension, he was there two weeks.
Q You had been in Fort Scott during the war? A Yes, sir.
Q You went from Baxter Springs? A Yes, sir.
Q You stayed there a few months, and then came back, and you had your husband went to Fort Scott? A Yes, sir.
Q Do you know the time when you were in Fort Scott? A No, sir, not before he died.
Q When were you and your present husband, Miller, married, in what year? A In 1884.
Q Where were you living at the time? A I was living in Fort Scott.
Q Miller was a resident of Fort Scott, too, wasn't he? A Yes, sir.
Q Now then you and Miller lived there some time after you married before you came back to the Cherokee Nation? A I stayed about six months.
Q You stayed there first and last altogether about seven years?
A No, sir, I never stayed in Fort Scott seven years at one time.
Q I mean first and last? A Yes, sir, about that first and last since the war.
Q About that first and last since the war closed? A Yes, sir.
Q Now you are not a full sister of Joshua Holt? A No, sir.
Q Both had the same mother, but not the same father? A Yes, sir.
Q Easter Holt is your mother, isn't she? A Yes, sir, Easter Holt.
Q Did you and Easter Holt and your half brother go out of the Cherokee Nation together during the war? A Yes, sir.
Q Well, who returned first? A Why I returned first.
Q When did your mother and Joshua return? A Why they -- now I can't say they did --
Q Do you know really when they returned? A Yes, sir, they came back when they had that fight up here at Horse Creek.
Q They came back the year of the Horse Creek fight did they?
A It seems to me, I can't say positively.
Mr. Smith: Are you the daughter of Easter Holt, who applied for enrollment this morning over there; did you see her over there?
A Yes, sir.
Commissioner: Where did you marry your husband Dick Bushyhead?
A In Fort Gibson.
Q Was he a Cherokee Freedman? A Yes, sir.
Q Harcas Buffington stated about your being at her house on Thirteen Mile Creek? A It is Fourteen Mile Creek.
Q What time was that after the war? A It was in '79.
Q What was a long time after the war? A Yes, sir.
Q She doesn't know anything about when you came back? A Well now I don't know whether she did or not, because I stayed in Gibson.
Q Before you saw her after the war closed before '79? A Yes, sir, I see her then in Fort Gibson, at the sutler's store, Mr. Percival run the store, and Bush Bushyhead worked at the store.
Q You spoke of going to Tahlequah once to see about getting your rights? A Yes, sir.
Q What did you do there? A I went down there and I seen Mr. Thompson, W. A. Thompson.
Q Did you apply to any court? A Yes, sir, there at Tahlequah.
Q And what did the court do? A They told me that I was readmitted and did you apply to be recognized or readmitted? Yes, sir, they said all then they could find the names on the 1866 roll to go down there with proof and they would put them on the roll, and I went, and I thought I knowed him in time of the war there at Fort Gibson and I thought I could get him and he would attend to it for me.

Q Did you appear before the Court? A Yes, sir.
Q You give in your testimony? A Yes, sir.
Q Did you have any witnesses? A Yes, sir.
Q And the Court heard your case? A Yes, sir.
Q Did the Court pronounce a decision in your case? A They said the chief would have a ten days session and then he would attend to it.
Q Did you ever get any notice of what that decision was? A No, sir.
Q In what year was that, as near as you can remember? A It has been, I guess, six years ago.

Q Was that the only application you ever made to any Court or Commission or authority to have your rights fixed? A No, sir, went before the Wallace Court, and went before the Clifton and Kerns.

Q Why wouldn't they put you on the Wallace roll? A I don't know.

Q Why didn't they put you on the Kern-Clifton roll? A I don't know, unless it was because I didn't have a whole lot of money to pay out, they asked me for some money and I told them I didn't have any.

Q Who asked you for one? A Turner, he wanted ninety dollars, and I told him I didn't have ninety cents.

Q Well, your rights ought not to depend upon your having money; how about the roll of 1880? A I was at Fourteen Mile Creek at that time when the 1880 roll was made.

Q Were you at Fortcas Buffington's at that time? A Yes, sir.

Q What about they making that roll? A They didn't come, and I got Uncle Harry to go down to see Mr. Lipe, I believe old Ken Lipe had something to do with that, and he went there, and said Mr. Lipe said it was all right, and that was the reason I didn't bother anything about these rolls, I thought I was all right till it came around and I didn't get any money.

Mr. Davenport: I would like to object to that hearsay part about what that fellow went down there and said Mr. Lipe said.

Mr. Smith: What did you state was the occasion, or why did you go to Tallequah in the nineties to see about your citizenship?

Q They had a notice in the paper to all them didn't appear on the 1880 roll to go down there and with sufficient proof and they would put them on the roll.

Q Who had the notice? A It was in the paper, in the Vinita paper.

Q And you went to Tallequah? A Yes, sir.

Q Who did you go to when you went to Tallequah? A I went to this Mr. Thompson.

Q W. A. Thompson? A Yes, sir.

Q Now you spoke of some Court or Commission; what Court did you ever go before? A Before the Wallace Court and before this Clifton and Kern.

Q But when you went to Tallequah? A The Council was going on, the Council was in session at that time.

Q You didn't go before the Council, did you? A Yes, I guess it was, Stick Ross was one of the Councilmen, and Spade was one of the Councilmen.

Q What ever he do a of that W. A. Thompson you went to see?

A They said he died.

Q Did he? A I never seen him since.

Q How as a matter of fact, do you know whether you went before any Court or not down there? A There was eight or ten men in a room, they said they was.

Q Did you pay Thompson? A Yes, sir, gave him \$10.

Q Do you know of your own knowledge whether there were any applications made, of your own knowledge, outside of what Thompson told you?

A No, sir, I don't, I just had faith in him, and he knew me during the war at Fort Gibson and I thought sure he would do what he told me.

Mr. Davenport: You hadn't heard at that time about Thompson going

back to Georgia and having a friend to write home to his mother that he was dead and having his mother send money to pay his funeral expenses? A Yes, sir I heard about that afterwards, and I never tried to see anything more about it.

Commissioner: Did you ever apply to the Daves Commission in 1896 to have your rights recognized? A No, sir, I don't think I ever went before them.

Commissioner: The applicant applies for the enrollment of herself and one grandchild. The applicant is not identified upon the roll of 1860 or on the Wallace roll or on the Kern-Bliffler roll or on the roll of 1896. It appears from the testimony that she was in the Cherokee Nation at the breaking out of the Civil War, and was the slave of a Cherokee citizen. There is considerable testimony to the effect that she returned to the Cherokee Nation in 1865, and is living in the Cherokee Nation at this time, and has been so living for a number of years past, but it appears that altogether, for six or seven years, but not in a continuous way, she has since the war been absent from the Cherokee Nation and in the State of Kansas. In the light of her omission from the rolls, what she has to say in connection therewith, the testimony of her return to the Cherokee Nation within the time prescribed by the treaty of 1866, though so far quite definite and reasonably satisfactory, requires to be carefully considered, and some attention should be given to the testimony relating to her subsequent residence to determine whether or not she has acquired her citizenship. It appears that she made application at Tahlequah for recognition before some court of the Council of her rights as a Cherokee citizen, and that her application was not granted. The testimony in this particular is not very definite. Her change of name arising from marriage is established in a reasonably satisfactory manner. She will, under the conditions stated be listed for enrollment as a Cherokee Freedman on a white card, and the final decision of the Commission will be made known to her at her postoffice address.

As for her grandchild, her application will not be considered at this time, inasmuch as she is said to have been born in 1878, or prior thereto, and to be now married, but the consideration with reference to her rights has been quite carefully made, as this child can only claim through its mother, and when she does apply it will be desirable to file the grandmother's testimony with the application. It appears that the mother of this grandchild, called by the applicant Nettie Holt, died in 1878, and was the daughter of her first husband, Rick Whitacre, a slave in the Cherokee Nation at the time of the breaking out of the war, and with whom the applicant continued to live until about the time of the close of the war. It further appears that this Nettie Holt returned with the applicant from Kansas and so far as the applicant's right in that particular may be concerned, acquired all the rights of her mother; and also, it appears that this Nettie Holt, after her return to the Cherokee Nation about the time of the close of the Civil War, was never out of the Nation except some four years when she was at school. This daughter, now known as Nettie Davis, is shown to be Nettie Holt's daughter by a man citizen. Therefore, when the facts of her own residence be fully established in the Cherokee Nation, her rights apparently will turn exclusively upon the date of the return of the applicant, her grandmother, to the Cherokee Nation, with reference to the treaty of 1866. As indicated, the application for this grandchild was not continued further at this time than simply to develop the testimony through the grandmother, upon which that application must rest when it is made in its

regular order.

Bruce S. 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 S. Jones,
Sworn to and subscribed before me this the 16th of June, 1901.

Signed, D. S. Needles,

Commissioner.

Bruce S. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce S. Jones

Sworn to and subscribed before me this the 30th of July, 1901.

M. W. Green
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1904.

In the matter of the application of Anna Butler for the enrollment of herself and one child as Cherokee Freedmen.

Appearances:

L. F. Brown, attorney for applicants;
J. S. Davenport, of counsel for Cherokee Nation.

Anna Butler, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Anna Butler.
Q How old are you? A 50 years of age.
Q What is your postoffice? A Vinita.
Q What district do you live in? A Coowascoowas district.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll besides yourself? A One child, a girl, and my brother Howard.
Q What is your ~~brother's~~ child's name? A Esther Owen.
Q How old is she? A 11 years old.
Q What is your brother's name? A Howard Bushyhead.
Q How old is he? A 24 years of age.
Q Will Howard can enroll himself. A Well he is in custody in Canada.
Q In prison? A Yes, sir.
Q How long has he been there? A A little over a month.
Q Where was he taken from? A He went from here in Vinita with the Pan-American show.
Q How long ago? A It was in the month of May.
Q Best May? A Yes, sir, this last May.
Q Is he a married man? A No, sir.
Q What is your father's name? A Buck Bushyhead.
Q What is your mother's name? A Sallie Miller.
Q Are you married? A Yes, sir.
Q What is your ~~mother's~~ husband's name? A Andy Butler.
Q Is he a citizen? A No, sir.
Q Is he your first husband? A No, sir.
Q You married before? A Yes, sir.
Q What was your former husband's name? A Ernest Owen.
Q He living? A No, sir.
Q Have you any children by Andy Butler? A No, sir.
Q The child Esther then is by your former husband, Owen? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation? A Not as I know of, I don't think it is.
Q Do you claim your citizenship through your mother? A Yes, sir.
Q Has she been listed for enrollment? A Yes, sir.
By L. F. Brown: Where were you born? A Fort Gibson, fourteen miles west.
Q Lived in the Cherokee Nation all your life? A Except the time I went out to school.
Q Living here now? A Yes, sir.
Mr. Davenport: You are an own daughter of Sallie Miller? A Yes, sir.
Q Your father was the first husband of your mother? A No, sir.
Q Well, now where were you living when you can first recollect?
A In West Texas.
Q When was that? A I expect it was when I was between eight or nine years of age.
Q Well you were born after the war yourself? A Yes, sir.

Anna Miller - 2.

- Q You know where your father died? A He died in Fort Scott.
C You were there with your mother at that time? A I went up there, yes sir.
Q Did you come back with your mother to the Cherokee Nation?
A When she came back after my father's death, yes sir.
C And you came back to the Cherokee Nation in the fall of '98?
A I guess it was that.
C You were then how old? A Why I was born in '91.
C About eight years old? A Yes, sir.
C Then how long have you lived since that time? A In Vinita.
C All the time? A No, not all the time, I went away to school.
C How long did you go to school? A Why sometimes I would go from eight to nine months.
C Well, all told how long have you been going to school? A I guess about 12 or 14 years.
C Well, you went to school in what place? A Went to school in Fort Scott and Leavenworth.
C Your mother has lived back up there since she came back in '98?
A She was up there, she lived there a while.
C You were living there with her? A She wasn't there when I lived there, she was in Vinita, I lived with my stepfather.
C Who was that? A Miller.
C Well, they were keeping house, wasn't he? A She wasn't there, her and him was separated.
C They are living together now? A Yes, sir.
C They did live together for a while in Fort Scott? A Yes, sir.
C And when you went to school at Fort Scott you lived with him when she kept house? A Yes, sir.
C And your mother was his wife? A Yes, sir.
C She never got a divorce from him? A No, sir.
C She lived up there at Fort Scott some? A Yes, sir.
C She would go back and forth to the Nation? A Yes, sir, she didn't live there very long at a time.
Commissioner: Is this child either living at this time? A Yes, sir.
C Born in the Cherokee Nation? A No, sir.
C Where was she born? A Born at Fort Scott, Kansas.
C How old was she when you returned to the Cherokee Nation? A She was about seven months old.
C Born living here ever since? A Yes, sir, excepting the time I taken her away to school.
C Well, where did you take her to school? A Fort Scott.
C When? A She was about 7 years of age.
C You went to take her away to school; that is, you were living up there your self and took her with you, at Fort Scott? A No, sir.
C When you took her up there you moved up there and took her with you? A I was working out.
C Living with your husband? A No, sir.
C Was Ernest Owen your first husband? A No, sir.

Commissioner: Anna Miller applies for the enrollment of herself. She avers that she is the child of Sallie Miller, who is listed for enrollment on B card 648. She claims her citizenship through Sallie Miller, and the testimony taken in the matter of the application of Sallie Miller will be made part of the record in the case at bar, and a copy of the testimony filed herewith. She avers that she is married to one Butler, that she was formerly married to one Owen, by whom she has a child, Esther, 11 years of age. The name of the said Anna Miller nor her child Esther, cannot be found upon any of the rolls of the Cherokee Nation, and they have never been recognized by the Cherokee Nation as a Cherokee Freedman.

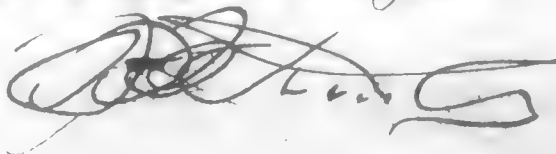
Anna Butler - 3.

By reason of the fact that her mother is listed for enrollment, the said Anna Butler will now be listed for enrollment as a Charles Freeman on a hospital ward, also her child Mother, and she will be notified by mail of the action of the Commission. It will be necessary for her to make satisfactory proof of birth of the said child, Mother.

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 thereon.

Bruce C. Jones

Sworn to and subscribed before me this 15th of July, 1901.



Commissioner.

File with case of Anna Butler, C.F.-D.#979.

Supl. C.F.-D.#648.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 5th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
SALLIE MILLER as a Cherokee Freedman, introduced on behalf of
Cherokee Nation:

APPEARANCES:

Mr. Mellette, of Counsel for applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

SIMON MCKENZIE, being duly sworn by Commissioner Needles,
testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Simon McKenzie.

Q Where do you live? A I live up Pryor Creek, about five miles
north of Pryor Creek.

Q What is your age? A I am 59.

Q How long have you lived in the Cherokee Nation? A Been living
here all my life, only few times I have been out of the Nation.

Q Well, you were out of the Nation; when you were out of the Nation
what places were you in? A when I was out of the Nation I lived at
Fort Scott, Kansas.

Q About what year did you live in Fort Scott, Kansas? A I lived
from 1866 down to 1866, '67 and down to spring of '68.

Q During the years you lived there did you become acquainted with
Sallie Miller, or Holt, or Walker? A Yes, sir, I was acquainted
with one lady named at that time Sallie Holt.

Q Well, did you know her family at that time, her mother?
A Yes, sir.

Q What was her mother's name? A Aunt Easter Holt.

Q Did you know any of her brothers? A Tecumseh and I forget
the other one's name, was another one.

Q Do you know whether it was Mose or Joshua? A Yes, sir, Mose and
Joshua.

Q Did you know any of her sisters? A Yes, sir, but I forget their
names.

Q Now, where were they living, if you know, during the years you
lived at Fort Scott? A They lived in an old Government building
right in Fort Scott.

Q You went there in 1865? A In '65

Q How long had you been there before you knew these people, or got
acquainted with them? A I was there about a month or two or three
months, I could not state the time.

Q Well, where were they living when you left Fort Scott, Kansas,
if you know? A Well, Aunt Easter was living in an old Government
building.

Q Have you seen any of them since that time? A No, sir.

MR. MELLETT: Now, Mr. McKenzie, you don't know that the woman
who is an applicant here for enrollment is the woman whom you say
you saw up at Fort Scott, Kansas, at the close of the war, do you?

A I don't know the woman.

Q You don't know that that is the same woman? A In the same name.

Q It is not the same name? A She name Holt.

Q Well, you don't know that this is the same woman that you knew
up there, do you? A Well, it was a daughter of Easter Holt, it
was a Sallie woman.

Q Well, you don't know anything about this applicant; you have
never seen this applicant here? A I haven't seen her here.

- Q Well, you have never seen her since she has made application here for enrollment have you? A No, sir.
- Q Now, when did you leave Fort Scott, Kansas? A I left there early in '68, in the spring.
- Q In the Spring of '68? A Yes, sir.
- Q What were you doing up there at Fort Scott? A I was working there at Fort Scott, for Billy Shapahan, stone mason, doing public work there.
- Q Did you keep track of these colored people? A All I saw.
- Q Did you ever testify in this case before? A I guess I did.
- Q When? A Not long ago at Fort Gibson.
- Q You give testimony up at Fort Gibson? A I think I did.
- Q How long ago? A I don't know exactly whether it was last month.
- Q How old are you, Mr. McKenzie? A I am 59.
- Q Well, it has been 35 or 6 years ago then since you saw them up there at Kansas? A Yes, sir, I guess so, I never kept count of the time.
- Q Well say 35; well, Mr. McKenzie, can you remember just about the time you saw these people up there 35 years ago? A Well, I guess I could remember it, I stated before.
- Q There is no reason why you paid particular attention to them? A No, just seeing them pass and repassing about.
- Q You left there in the spring of '68? A Yes, sir.
- Q Well, they could left there a year before that and you not remember it 35 years afterwards? A Didn't I saw they back and forth all the time I was up there, off and on.
- Q Well, now, off and on there, you saw them? A Every week.
- Q Can you remember 35 years ago you saw these people every weeks? A I guess so, I wouldn't be here if I didn't thought I could testify nothing.
- Q Well, you feel because you are here you have to testify something? A I don't know.
- Q Well, I want to know if you can remember 35 years ago you saw these people every week? A I did while I was living in Fort Scott most every week.
- Q Is it possible they might have left there a year before you did? A If they did they went back in a short time.
- Q What were you paying so particular attention to those people for? A I could not tell you.
- Q You just watched them? A Well, just seeing them pass and pass every day.
- Q Who else did you see up there at Fort Scott? A Why I see good many.
- Q What other colored people? A Good many. Good many other colored people, but I don't know their names.
- Q Well, now, give the name of some other colored person you saw up there except this family? A I could not give their name.
- Q There were a great many colored people in Fort Scott? A Yes, sir.
- Q And of all the colored people that was in Fort Scott this family is the only one you remember the names? A Yes, sir; of course I was passing there and some lived out in the country.
- Q Well, who else lived in the Government building there? A Good many families.
- Q Good many families? A Yes, sir.
- Q Why don't you remember the names of the other colored people? A Because the boys I remember them, and part lived in town.
- Q Why can't you remember the names of some other colored people you saw there some time? A Well, I could if I wanted to state the whole thing I can, there was Bill Thompson.
- Q Who is Bill Thompson? A There he is (pointing to a man in the audience.)

- Q And who else was there? A Bill was blacksmith; Tom Brown.
Q Was it Tom Brown or Bill Brown? A Tom Brown
Q When did they leave there? A I don't know.
Q Were they there when you left? A I don't know; they lived out at the edge of town; of course when I left town I went out about three miles of town and a family lived there by the name of Campbell, worked right there at Fort Scott. I know the whole generation if you will give me time to call the name over, the whole generation of them.
Q What makes you remember seeing these people there all the time you were there? A I saw them off and on, because I was working in town; Tom Brown was a blacksmith, worked in town.
Q When was the last time you remember seeing this Gellie Miller?
A Well, I saw when I left Fort Scott.
Q Did you see her the day you left? A No, sir; I didn't see her the day before I left.
Q How long before you left did you see her? A Oh, short time, maybe a week or two weeks.
Q You remember then of seeing her two weeks before you left?
A Yea, might have been two weeks, and maybe longer and not so long.
Q Maybe a year too? (No response.)
Q Was it a year? A No, sir, I don't think it was a year; if she left there at all she went west, went towards Mapleton.
Q How do you know she went to Mapleton? A Well, if she left at all.
Q What makes you think that? A That was the talk.
Q How was that? A That is why I found out by talking with her brother.
Q You got a letter? A No, sir, talking with her brother.
Q You are testifying to what her brother told you?
A That is how I found out where she went, if she went off at all.
Q That is the reason you are swearing that she was there all the time you were there? A No, sir, I knew it.

WILLIAM MARGRAVE, being duly sworn by Commissioner Needles, testified as follows:

- MR. DAVENPORT: What is your name? A William Margrave.
Q What is your age, Mr. Margrave? A My age is -430--about 82; I am away along in the 83 year.
Q Where do you live, Mr. Margrave? A Fort Scott, Kansas.
Q How long have you lived at Fort Scott, Kansas? A Since 1854.
Q Since you lived at Fort Scott, Kansas, did you become acquainted with a colored family by the name of Holts or Holt? A Yes, sir.
Q You know the old lady's name? A Yes, sir; do you mean the mother?
Q Yes, sir; what was her name? A Master Holt.
Q How many of the children do you remember, Mr. Margrave? A Let's see, there was Mose, Cough, Gellie and Josh.
Q When did you become acquainted with the family? A I am not positive, I think they came there along towards the close of the Civil war, if they didn't they came there very shortly afterwards.
Q Well, now, where did they live with reference to where your home was? A Well, most of the time they lived in, I should judge, about a hundred yards, except Mose he lived, after he married, he lived about 50 yards.
Q Well, now, where is Mose Holt living now, do you know?
A Lives right there by me in Fort Scott.
Q Do you know where Josh is living? A I do not, he has been away from there a good many years, I don't know how long.
Q Well, about how many years has it been since Josh moved away from there? A Of course that would be from guess work, something I never took no count of, I can't think he has made his home in Fort Scott for the last 15 years, I might not be correct about it.

Q About how long has it been since Tecumseh moved away from there?
A That maybe all the way from five, sir, seven or eight years, not longer than that.

Q Well, when did Bettie leave there, about when did she leave?

A That is quite a while ago, I could not tell that.

Q Well, did Gallie Holt marry while she was up there? A Yes, married twice.

Q What was her first husband's name? A Walker he died and then she married a Miller.

Q Do you know what Miller's first name was, or what he was known by up there? A Stepney I believe it is.

Q Have you seen Gallie Miller, the applicant, since you been down here? A I saw her this morning, spoke to her.

Q Did you recognize her as the same woman you knew up there as Gallie Holt? A Well, she lived right there near me for I expect 30 years, I don't know that it was that long; of course I knew her as well as I knew anybody in Fort Scott.

Q About how long ago was it since Gallie left Fort Scott?
A Well, now, I can't tell you.

Q Well, you came from there in -? A Seven, eight or ten years.

Q Do you know where Aunt Gaster Holt is living now, whether she is living or dead? A I saw her I think about a year ago up in Fort Scott, I have never heard of her dying.

Q When did she move away, if at all, from Fort Scott, Kansas?
A It comes to those dates-

Q About how long? A I would think it was six or seven years ago.

Q You got acquainted with this family as I understand you, sometime about the close of the war? A Yes, sir, I knew them by sight and afterwards got acquainted with them.

Q They afterwards lived right near you? A Yes, sir. It was right close to me, I don't think it was over a hundred yards from where I now live.

Q And they lived there then in your neighborhood from the time you got acquainted with them up until a few years ago? A Yes, just as I stated.

MR. MELLESTER: Now, where was Gallie Miller in the fall of '65?

A I don't think I could tell just that because-

Q Well, now, where was she in '66? A The family was there, I am satisfied they were in Fort Scott in '66.

Q I am talking about Gallie Miller now? A I know you do; one of the family might have went away.

Q You can't say that Gallie Miller, or Gallie Holt, was not here in the Cherokee Nation in 1866 can you? A No, sir, I cannot; I know the family was living up there at that time. One of the family could go off and I would not know anything about that; go off and return again.

Q Isn't it a fact that she was down here in '66, and didn't go back up to Kansas for a couple of years after '66, about '68?

A No, I don't know.

Q You don't know? A No.

Q That might be true, might it not? A Yes, the family was there, I know they didn't all come here; might be such a thing as she did, of course not looking for a thing of that kind I might not know.

Q Well, these people might have come down in the Territory from time to time without you knowing their business, might they not, 25 years ago? A You mean one at the time?

Q Yes, or two at the time? A Of course they might.

Q Gallie Miller's husband died up there, one of them? A Walker.

Q Didn't she take some children back from here the first time she went back? A Children, I don't know anything about it.

JOHN FORBES, being duly sworn by Commissioner Peedles,
testified as follows, on part of Cherokee Nation:

- MR. DAVENPORT: What is your name? A John Forbes.
- Q What is your age, Mr. Forbes? A 56.
- Q Where do you live? A Fort Scott, Kansas.
- Q How long have you lived in Fort Scott, Kansas? A 15 years.
- Q Since you have been living at Fort Scott, Kansas, did you get acquainted with a colored family by the name of Helt? A Yes, sir.
- Q What was the old lady's name, if you know Mr. Forbes? A I don't exactly know what the old lady's name was.
- Q What was the children's names? A I have heard the names; well there was Rose and Josh and Mrs. Walker; well, there was one or two others.
- Q Do you know whether her name was Gallie Walker or what her first name was? A Her name was Gallie Walker.
- Q Did she marry a man by the name of Walker? A Yes, sir.
- Q Where was Walker at the time of his death, if you know?
- A I don't know where he died, but I was informed that he died; that I don't know where he died, away or whether he died in Fort Scott.
- Q Well, do you know whether or not she married after Walker's death?
- A Yes, sir.
- Q Who did she marry that time? A Man by the name of Miller.
- Q Do you remember his first name? A Well, I have heard it called Step Miller.
- Q What business did he follow? A Shoemaker.
- Q Well, did you know any of her brothers or sisters that you remember the names of? A Well, there was Bet or Bit, I think that is it; and there was Rose and Josh.
- Q Any one else you remember? A I think there was more than that.
- Q Do you know where Rose Helt is living now? A Living at Fort Scott.
- Q Do you know anything about where Josh is living? A No, sir.
- Q About when did Josh Helt move away from Fort Scott, Kansas?
- A Well, he moved away from there good many years ago, I don't know very well; I wasn't very well acquainted with him on that account.
- Q Well, when did the applicant, Gallie Miller now, formerly Gallie Helt, move away from there? A I could not say, I think the best of my judgment it was eight or ten years ago, but I could not after I got acquainted with them in '70, then I was personally acquainted with them after that.
- Q Was the mother of them living there and keeping house when you got acquainted with them in '70? A I am not sure whether the mother was there, but she was there afterwards.
- Q Do you know what became of Bettie whether she is living up there or alive? A No, I do not.
- Q You don't remember what year they left but they left there a number of years after you got acquainted with them? A Yes, sir.
- MR. MILLER: Mr. Forbes, you don't know where these people, any of them, were in 1866, '67 or '8, do you? A No, sir.
- Q Isn't it a fact that they came after you know how long they came back and forth down here in the territory and back to the States?
- A I didn't know anything about that; I think I heard some of them talking about going down to Fort Smith or going from Fort Smith, or something when I got acquainted with them.
- Q Fort Smith down here on the border? A Yes, sir; I wouldn't be positive of that; some little recollection is up and but I wouldn't be positive.

JAMES HIGHTON, being duly sworn by Commissioner Peedles,
testified as follows, on part of Cherokee Nation:

- MR. DAVENPORT: What is your name? A James Highton.
- Q Where do you live, Mr. Highton? A Fort Scott, Kansas.

- Q How long have you lived in Fort Scott, Kansas? A 20 years.
- Q Since you have been living at Fort Scott, Kansas, have you become acquainted with a family of Colored people by the name of Holt?
- A Yes, sir.
- Q What members of the family are you acquainted with? A I know Mose, Mose lives there now, well I think any other one, George Maybe.
- Q Did you ever know any of the girls? A Oh, I have seen them, I don't know.
- Q You are not very well acquainted with them? A I knowed Mose well and knowed where they lived well; no, I am not well acquainted with the lady folks.
- Q Did you ever know the mother? A No, sir.
- MR. MELLETTTE: You don't know where the women folks made their homes, whether they made it here and visited up there, or where they really belonged, do you? A No, sir.

- WILLIAM SEXTON, being duly sworn by Commissioner Needles, testified as follows: On part of Cherokee Nation:
- MR. DAVENPORT: what is your name? A William Sexton.
- Q Where do you live, Mr. Sexton? A Fort Scott, Kansas.
- Q How long have you lived at Fort Scott, Kansas? A I have lived at Fort Scott ever since '69.
- Q Well, since you came to Fort Scott, Kansas, did you get acquainted with a colored family by the name of Holts? A I did.
- Q Did you know the mother, the old lady, or reputed mother of the family? A Yes, sir.
- Q What was her name? A Her name was Easter Holt.
- Q What were the names of the children, or as many as you can remember? A There was one by the name of Mose, Josh, and Cumah and Jennie and Gallie; that's as many as I recollect.
- Q Well, did you know Gallie Holt, if she was a grown woman?
- A Gallie she was a woman when I got acquainted with her.
- Q Josh, was he grown when you got acquainted with him?
- A No, sir, he was a young man.
- Q Would you know Gallie Holt if you would see her now?
- A Yes, sir.
- Q I wish you would look back through the audience and see if you see her? A Yes, sir.
- Q You recognize her as being the same woman, Sallie Holt, you know?
- A Same woman.
- Q Did she marry while she was living up at Fort Scott? A She was married when I got acquainted with her.
- Q Do you know what her husband's name was? A Her husband's name was Walker.
- Q Do you know whether Walker is living or dead? A He died.
- Q Well, did she marry again? A She did.
- Q Do you know who she married? A She married a man by the name of Miller.
- Q Do you know his first name? A Stepmo.
- Q What was his business? A He was a shoemaker up there.
- Q You knew Josh too up there did you? A Yes, sir.
- Q And Tecumseh? A Tecumseh.
- Q Did you know any other girls of the family, was there any other girls that you remember? A I do not.
- Q Do you know whether or not there was a girl by the name of Bettie?
- A I wouldn't be positive but it appears to me there was.
- Q Were they living in Fort Scott when you went there in '69, Mr. Sexton? A Yes, sir.
- Q Well, about how long after you went there did they continue to live in Fort Scott? A Now, I could not say; I didn't pay particular attention, sometime they would leave and sometimes they was there.

- Q Did they keep house while they were there? A Yes, sir.
Q Did Sallie live there with Walker when he was living?
A Yes, sir.
Q Where is Rose living now? A Moses is living up there now.
Q About how long has it been since you remember of Josh and then living in Fort Scott? A Josh hasn't been there for some considerable time.
Q Well, about how long? A It has been, I should judge, some ten or 12 years.
Q Well, how long has it been since Tecumseh has been living there?
A She has lived there to the best of my recollection, it has been that long since I seen her there.
Q Do you know where he went when he left there? A No, sir.
Q You don't know whether he went to Kansas City or not?
A No, sir, I do not.
Q Well, how long has it been since Sallie has been living there?
A I don't know.
Q Has she lived there any since she and Miller married? A Yes, sir.
MR. BELLEFLE: Well, how long do you think it has been since Sallie Miller lived there regularly? A Well, now, I could not say positive, it has been since she left there regularly.
Q Well, isn't it a fact that she was back and forth ever since you have known her, to the territory and back to Kansas, would come down here a stay a while and go back to Kansas? A Yes, sir.
Q That is true? A Yes, sir.
Q You don't know where any of these people were in '66? '67 or '68?
A No, sir; I came to Scott in '69.
MR. DAVENPORT: And they were living there when you came?
A They was there when I came.

Com'r Needles: This testimony will be made part of the record in Freedmen doubtful cases #953, #979, #980, #645, and in case of Bettie Hicks.

---000000000---

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 15th, 1901.



Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., AUGUST 15, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ANNA PETERSON ET AL., and HOWARD BUSHHEAD, as Cherokee freedmen.

It appears that on July 15, 1904, the applicants and the representatives of the Cherokee Nation were advised by the Commission that the applicant would be permitted to appear before the Commission on August 15, 1904, and submit further testimony in the above entitled cause.

APPEARANCES:

Applicant, Anna Peterson, appears in person.
Cherokee Nation by its representatives, W. W. Hastings
and J. S. Davenport.

ANNA PETERSON, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Anna Peterson.
Q What is your age? A 35 my next birth day.
Q What is your post office address? A Claremore, Indian Territory, at the present time, my home is at Vinita.
Q You have applied here for the enrollment of yourself and children as Cherokee freedmen? A One child, Howard Bushhead is my brother.
Q You applied under the name of Anna Butler? A Yes sir.
Q You have since married? A Yes sir.
Q What is your present husband's name? A Walter Peterson.
Q Is he a Cherokee freedman? A No sir.
Q State man? A Yes sir.
Q When were you married to him? A A year ago the last 14th of April.
Q What is the name of your father? A His name is Buck Bushhead.
Q What is the name of your mother? A Sarah Holt before she married.
Q Are your parents living? A My mother is living.
Q Your father is dead, is he? A Yes sir.
Q How long has he been dead? A I couldn't tell you, I was small.
Q What is your mother's present name? A Sarah Miller.
Q Has she applied for enrollment as a Cherokee freedman? A Yes sir.
Q Under the name of Sarah Miller? A I couldn't tell you, I don't know that.
Q Does she go by that name now? A Yes sir.
Q Where was you living when you can first remember? A The first of my remembrance I was at school.
Q Where? A At Fort Scott.
Q Howes? A Yes sir.
Q Where were your people living at that time, your parents? A My mother was here in the Cherokee Nation.
Q Where was your father? A He was dead.
Q He died when you was quite small, did he? A Yes sir.

Q Have you any witnesses here who can testify as to your father's return to the Cherokee Nation? A Yes sir.

Q This child Esther Owen is she living now and where? A Yes sir.

BY MR. DAVE PORT:

Q Do you know anything Anna about when your father returned yourself? A No sir.

Q You were not old enough to know anything about that? A No sir.

Q Where was you born? A I think at Fort Gibson.

Q Do you know? A No sir, I don't know.

Q Where were your father and mother married, do you know? A No sir.

Q You are how old now? A My next birth day I will be 33.

Q Where were you when you could first remember? A In school at Fort Scott.

Q Where was your mother at that time? A In the Cherokee Nation.

Q And your father? A He was dead.

Q Can you remember when your father or mother either were living in Fort Scott, Kansas? A No sir.

Q Your mother married her last Husband, Miller, in Fort Scott, did she not? A I couldn't tell you.

Q You was old enough to remember? A I suppose so, but I wasn't there.

Q You know where Miller was living? A Yes sir in Fort Scott.

Q Wasn't your mother? A I don't know, I don't think so.

Q Where was you living when your mother married Miller? A I was going to school there and come down here.

Q How old were you when they married? A I don't know.

Q How long did you go to school in Kansas? A I don't know.

Q Did you go more than one year? A Yes sir.

Q You are 33 now? A Will be next June.

Q I will ask you if it isn't a fact that while you were going to school at Fort Scott, Kansas, your mother and her husband Miller lived there a part of or all of the time? A She didn't live there all of the time, no sir.

Q What years were you in school at Fort Scott, Kansas? A I don't know sir.

Q You don't mean to tell us you went to school and can't remember the years? A I went to school there, but to know the years, I don't.

Q How old was you when you quit going to school there? A I suppose about 8 or 9 years old.

Q You went how many years? A I don't know.

Q You went more than one year? A I went more than one term.

Q After you quit school in Kansas where did you go? A Came to Fort Gibson as near as I can remember.

Q You was grown when you came to Fort Gibson? A No sir.

Q How old were you? A I guess about 9 or 10 years old.

Q Did you go to school any more after you came to Fort Gibson?

A Yes sir.

Q How much? A I don't know.

Q When you came to Fort Gibson where was your mother? A She left Fort Gibson as near as I can remember, and said she was going to fourteen mile creek.

Q Where did you next see her? A At Fort Gibson.

Q How long after that? A I don't know sir, because I was too small.

Q You cannot remember when you were ten years old, can you? A I can't remember everything.

Q Can you remember seeing your father? A No sir.

--2--

AUGUST 16, 1904.

In pursuance of continuance had yesterday, this cause was called for trial, and was resumed and concluded this August 16, 1904.

APPEARANCES:

Same as yesterday for both parties.

SALLIE MILLER, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Sallie Miller.
Q What is your age? A 62.
Q What is your post office address? A Vinita.
Q You are the mother of Anna Butler, now Anna Peterson and Howard Bushyhead? A Yes sir.
Q Buck Bushyhead was the father of these children? A Yes sir.
Q He is dead? A Yes sir.
Q When did he die? A He died in '77.
Q Have you made application for enrollment as a Cherokee freedman?
A Yes sir.
Q Under the name of Sallie Miller? A Yes sir.
Q Have you got any children enrolled with you? A No sir.
Q Has the Commission taken any action in your case? A No sir.

The records of the Commission show that this witness has been listed for enrollment on Cherokee Freedmen Doubtful Card No. 642.

- Q Your parents names were Jack Miller and Raster Holt? A Yes sir, slave of William Holt, Raster was.
Q Was Buck Bushyhead a Cherokee freedman? A Yes sir.
Q When did you first get acquainted with him? A I was acquainted with him before the late rebellion.
Q Before the war? A Yes sir.
Q When were you married to him? A I don't remember just when it was, it was somewhere along in '67 or '68, I don't know just when it was, but we lived together the way people used to live together. We took up together in the fall of '65.
Q Who did he belong to before the war? A To Mrs. Bushyhead, I don't remember her name now.
Q Where did she live? A Somewhere on the line I think.
Q What line? A The line of the Territory and Arkansas it seems to me, it was up about the Grays, I never was up to the house but he used to drive wagons from up there down to Fort Smith. He was hired to a man by the name of Joel Bryant and he used to stop at our house down at Withers Falls, there is where I got acquainted with him.
Q Was his owner a Cherokee citizen? A They say so, I don't know.
Q Where did Buck Bushyhead go during the war? A He was a soldier at Fort Gibson in the third Indian regiment.
Q Did he leave the Cherokee Nation? A He left here I think in '67, it was in '69 he went from Fort Gibson to Texas with a man that got the contract down there to furnish the soldiers beef in Jacksboro, Texas.
Q What year was that? A In '69 when he left Fort Gibson and went to Texas.

- Q When did you saw you were married to him? A It seems to me it was '68 or '67.
- Q How long after the war? A It was a way after the war, I know he went up to Fort Scott. My children were up there going to school, the butchers hired him up there to work awhile, and told us the Unitee States laws compelled everybody to get married, and we got married up there, I think we was up there about a month when we got married.
- Q The where did you go? A We come back down here to Fort Gibson.
- Q You think it was in '67 or '68 when you went up there? A I aint sure just what year we were married, but we come back to Fort Gibson and he went from Fort Gibson to Texas.
- Q Do you know whether or not the trip to Fort Scott at the time you got married is the first time Bushyhead had ever been out of the Cherokee Nation? A No sir, I couldn't tell.
- Q You don't know about that? A No sir, but we lived in Gibson.
- Q Do you know whether or not Buck left the Cherokee Nation during the war at all? A No sir he never left during the war, he was a soldier.
- Q When is the first time he l'd leave to your knowledge? A When he went to Texas and we both went up to Fort Scott to take the children, I had two children and we took them to school. We went horse back, but we come right back, got an old lady by the name of Malinda Childs to take care of the children.
- Q How long did Buck stay in Texas on that trip? A He never come back to Fort Gibson I don't think until '71, because this woman that was before you yesterday she was born when he come back, she was born in '72, that woman that was before you yesterday.
- Q Anna Peterson, the applicant? A Yes sir.
- Q Where was she born? A At Fort Gibson.
- Q Is that the first child you had by Buck? A Yes sir.
- Q Where was this Howard born? A In Fort Scott.
- Q Port Scott, Kansas? A Yes sir.
- Q How long had you been living up there when he was born? A I think I went up there in May and he was born on the 20th of July.
- Q How long did you continue to live up there after his birth? A I stayed there a little over a year, come back down to Big Creek. I stayed there and then when Buck Bushyhead went to Joplin, and he wrote for me to come up to Fort Scott, that was in the spring of '77 and his health was bad and he thought he would stay there and be doctored. That was in---I have been bothered so with my head---I will have to take my time---It was in the spring of '77 he wrote for me to come to Fort Scott, I was out on Big Creek to my uncle's, and I went to Fort Scott, and he come from Joplin and died. He was there just about five or six days, I don't know just how long, on the 28th of June.
- Q He died in Joplin? A No sir in Fort Scott.
- Q Fort Scott, Kansas? A Yes sir, he was there four or five days, and died on the 22d. of June, 1877.
- Q How long had he been out of the Cherokee Nation at that time?
- A I don't think he was out a year to the best of my knowledge, we were both on Big Creek and he went from there to Joplin.
- Q How long before his death? A It was a year before his death.
- Q You don't know of your own knowledge you say anything about the ownership of Buck Bushyhead before the war? A No sir, only what I heard.

- Q But you know he didn't go out of the Cherokee Nation during the war? A Yes sir I know that he didn't go out during the war.
- Q And the first time he went is when he went to Texas? A Yes sir.
- Q Except when you went to Fort Scott, Kansas? A Yes sir.
- BY MR. HASTINGS:
- Q You didn't draw any money from the Wallace court? A No sir.
- Q Didn't draw any from the Fern-Clifton roll? A No sir.
- Q You made application to all of them and they rejected you? A Yes sir.
- Q You testified in your own behalf at Chelsea on June 10, 1901, didn't you? A I don't remember that I applied there at Chelsea.
- Q You testified in your own behalf, didn't you? A Yes sir.
- Q Do you know Simon McKenzie? A Yes sir.
- Q Where did you know him? A I seen him in Visita here, I don't know whether it was in the Clifton-Fern--no it was in the rebuttal court.
- Q Do you know William Argrave? A Yes sir.
- Q Where did you know him? A In Fort Scott.
- Q When did you first know him in Fort Scott? A I got acquainted with him because my children boarded just a little ways from them.
- Q I am asking you when? A It was in '67 or '68, I guess I couldn't tell just when exactly, but it was in '67 or '68.
- Q Did you know John Forbes? A Yes sir.
- Q Where did you know him? A In Fort Scott.
- Q When did you get acquainted with him? A I expect it must have been about '73, '74 or '75, somewhere along there.
- Q Did you know James Brighton? A No sir.
- Q Did you know William Sexton? A Yes sir.
- Q When did you meet him and where? A I met him in Fort Scott.
- Q When did you meet him there? A I couldn't tell just what year it was.
- Q How long did you know him there? A I knew him there for quite awhile after my husband died we worked up there quite a good deal, and I knew him then.
- Q Which husband do you have reference to? A Buck Bushyhead.
- Q You were living with a man before you and Buck went to living together as husband and wife? A No sir.
- Q Never did? A No sir.
- Q Never lived with any person? A No sir.
- Q I don't mean regularly married, but didn't you have a man that you lived with as husband and wife before you and Buck lived together? A No sir.
- Q You swear that positively? A Yes sir.
- Q You are the same Sallie Miller that is found on Freedman Doubtful Card 648, and you testified before this Commission at Chelsea on June 10, 1901, three years ago? A Yes sir.
- Q Didn't you at that time testify that you and Dick Whitire had been living together as husband and wife? A No sir, Dick Whitire was my first husband way before the war, I have two children by him.
- Q That is what I am asking you, if you didn't have a husband before Buck Bushyhead? A Yes sir, Dick Whitire.
- Q When did you and Dick quit living together as husband and wife?
A In 1863.
- Q When did you and Buck commence living together? A In the fall of 1865.
- Q Where did you first meet Buck Bushyhead the first time? A The first time he was driving wagons from Fort Smith up to Joel Bryant's.

- Q When was that? A I don't know exactly, but before the war.
- Q When did you first go to Fort Scott, Kansas? A I think it was in '67, as near as I can remember.
- Q Who did you belong to before the war? A William Holt.
- Q Where did he live? A At Webbers Falls, he moved down there, we used to live in Flint District.
- Q Were you living at Webbers Falls when the war come up? A Yes sir.
- Q What became of William Holt during the war? A I don't know, his daughter told me that they went to the Choctaw Nation.
- Q You didn't go with them? A No sir.
- Q Where did you go? A To Fort Scott.
- Q During the war? A Yes sir.
- Q What year during the war did you go to Fort Scott? A It was in '62.
- Q Why did you just now swear that you was never in Fort Scott until 1867? A I didn't know that you were going back to that time.
- Q Then you were in Fort Scott in '62? A Yes sir.
- Q And you have lived there until the present day, have you not?
- A No sir, I come to Fort Gibson in '65.
- Q You married Bushyhead in Fort Scott? A Yes sir.
- Q And you married Miller in Fort Scott? A Yes sir.
- Q And every child of yours was born in Kansas? A No sir, Mariah Wickett was born in Fort Gibson.
- Q How long had you been down in Fort Gibson when Anna was born?
- A She was born, I come back in '65 and Anna was born in '72, but I had took my oldest children to Fort Scott to school.
- Q You people along about that time, just after the war were plenty able to board children out and send them to school? A Buck worked all the time and helped me with the children.
- Q How many children did you have in 1865? A Two of Dick Whitnair's.
- Q They were in Kansas going to school? A In '65.
- Q Yes? A No sir.
- Q Where were they? A They were in Kansas but not going to school.
- Q How old were they? A Nettie was born in '59 and Dick was born in '60.
- Q How does it look reasonable that when they were 5 and 6 years of age that you would leave them up in Kansas and you come here?
- A I left them with my folks.
- Q Who were your folks? A Esther Holt.
- Q Your mother? A Yes sir.
- Q And she was in Kansas? A Yes sir at that time.
- Q You continued to leave the children there? A She come to Big Creek in '66, that is when I went and got my children and brought them here to Fort Gibson, in the fall of '66.
- Q Just a little before Christmas? A It was cold weather.
- Q But you know it was in the fall? A Yes sir, I guess it was as well as I can remember.
- Q Then you brought these two children where? A To Fort Gibson.
- Q At whose house did you live in in Fort Gibson in '66? A With Mariah Wickett's.
- Q She is dead? A Yes sir.
- Q You didn't produce her as a witness did you? A No sir.
- Q How long did you live at Mariah Wickett's house? A I was there pretty near all of the time, lots of time we were camped, Buck and me.
- Q Camped? A Yes sir.
- Q You and Buck? A Yes sir.
- Q Was any of Buck's old people around Fort Gibson at that time, I mean the people to whom he belonged? A Yes sir, Jess Bushyhead was there, he get killed in Fort Gibson.

- Q What year,? A I don't know what year it was.
- Q Did you and Buck ever live in a house together at Fort Gibson?
- A Yes sir.
- Q Where? A On the south side of the railroad in a little old log house down there.
- Q On the south side? A Yes sir, and when the cholera broke out that spring on the old Shaw place and had a garden there, and that was in the spring of '67, the cholera broke out in Fort Gibson.
- Q Then where did you go? A After that when we moved back there to Fort Gibson, and right back to Mariah Wickett's in a tent close to her house.
- Q Then where did you go? A I believe the next spring is when we took the children to Fort Scott to school.
- Q In the spring of '68? A Yes sir, I think so.
- Q Who did you put them up there with? A Old Aunt Tildy Childs, an old lady I got acquainted with during the war.
- Q You just took these 8 or 9 year old children to an acquaintance and left them there? A Yes sir, during school.
- Q And you and Buck was so poor you had to live in a tent, but you took these children to school? A Yes sir.
- Q How long did you stay there at that time? A I don't think long.
- Q About a week? A Longer than that.
- Q Two weeks? A Yes, may be two months.
- Q Buck was along with you? A Yes sir.
- Q How did you go? A Horse back.
- Q Took the children? A Yes sir, he took one and I took the other.
- Q Then where did you go? A Back to Fort Gibson.
- Q Did you live in a house then? A Yes sir, the one I was telling you about.
- Q Who were your neighbors? A Charlotte Walker and old Aunt Nancy Thornton.
- Q They are both dead, arn't they? A Yes sir.
- Q You can't find anybody that was living? A Yes, I can't think of the names, John Hayes, we were close neighbors to her.
- Q If that is true why didn't you bring some of them to Fort Gibson while we were there? A I didn't think I needed them because I thought everybody knew who I was.
- Q You knew that you wasn't enrolled by the Wallace court in 1889?
- A I thought it was through prejudice.
- Q You were not enrolled by the Kern-Clifton in 1896? A I have never drawn any money.
- Q If you never drew any money and were never enrolled by the Cherokees, and the Commission was setting there, didn't you think it was necessary to prove that you lived there during those years?
- A No sir, Aunt Nancy Thornton was there and tried to get me to go before you and she said she would tell you about me.
- Q You was adv'ed that you were going to have a hard time? A Yes sir.
- Q Why didn't you bring some of the witnesses then? A I had been before the Kern-Clifton and thought it was all right.
- Q You didn't draw any money? A No but I thought I went before them and thought I was enrolled.
- Q Where was Anna Butler married? A In Vinita.
- Q When? A Something over a year ago.
- Q Was that her first marriage? A No sir.
- Q Where was she married first? A In Fort Scott, they tell me.
- Q She never saw Fort Scott, did she? A Yes sir.
- Q She was married in Fort Scott? A Yes sir, going to school there, and was married while she was going to school.

- Q What year was she married? A I don't know now, I was down in this country.
- Q Wasn't she married to a man by the name of Owen? A Yes sir.
- Q Has she got any children by Owen? A Yes sir, one.
- Q What is its name? A Esther.
- Q Where was Esther born? A In Fort Scott.
- Q What did her husband do up there? A I don't know, I didn't know him.
- Q Never saw him? A I have seen him, just passing, I went up there when Esther was born.
- Q Were they living there in Fort Scott? A No she was staying at Mr. Miller's.
- Q She was still going to school I reckon? A No sir.
- Q She had quit going to school? A Yes sir.
- Q Were they living in a house? A In Mr. Miller's house.
- Q Who was Mr. Miller? A My husband.
- Q He owned a house there, did he? A Yes sir.
- Q Where did you go from when you went up there? A Vinita.
- Q How long did Anna continue to stay up there after Esther was born? A I think about two months.
- Q Wasn't it about two weeks? A No sir two months, if not longer.
- Q Then where did she go? A Come to Vinita.
- Q Did her husband come with her? A No sir I never seen him but once.
- Q Where is her first husband? A I don't know.
- Q His he living? A I don't know.
- Q Where is Howard Bushyhead? A He is dead.
- Q Where did he die? A He died in, I can't think the name of the place.
- Q Wasn't it in the Cherokee Nation? A No sir.
- Q Was he ever in the Cherokee Nation? A Yes sir, raised up here.
- Q Where was he born? A In Fort Scott.
- Q In Fort Scott? A Yes sir.
- Q What year? A I believe it was '67.
- Q 1867? A Yes sir, as near as I can remember.
- Q You just now testified that you was at Fort Gibson during that year? A You are trying to get me mixed up. I have had catarrh and am trying to tell the truth. '76.
- Q 1876? A Yes sir.
- Q Are you certain about that? A Yes sir I am certain about that '76.
- Q He was born up there in 1876? A Yes sir.
- Q What year was you and Miller married? A It was as near as I can remember, it must have been '64 or '65, you can count it yourself, it was the first year that Cleveland was elected.
- Q You were not up there going to school that year? A I have never been to school in my life and you know it.
- Q What were you doing up there? A Working.
- Q Buck Bushyhead was dead? A Yes sir.
- Q What year did he die? A '77.
- Q Where did he die? A There in Fort Scott.
- Q In Fort Scott? A Yes sir.
- Q Living at a house, keeping house? A No I was in a house, Buck just come there, he was about 5 or 7 days before he died, he come from Jaylin, Missouri.
- Q You were keeping house there? A I was staying at a house and working at a hotel.

113

- 3-
- Q You continued to stay there and married Miller? A No sir, I come back down here between that time and the time Miller and me were married.
- Q Did you leave Howard here? A Yes sir.
- Q Did he ever see the Cherokee Nation? A Yes sir, of course he did, I think it is too bad for you to set there and question an old woman, you know I am telling the truth.
- Q When did you first bring Howard to the Cherokee Nation? A I guess he must have been about two years old.
- Q Where did you bring him? A Up on Big Creek.
- Q You didn't bring him back to Fort Gibson? A No sir because after his father died I worked out, just nothing but the truth, I had to work for my children and I don't deny being in Kansas. All I stayed in Kansas for was just while I was working.
- Q Are you and Miller living together now? A We are man and wife, but he aint here.
- Q Where is he? A In Alton, Illinois, with his son.
- Q When did you quit living together? A About three months ago.
- Q You quit up at Fort Scott then? A How could I quit in Fort Scott living right here in Vinita for 18 or 19 years.
- Q You have been living in Vinita for 18 or 19 years? A Yes sir.
- Q Then did you and he marry? A I think in '84.
- Q How long did you stay there after marrying before coming to Vinita? A We stayed there about six months, Buck Bushyhead had a house built on Verdigris right where Steeve Looney lives.
- Q Wasn't Buck Bushyhead sometimes known as Charlie Walker? A Yes sir.
- Q Same fellow? A Yes sir he changed his name up on Big Creek, he got into trouble.

BY THE COMMISSION:

- Q You testified you were married to Buck Bushyhead at Fort Scott?
A Yes sir.
- Q It seems that when you first made application to the Commission you stated that you was married to Buck Bushyhead at Fort Gibson in 1865? A We didn't marry, we called it marrying.
- Q Listen at this: "Who was the next man you lived with? Buck Bushyhead. When were you married to him? In the winter of '65. Where at, in Kansas? No sir, in Fort Gibson."? A Yes sir that is when we took up together.
- Q But you were not legally married until after that? A No sir.
- Q How long had Buck Bushyhead been out of the Cherokee Nation when he died? A I guess after he went to Texas, it was '70, I guess when he left here and then he come back. No he was away from here I think a year because when he come back, this Anna Peterson was just about three weeks old when he come back from Texas.
- Q After the war up until Buck Bushyhead died, did you and he have any home in the Cherokee Nation? A Yes sir had this home that he made out here on Big Creek, the house he built there.
- Q When did he build that house? A I think it was, he went from Fort Gibson, I think in '67. He had some trouble down there and he went out there and built and that is how come him to change his name to Charlie Walker.

BY MR. HASTINGS:

- Q He died in 1876? A 1877.
- Q Then for ten long years you never saw this house on the Verdigris?
A We lived in the house.

- Q You never did see it, did you? A Yes sir.
- Q Where was it? A You know where Steve Looney and his step-son, Dave Ross.
- Q You mean he just went out there and built a log house and never lived in it for ten years? A No sir.
- Q Any one else ever live in it? A Dave Ross took the house.
- Q Just moved into it and took it? A Yes sir.
- Q Always kept it? A I don't know.
- Q You never got it back? A No sir.
- Q When did you say that Buck Bushyhead went to Texas? A It must have been along in '71.
- Q I thought you said '67 awhile ago? A No sir, he was living right here in Fort Gibson then.
- Q You didn't go with him to Texas? A No sir.
- Q How long was he gone? A He must have been gone about a year, may be later, because Arna was about three weeks old when he come back.
- Q But you thought he was gone a year? A Yes sir.
- Q May be a little over? A I ain't certain, I think so.
- Q When he come back Arna was about three weeks old? A Yes sir, about three weeks old.
- Q How long after that when you went to Fort Scott? A We went there to take the children before he went to Texas.
- Q When did you go after he come back from Texas? A I guess it must have been about five or six months after that, it was longer than that, I couldn't tell just exactly but it was in '77 when he died and he had went from Big Creek about four or five months to Joplin and then come to Fort Scott and died.
- Q Did you know Sam Bremer up there? A Yes sir, I think Buck worked for him.
- Q A number of years didn't he? A He might have.
- Q How could he work for him and not have been there according to your testimony? A I didn't say he stayed here all the time.
- Q How long did Buck Bushyhead live in Fort Scott, Kansas, to your knowledge prior to his death? A Pret near every time we went up there he would go to work. He was a butcher and they would hire him to work.
- Q You never did have any home in the Cherokee Nation before Buck's death? A Some but the place I told you about.
- Q You never occupied it? A No sir, we had stock there.
- Q What stock? A Two cows.
- Q You don't mean to tell this Commission that as poor as you were that you had cows up there at that new place where you never stayed? A Yes sir.
- Q What became of this cows? A I don't know, and he had hogs there too.
- Q What became of your hogs? A I don't know.
- Q Did he have any there where he died? A I don't know.
- Q You have just stated that you come there directly after his death didn't you look after it? A I don't know.
- Q Why didn't you look after your property? A I never do look after any of the outside work.
- Q You were so reckless and extravagant with property that you never paid any attention to it? A No sir I never paid any attention to it.

BY THE COMMISSION:

- Q Do you want to make any explanation as to why you didn't live in this house? A He never finished it, a man got killed in Coffeyville, a white man, and a friend to this man Buck had trouble with in Fort Gibson, and they come up there and were employing him up there and that is why he left.

Q Was waylaying Buck? A Yes sir, and that is why he changed his name to Charlis Walker.

BY MR. HASTINGS:

Q Then you never lived out there any more because he was afraid to, is that correct? A No he never lived out there.
Q Never lived in the Cherokee Nation any more? A Yes sir, he did, but like a good many people he was always on his guard.

JANE MACKKEY, being first duly sworn, testified as follows:

BY THE COMMISSIONER:

Q What is your name? A Jane Mackey.
Q How old are you? A About 56.
Q What is your post office address? A Fort Gibson.
Q Are you a Cherokee freedman? A Yes sir.
Q Do you know the applicant in this case, Howard Bushyhead and Anna Butler or Anna Peterson? A What Bushyhead.
Q Howard? A Yes sir, I know Buck Bushyhead.
Q But you don't know these applicants, Howard Bushyhead and Anna Peterson? A Yes sir, I know Howard.
Q When did you first get acquainted with Buck Bushyhead? A I knowed him all my days.
Q When did you first know him, when you could first remember?
A Yes sir.
Q Was that before the war? A Yes sir.
Q Where were you and Buck living then? A I was living in Flint District.
Q Flint District, Cherokee Nation? A Yes sir.
Q Where was Buck living? A Up above there somewhere, I don't know where, on old Mrs. Bushyhead's place, I guess, same district.
Q What Mrs. Bushyhead's? A She had a son named Dennis and Jess.
Q They were Cherokee citizens? A Yes sir.
Q Was Buck a slave of that family? A Yes sir.
Q Do you know whether or not Buck went out of the Cherokee Nation during the war? A He was a teamster in the company with my father. My father was a soldier and he was a teamster.
Q Do you know whether Buck Bushyhead went out of the Cherokee Nation during the war? A No sir I don't know.
Q When did you first see him in the Cherokee Nation after the war?
A It was in '95.
Q You mean 1895? A I saw him, I couldn't--
Q About how long after the war was it? A It was n't very long after the war, my father died at the end of the war, the year of peace, surrender, and Buck was there then because he helped bury my father. I remember that and then he went off, said he was going to Texas and when he came back said he was going up on Grand River, and after that I don't know where he went.
Q Where did your father die? A In Fort Gibson in the garrison.
Q Was Buck married then? A He had a wife, they called his wife.
Q Who was that? A Sallie Miller there.
Q This Sallie Miller who has just been on the stand? A Yes sir.
Q How long after that was it until Buck went to Texas? A I couldn't tell when Buck went to Texas, and couldn't tell when he came back, and he went on Grand River after he came back.
Q And you never saw him after he went up on Grand River? A No sir.
Q You don't know where he lived after that time? A No sir.

BY MR. HASTINGS:

- Q Did Buck ever live in a house at Fort Gibson? A Yes sir.
- Q Where? A In a house in the old town.
- Q On what side of the railroad track now? A Railroad on both sides now, where old Mariah Vickett's house was.
- Q What year did he live there? A I can't tell you, I don't remember.
- Q What year is this? A 1804 aint it.
- Q 1804? A Yes sir.
- Q When did this woman come and get you as a witness in this case? A Come week before last.
- Q There at Fort Gibson? A Yes sir.
- Q Come and tell you she wanted you as a witness? A Yes sir.
- Q Have you lived at Fort Gibson all the time since the war? A Yes sir, I have.
- Q How long did Buck Bushyhead live there after the war, three weeks? A Longer than that.
- Q Do you know? A I couldn't tell you, a good while.
- Q Your best judgment? A He was gone about a year to Texas.
- Q How long did he live at Fort Gibson? A He was there about two or three years I reckon, I guess--
- Q Do you know? A I saw him there about that long.
- Q Who was he living with when you saw him? A They lived awhile at the old Shaw place across the river.
- Q That wasn't in Fort Gibson? A That was a cross the river, but just about how long Buck stayed in town I couldn't tell.
- Q Did they have any children when they were there? A I recollect two little children.
- Q A boy and a girl? A Yes sir.
- Q Which is the elder of these children, the boy or the girl? A I don't know, I can't tell you.
- Q Was there much difference in the age? A Yes sir I reckon, looks like, may be might be two or three differences in the age, small children.
- Q These were children of Bucks by this woman? A I don't know said to be Buck's children, they called him father.
- Q He recognized them as his children? A Yes sir.
- Q She recognized him as the father of them? A Yes sir.
- Q Do you know whether they called one Howard? A Yes sir, they called one Howard.
- Q Where was Howard born? A I don't know.
- Q That was while they were living at Fort Gibson? A Yes sir.
- Q You saw Howard living there with them and this girl? A I saw her two children there at Fort Gibson.
- Q Was one named Howard? A Yes sir.
- Q Did it ever occur to you that Howard wasn't born until twelve years after the war? A I can't tell you that.
- Q Then you are mistaken? A I guess if he was, I am mistaken.
- Q According to this record Howard Bushyhead was born in 1876 or 1877, Buck Bushyhead wasn't living there that late was he? A I don't know, I have told you as near as I can.
- Q You don't know do you? A No sir.
- Q You don't know where Howard was born do you? A No sir, I don't.
- Q You must be mistaken about seeing him then? A I saw the children all right.
- Q Were they living in the house there? A Yes sir, I don't know whether it was there house, it was when Mariah Vickett--
- Q They were living there with these children? A She had them children.

- Q At that time? A When she was there.
- Q If she swears that she didn't, she is mistaken isn't she, the mother? A I guess so, I am telling you as near as I know.
- Q Do you know where Anna was born? A No sir.
- Q You never saw her in your life until you come here to testify?
- A Yes sir, I did, after they left and went off, he said he was going up on Grand River, and I never saw them any more.
- Q How big was Howard when you last saw him? A A small child.
- Q Two or three years old? A If that is the child, it was.
- Q You said they called him Howard? A They did.
- Q Do you know what they called the other one, Anna? A They called her Pet I believe.
- Q You don't know where she was born? A No sir.
- Q Do you know which is the older, the boy or girl? A No sir.
- Q Did Buck Bushyhead ever go to Texas? A He said he was going to Texas, I don't know where he went.
- Q Did he take his wife and these two children with him? A I don't guess his wife knew he was gone.
- Q Why do you think that? A He left his wife and went away.
- Q Did he leave these two children there? A Yes sir.
- Q How long was he gone? A About a year I expect.
- Q How do you know he left his wife, did you see her? A Yes sir.
- Q While he was gone? A The way I know she stayed with mother.
- Q While Buck was gone to Texas? A He was gone, I don't know where.
- Q She said he was gone to Texas? A Yes sir.
- Q During part of this time, Sallie Miller now, stayed with your mother? A Yes sir sometimes, she stayed with several.
- Q You were with your mother at that time? A Yes sir.
- Q And she had these two children, did she? A She had one of them with her most of the time.
- Q Which one, Howard or Anna? A I disremember which one, she had one I remember that.
- Q You don't know whether it was a girl or boy? A No sir.
- Q You don't know whether it was Anna or Howard? A No sir.
- Q How long after the war was that? A It wasn't very long.
- Q About how many years? A It was about two or three years I expect.
- Q Is that your best judgment? A Yes sir.
- Q Don't you know that neither of them were born until about 6 or 7 years after the war? A It may have been longer, I might have been mistaken.
- Q But you know this man was gone to Texas? A He said so.
- Q You don't know now whether he left any children there or not, do you? A I know she had children.
- Q Were they his? A She said so.
- Q They were said to be his children? A Yes sir Buck Bushyhead.
- Q They had two children when he went to Texas? A I don't know she had only one was born after the father went away.
- Q One was born before hand and one after he went away? A I think so.
- Q How long was Buck gone to Texas? A About a year.
- Q Did he ever come back there? A Yes sir he come back and left again and went up on Grand River, I think it was Grand River.
- Q How long did he stay there when he come back? A He didn't stay but five or six months, because he said he was going up on Grand River to get a place.
- Q Did he get a place? A I never saw him any more.
- Q He never come back to Fort Gibson after that? A I didn't see him.
- Q What became of this woman, did he take her? A Sallie went off too.

- Q Did they go off together? A I didn't see them when they went off.
- Q How many children did she have by Buck Bushyhead when they went off? A I don't remember Mr. Hastings, how many they had, whether just two or not, I know she had two they said was Buck's.
- Q What year was it they left Fort Gibson after the war? A I couldn't tell you.
- Q Don't have any idea about that? A No sir.
- Q You don't know how many years after the war when it was they left Fort Gibson? A No sir.
- Q Can't you form any idea at all? A I couldn't and tell you the truth.
- Q I know you may not be absolutely correct or exact. Your best judgment as to how many years after the war it was before they left? A Might have been two or three years.
- Q Is that your best judgment? A Yes sir.
- Q That was the last time you saw them at Fort Gibson? A Yes sir.
- Q And that was two or three years after the war? A Yes sir.
- Q In the meantime Buck had been to Texas about a year? A Yes sir that is what he said.
- Q Before that this woman had two children born by him, Howard and Anna? A Yes sir.
- Q And they were both born there at Fort Gibson? A One was born there to my knowing.
- Q Was the other one born there? A I don't know sir.
- Q Both born when they left there? A Yes sir.
- Q Then if Sallie Miller says that they were born about ten years after that she is mistaken isn't she? A I guess so her or no one is bound to be mistaken.
- Q You never saw them upon the river, anywhere living up there?
- A No sir I never went up there.
- Q You never saw them at any gathering for two or three years after the war? A I never went to none.
- Q You never saw Buck Bushyhead back at Fort Gibson after that?
- A No sir.
- Q You never saw this woman back there after that? A Yes sir.
- Q When did you next see her? A A good while after that.
- Q After Buck's death? A No sir not till after he was dead.
- Q Until after she had married again? A I saw her before she married.
- Q Do you know where she married the last time? A No sir.
- Q Do you know where Buck died? A No sir, I don't know where he died.
- Q You never heard of him dying up at Fort Scott? A I might have.
- Q Well did you? A No sir not as I know of, I know---
- Q Sallie Miller never told you when she wanted you as a witness that Howard was born at Fort Gibson in 1876 or 1877? A No sir she never told me where none of them were born, I am telling you the truth Mr. Hastings.
- Q What is your father's name? A His name is Charles Timberlake.
- Q Where did he die? A In the garrison at Fort Gibson.
- Q During the war? A The end of the war.
- Q About the time the war closed? A Yes sir.
- Q Before peace was declared? A Yes sir.
- Q That was before the soldiers were disbanded? A Yes sir.
- Q Do you know where Buck Bushyhead and this woman was married?
- A No sir I don't know anything about that.
- Q When did you first see this woman during or after the war, Sallie Miller? A She was in Gibson just after the war, but was not in Gibson during the war.

- Q How long just after the war was it before you saw her? A I saw her just after war, she was there all of the time.
- Q She was living there with her mother? A I don't know her mother.
- Q Was she and Buck living there together during the war? A Yes sir.
- Q Kept house together? A With Mariah Wickett.
- Q During the war? A Yes sir and after peace was declared too, just after the war.
- Q Don't you know she had another husband during the war by the name of Dick Whitmire? A I didn't know him.
- Q If she testifies that she never lived with Buck Bushyhead until after the war, she is mistaken is she? A She knows, I don't.
- Q Then do you know that she lived with Buck Bushyhead during the war? A Yes sir.
- Q Where at? A At Gibson, she says so, they was in a house with me.

BY THE COMMISSION:

- Q Do you know whether this woman had any children by Dick Whitmire? A No sir, I don't know that.

BY SALLIE MILLER:

- Q Do you remember that I lived there with your mother? A I told them that.
- Q I had two children? A You stayed awhile with us but Buck wasn't there, that is the time Buck was gone.
- Q And you know they were good size children? A That is what I told them.

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

BY THE COMMISSION:

- Q What is your name? A Thomas Walker.
- Q What is your age? A 50.
- Q What is your post office address? A Fort Gibson.
- Q Are you a Cherokee freedman? A Yes sir.
- Q Do you know Anna Peterson or Anna Butler, and her brother Howard Bushyhead, children of Sallie Miller and Buck Bushyhead? A I know Buck.
- Q Don't know the children? A No sir.
- Q When did you first get acquainted with Buck Bushyhead? A Time of the war at Fort Gibson.
- Q Were you living there then? A Yes sir.
- Q Was Buck living there? A Yes sir.
- Q Was Buck the slave of a Cherokee citizen? A I don't know sir.
- Q You didn't know him during slavery? A No sir.
- Q What was he doing when you first knew him during the war? A A teamster for the Union, he was with the army.
- Q How long did you continue to know him there at Fort Gibson during the war? A I got acquainted with him about '63 I reckon, from that on up until he left there, left Fort Gibson, I seen him all the time.
- Q When did he leave Fort Gibson? A He left about '71.
- Q Do you know where he went? A No more than what I heard him say that he was going to Texas.
- Q That is the first time he left Fort Gibson to your knowledge? A Yes sir to my knowing.
- Q Did you ever see him again? A Yes sir when he come back.
- Q When was that? A Pretty shortly afterwards, I don't know exactly what year.

- Q About how long afterwards? A He left Fort Gibson after the war, he was working for a butcher and the butcher went to Texas and got killed and Buck come back and stayed here awhile and went to Kansas, and I haven't seen him since.
- Q Was he married when you first knew him there in Fort Gibson?
- A Yes sir.
- Q Who was he married to? A His wife was now Gallie.
- Q This woman here, Gallie Miller? A I couldn't tell whether she is the woman or not, I was just a tot.
- Q You don't remember whether this woman was his wife or not? A No sir.
- Q Did they have any children at that time? A Yes sir.
- Q Boys or girls? A I remember I believe, two girls to the best of my knowledge.
- Q Do you remember their names? A No sir.
- Q Two girls and one boy? A I don't remember whether there was a boy or not, I remember seeing two girls.
- Q About how old were they? A They were small, smaller than I was.
- Q Did Buck Bushyhead own any home there in Fort Gibson when you knew him? A Not as I know of, he was working around there by daily labor by the month.
- Q About how long did his wife and children continue to live there?
- A I couldn't tell you that, I am not able to tell.
- Q Did they leave before Buck went to Kansas or afterwards? A Yes sir they left before he went to Kansas.
- Q Do you know where they went? A No sir.
- Q Did Buck go with them? A No sir.
- Q He stayed in Fort Gibson? A Yes sir.
- Q ~~Somebody~~ Do you remember when Buck went to Kansas? A About the latter part of '71 I reckon or first of '72.
- Q And you know nothing about him since that time? A No sir.
- Q Don't know whether he is living or dead? A No sir.

BY MR. JASTINGS:

- Q Tom where did you live during the war? A I lived in Fort Gibson.
- Q Did you live there immediately after the war? A Yes sir.
- Q How long did you continue to live in Fort Gibson after the war? A I have been living there ever since the war.
- Q In the town? A No sir.
- Q Were you living in the town the first years after the war? A No I never lived in---I lived in town two months when I first come to Gibson, that is all I lived in town, I lived out on the edge and in the country like.
- Q How far do you live from town? A I have been living in a mile and a half of town.
- Q The first years after the war, in 1865, 67, and '68, where were you living? A I was living there close to Mr. Pilly Ross's.
- Q How far from town? A I don't know whether that is in town or not.
- Q How far was it from the then town of Fort Gibson? A It was about 400 yards I reckon, quarter of a mile.
- Q Did you live there for three or four years? A Yes sir.
- Q When did you first see Buck Bushyhead with a wife? A I saw his wife but never saw him with her, we all lived close together out on the edge of the bottom, and an old Cherokee woman by the name of Mariah Wickett lived beyond us a little piece, and there was a woman there and I was told that that was Buck's wife.
- Q How long did she live there? A I don't know when she left.
- Q Your best judgment as to how long she lived there? A I don't know when she went to Aunt Mariah's, and I don't know when she left.

- Q How long did you know her to live there? A I saw her there lots of times.
- Q How long did you know her to be there? A To the best of my knowledge five or six months.
- Q That is all that you knew about her there? A Yes sir.
- Q Then she went away somewhere? A Yes sir.
- Q When did you know her there, what year? A It was in '65.
- Q You knew her there five or six months, and that was the last you saw of her? A Yes sir.
- Q Is that the year you saw Buck Bushyhead there? A Yes sir.
- Q You never saw him after that? A Yes sir lots of time after that.
- Q But you never saw this woman? A No sir.
- Q She wasn't there? A No sir.
- Q Did you understand that she had gone to Kansas? A No sir I never heard where she had gone.
- Q Buck never had any children by her in 1865 did he? A I don't know, I am not able to tell that.
- Q You know that Buck never lived with this woman around there after that? A No sir.
- Q You say Buck left about that time and went to Texas? A He left about that time in '71 I believe, '70 or '71.
- Q From 1865 up to 1870 or 1871 never saw this woman? A No sir.
- Q You never saw any children? A No sir.
- Q Buck never had any children there? A Not to my knowing.
- Q Do you think Buck stayed there all the time from 1865 to 1870 or 1871? A He might not have stayed there all of the time but I remember of seeing him often and on.
- Q But you never saw the woman? A No sir but he stayed there part of the time.
- Q Then he left there in 1870 or '71, you never saw him any more? A He went to Texas and come back and I saw him.
- Q How long was he gone to Texas? A About a year I guess.
- Q You didn't see the woman there when he come back? A No sir.
- Q Where did Buck stay when he come back? A I don't know where he stayed, he didn't stay there long when he come back.
- Q About how long did he stay? A About a week or such a matter.
- Q And then just passed on? A Yes sir.
- Q Didn't you understand he went to Fort Scott? A He went, he come back my mother borrowed a dollar from him and when he come back from Texas he come back by there for it about 7 or 8 o'clock in the evening, he told her he would like to have it, that he was going to Kansas.
- Q He didn't have a wife there with him then? A No sir.
- Q Did he say his wife was in Kansas? A I didn't hear him say anything about his wife.
- Q He went off to Kansas did he and you never say him after that? A No sir.

SALLIE MILLER recalled:

BY THE COMMISSION:

- Q Did you have any children by Dick Whitmire? A Yes sir.
- Q You were married to him when? A Before the war.
- Q When and where were those children born? A They were born at Webbers Falls.
- Q When? A One was born in '59 and the other was born in '61.
- Q You just had two children by him? A Yes sir.
- Q When and where were your children by Buck Bushyhead born? A The first one at Fort Gilman in '72.
- Q These children by Dick Whitmire, did they continue to live with you until they were grown? A Yes sir they stayed with me in Gilman.

BY MR. HASTINGS:

- Q I thought in 1867 or 1868 you took them to Fort Scott? A While they were out of school they lived there in Fort Gibson with me.
- Q Were these boys or girls? A Girl and a boy.
- Q One named Howard? A No that was Bushyhead.

BY THE COMMISSION:

- Q When did Howard Bushyhead die? A It will be two years the 17th of this coming October.
- Q October, 1904? A Yes sir.

SIMON MCKINZIE, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY THE COMMISSION:

- Q What is your name? A Simon McKinzie.
- Q What is your age? A 63.
- Q What is your post office address? A Prier Creek.
- Q You are a citizen by blood of the Cherokee Nation? A Yes sir.
- Q Do you know the applicants in this case, Anna Butler or Anna Peterson, and Howard Bushyhead, children of Sallie Miller and Buck Bushyhead? A I knew Buck Bushyhead.
- Q When did you first know him? A In Fort Scott, Kansas.
- Q When? A I first got acquainted with him was when we got discharged in Fort Leavenworth, and come on back to Fort Scott in '65, in August.
- Q That is when you knew him? A Yes sir.

BY MR. HASTINGS:

- Q In what army were you, in the Union army? A Yes sir.
- Q You were discharged at Fort Leavenworth, Kansas? A Yes sir.
- Q When did you come to Fort Scott, Kansas? A In '65 in August.
- Q Did you know Buck Bushyhead at Fort Scott, Kansas? A Yes sir.
- Q Was he a colored man? A Yes sir.
- Q When did you first get acquainted with him? A Short time after I come to Fort Scott in August.
- Q About how long after you went there in August of 1865? A In a week or so, we went to work there.
- Q What was Buck Bushyhead doing when you knew him there? A He wasn't doing much of anything, he was then like the rest of them lived about part of the time and worked about town and took a little drink of whiskey.
- Q Did you understand that he was formerly owned by the Bushyhead's in the Cherokee Nation? A No sir.
- Q Didn't he tell you that he had been owned down here by Bushyhead before the war? A Never told who had owned him, I knowed he was a Cherokee darkie.
- Q How long did you continue to know him there in Fort Scott, Kansas? A From '65, that time, until '66, and he got to working for a butcher in Fort Scott, for Sam a butcher in Fort Scott.
- Q Sam Bruner? A Yes sir, driving a team for him, I passed right by the shop every night and morning.
- Q How much longer did you know him there? A Often and on until '65, '67, '68, and '69, I left there and come home and he was still there.
- Q Buck Bushyhead was still there was he? A Yes sir.
- Q You left him there? A Yes sir.

- Q Did you see him frequently then, between say 1865 when you first knew him until you left there in 1868? A Yes sir, often and on, passed right by the butcher shop every morning, I lived in the east of town and the butcher shop was in the west of town.
- Q You never missed him for any length of time? A No sir.
- Q You didn't know his wife? A No sir.
- Q You didn't know anything about his family? A No sir.
- Q Did you ever see him after that time, after you left and come off down here? A No sir, I don't recollect of seeing him any more.
- Q But you saw him frequently as you passed backwards and forwards? A Yes sir, during that time.
- Q Just like you saw any other man? A Yes sir, when I come back home I went out west, didn't come to Fort Gibson.
- Q What time did you leave Fort Scott in 1868? A Along it must have been during the spring of '68.
- Q And you swear that Buck Bushyhead was butchering there at that time? A Yes sir.
- Q He said he was a Cherokee darkie? A Yes sir, I knew him by the language, he talked it.
- Q You talked Cherokee and so did he? A Yes sir.
- Q And that made you talk a good deal together? A Yes sir.
- Q He talked Cherokee language, did he? A Yes sir.
- Q That is how you happen to know he was a Cherokee darkie? A Yes sir.
- Q Do you know whether or not he was in the war? A I don't know.
- Q About how old was he when you first knew him? A I don't believe I could give any idea.
- Q Was he older than you? A I think he was, I know he was.
- Q You first knew him there in what year? A In '65.
- Q And he continued to live there all the time until you left in 1868? A He was there all the time.
- Q After you left Fort Scott in 1868 did you ever see Buck Bushyhead any more? A No sir, I went out west when I come here and didn't go to Vinita or Gibson.
- Q Did you ever hear him say anything about having a family at that time? A No sir.
- Q Do you know where he come from when he come to Fort Scott? A I don't know but he come from the Cherokee Nation, because he was a Cherokee darkie.
- Q But you don't know where he come from? A No sir.

BY SALLIE MILLER:

- Q You say you were a soldier? A Yes sir.
- Q What regiment? A Second Kansas Battery, Light Artillery.

BY THE COMMISSION:

- Q Did this Buck Bushyhead ever go by any other name while he was there? A If he did I never heard of it.
- Q Did you ever hear of more than the one Buck Bushyhead? A No sir.
- Q Never knew any other darkie by that name? A No sir.

This case was here continued to September 21, 1904.

SEPTEMBER 21, 1904.

In pursuance of continuance heretofore had on August 16, 1904, this cause was on this date called for further hearing.

APPEARANCES:

Applicants by their mother, Sallie Miller, and attorneys,
Blue & Bugger.
Cherokee Nation by its representative, J. S. Davempert.

SALLIE MILLER, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Sallie Miller.
Q What is your post office address? A Viola.
Q How old are you? A 62.

BY MR. BUGGER:

- Q You are the mother of this Anna Butler and Howard Bushyhead?
A Yes sir.
Q Who is their father? A Buck Bushyhead.
Q Was he a slave of a Cherokee at the commencement of the rebellion?
A Yes sir.
Q Whose slave was he? A Jess Bushyhead's.
Q In what District did Jess Bushyhead reside? A I think in
Geigunake District near the line as near as I can remember, we
were not married then.
Q Were you acquainted with him at that time? A No sir I was just
acquainted with him in passing by where I lived, they used to
haul goods up from Fort Smith upon Grand River to Bryant's.
Q When did you and Buck marry? A I don't know whether it was in
'58 or '59.
Q After the war? A Yes sir, when we were married legally.
Q Had you been living together before that? A Yes sir.
Q Was Anna Butler born before you and he were married? A No sir.
Q Was Howard Bushyhead born before? A No sir.
Q They were born after the war? A Yes sir.
Q Did Buck Bushyhead go out of the Cherokee Nation during the war?
A No sir he was a soldier and he was right here in the Territory.
Q Where was he located as a soldier? A At Fort Gibson.
Q All during the war? A Yes sir.
Q How long did he remain at Fort Gibson after the war, if he did?
A He remained there until '67 right in Fort Gibson.
Q Was he in the Cherokee Nation in the year 1866, in August? A Yes
sir, right in Fort Gibson.
Q Did you see him at that time? A We were living together as
man and wife, we took up together in the fall of '65.
Q Did Buck Bushyhead go out of the Cherokee country after that time?
A Yes sir, I think about '68 or '69, he went to Texas.
Q Did he return to the Cherokee Nation? A Yes sir.
Q About when? A When he came back from Texas he stopped over in
Fort Gibson.
Q When was that? A That was in '72.
Q Did he ever leave the Cherokee Nation after that time? A Yes sir
Did he ever return after that? A No sir he died in '77 in
Fort Scott, Kansas.

BY MR. DAVENPORT:

- Q Were you raised in the Cherokee Nation? A Yes sir.
Q When did you return to the Cherokee Nation? A In the fall of '65.
Q Who was with you? A My sister, Bettie, I come back with a man in a hack by the name of Sandy, he brought us from Fort Scott.
Q How long did you stay before you went back to Kansas, if at all?
A I went back in '68 I think.
Q When did you return to the Cherokee Nation after 1868? A I don't know, I come back in '69.

BY THE COMMISSION:

- Q When did you first get acquainted with Buck Bushyhead? A I couldn't tell you just exactly when, but before the war I was living down to Webbers Falls.
Q Who did you say owned him at the beginning of the war? A Jess Bushyhead.
Q Where did he live? A As near as I can remember it was in Going-snake District near the line.
Q Was Jess Bushyhead a Cherokee Indian by blood? A Yes sir.
Q Both Anna Butler and Howard Bushyhead were born in Kansas? A No sir, Anna was born here at Fort Gibson.
Q When did you go to Fort Scott? A I think it was along about in '72 in the fall, cause Anna was a baby.
Q How old is Anna now? A I think she is 32 years old.
Q Which is the oldest, Anna or Howard? A Anna is the oldest.
Q How old is Howard? A I think Howard would have been 27 the 20th of last June.
Q When did Howard die? A The 18th of last December a year ago.
Q 18th of December, 1902? A Yes sir, I sent an affidavit here.
Q Where do you say Howard was born? A In Fort Scott.
Q How long did you live in Fort Scott? A I lived there, I don't know how long, I worked there after my husband died, I come down in the Nation and come down here to work after he died.

CHLORA FOREMAN, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Chlora Foreman.
Q What is your age? A About 53.
Q What is your post office address? A Vinita.
Q Did you know a man by the name of Buck Bushyhead? A Yes sir.
Q Was he a colored man? A He was part colored and part Indian.
Q Was he a slave before the war? A I guess he was.
Q Do you know? A Yes sir, he belonged to the Bushyheads'.
Q Do you know that? A Yes sir.
Q What Bushyhead did he belong to? A He belonged to Jess Bushyhead.
Q Where did you live before the war? A On Cabin Creek.
Q Were you living there when the war come up? A Yes sir.
Q Where was Buck Bushyhead when the war come up? A I don't know where Buck Bushyhead was, when I met him he was at Gibson.
Q When? A In the time of the war.
Q Then you don't know anything about Buck Bushyhead before the war?
A No sir.
Q And you can't testify as to whom he belonged to of your own knowledge? A No sir, only by hearing people say he belonged to Jess Bushyhead.
Q It is merely hearsay on your part? A Yes sir.

BY MR. BULGER:

- Q You say you saw Buck Bushyhead during the war in Fort Gibson?
A After the war.
Q What was he doing in Fort Gibson? A When I first got acquainted he was driving for Mr. Percival.
Q What was he doing? A Working in a store.
Q Did Percival run a store in Fort Gibson? A Yes sir.
Q What year was this that you knew Buck Bushyhead in Fort Gibson?
A In '66.
Q How long did you know him to work in that store at Fort Gibson after 1866? A I don't know sir just exactly it seems to me like he worked there a year or two years, I don't know which, I worked at the house and he worked at the store.
Q You worked for Percival yourself? A Yes sir.
Q Was Buck Bushyhead working for Percival in August, 1866? A I couldn't tell the date.
Q Well in the summer of 1866? A Yes sir.
Q After that he worked a year or such a matter? A Yes sir.

BY MR. DAVENPORT:

- Q Did you know Jess Bushyhead's daughter, it is now Mrs. Quarrels and a sister of Aunt Liddie Alberty, who now lives at Tahlequah?
A Yes sir, I used to know the children, but I forget the names it has been so long.
Q Do you remember when one of the Bushyhead girls died in Fort Gibson just after the war? A Carrie Bushyhead, I knowed her.
Q Did you ever know anything about Jess Bushyhead's family before the war? A No sir.
Q Who were you raised with and belonged to, if any one, when the war broke out? A I belonged to Dave Landrum.
Q You lived in the northeastern part of the Cherokee Nation then?
A Yes sir.
Q And you don't know where Buck Bushyhead lived when the war broke out? A No sir.
Q You are the wife of Luster Foreman? A Yes sir.
Q When Percival commence his business at Fort Gibson, Indian Territory? A He had a store there at the close of the war.
Q Are you positive that this man Percival who ran a store at Fort Gibson was in business in Fort Gibson in the year 1866? A Yes sir.
Q How long had he been in business before that year? A I don't know sir.
Q Don't you know that he didn't open up his business there until the year after the cholera broke out in Fort Gibson? A As far as I can remember it seems to me like it was before the cholera broke out.
Q When did you go back to Fort Gibson? A I got back just when peace was declared.
Q Did you go out during the war? A Yes sir.
Q What year was it you worked for Percival? A I am not educated, it was in '66, when I and Buck worked for him, they said it was.
Q How long had you been back to Fort Gibson before you worked for Percival? A A year.
Q You had been back more than a year hadn't you? A I believe it was before I worked for Mr. Percival, two years, I was there before the cholera at Fort Gibson, just at the close of the war.
Q You was back and saw Buck and you both worked for Percival?
A Yes sir, I worked at the house and he worked down at the store.
Q Did percival have a family? A Yes sir.
Q What was his wife's name? A Millie Pettit, was her name, Mill Pettit's sister.

- Q Where is she living? A She is dead.
Q Did he have any other family? A No sir.
Q Had you seen Buck Bushyhead in Port Gibson before he commenced working for Percival? A Yes sir, I have seen him around there with the Cherokees, but I wasn't acquainted with him then.
Q How old were you when the war closed? A I don't know sir.
Q How old are you now? A They say I am about 53, my young mistress says.
Q Were you a grown young woman when the war closed? A No sir, I was a young woman.
Q What kind of work did you do at Percival's? A Coked, it was before I married Luster, we were married in '67.

BY THE COMMISSION:

- Q Are you on the 1880 roll? A Yes sir.
Q Your husband on the 1880 roll? A Yes sir, he is dead.
Q Do you know when Buck Bushyhead married Sallie Miller? A No sir I don't know when they married, but I know she was his wife when he worked at Percival's, but I don't know when they married.
Q When you first got acquainted with Buck Bushyhead he was married then? A Yes sir.
Q And was working there at Percival's store? A Yes sir.
Q And living with his wife there in Port Gibson? A Yes sir he lived in a little log house.

BY MR. PULGER:

- Q Are you acquainted with Anna Butler and Howard Bushyhead? A Yes sir I know them.
Q Were they the children of Buck Bushyhead? A Yes sir they were always called Buck Bushyhead's children.

BY MR. DAVENPORT:

- Q Howard Bushyhead was born at Port Gibson wasn't he? A I don't know she had two little children.
Q When they lived at Port Gibson? A Yes sir, a girl and a boy.

This case was here adjourned for further hearing until tomorrow, September 22, 1904.

In pursuance of adjournment heretofore had, this cause was, on this September 22, 1904, called for further hearing.

APPEARANCES:

Applicants appear by their mother, Sallie Miller, and attorneys, Plus & Pulger.
Cherokee Nation by its representatives, L. P. Bell.

TOBE McINTOSH, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Tobe McIntosh.
Q Where do you live? A Muskogee.
Q How old are you? A About 68.
Q Do you know Sallie Miller? A Slightly.
Q Did you know a colored man by the name of Buck Bushyhead? A Well acquainted with him.
Q When did you first know Buck Bushyhead? A At Port Gibson.
Q When? A During the war.
Q Was he a slave at the commencement of the war? A Yes sir.
Q To whom did he belong to? A Some of the Bushyhead's, I couldn't tell you the name.
Q Were you a slave? A Yes sir.

- Q To whom did you belong to at the commencement of the war? A To McIsttoah.
- Q Where did you live at the commencement of the rebellion? A Lived at Broken Arrow.
- Q What Nation is that in? A Creek Nation.
- Q Where did Buck Bushyhead live at the beginning of the rebellion?
- A I couldn't tell you, I don't know where the Bushyheads lived at that time.
- Q Had you seen Buck Bushyhead before the war? A No sir, I adn't.
- Q Then you don't know who he belonged to of your own knowledge?
- A No sir only what he told me, he was his master.
- Q They didn't live anywheres close to you? A No sir they were in the Cherokee Nation and I was in the Creek Nation.
- Q When did you see Buck Bushyhead during the war? A I see him in '62.
- Q Where? A At Port Gibson.
- Q How long did he stay at Port Gibson? A Until the war was ceased.
- Q Did he stay there after the war any? A After the war I seen him there in '62, and it was '67.
- Q Do you know when he married Sallie Miller? A No sir I don't know anything about that, he told me that was his wife and they had two little children, is all I know.
- Q He was living at Port Gibson with Sallie Miller and had two children during the war? A Yes sir.
- Q How large were these children? A Quite small when I seen them.
- Q Do you know where he went to after he left Port Gibson? A The last conversation he had with me, he told me he was going to a place in the Cherokee Nation near Oak Creek.
- Q Do you know when he went to Kansas? A No sir.
- Q Do you know where he died? A No sir.
- Q You never saw him after he left Port Gibson? A Never.
- Q You think that was in 1867? A Yes sir.

FY MR. FULGER:

- Q Did you and Buck work for the same man at Port Gibson? A No sir, I worked for Bushyhead and he worked for Percival.
- Q How close were these places together? A About across the street.
- Q Did you see Buck about every day? A Every day I met him.
- Q You know that you saw him there in 1866 and 1867? A Yes sir.
- Q What time of the year of 1867 do you remember that he went away? A I couldn't tell you it has been so long, a man can't remember it.

FY MR. SKILL:

- Q When did you see Buck Bushyhead last? A In '67.
- Q About what time of the year? A Along in the spring.
- Q What were you and him doing in 1866? A I was selling goods for Bushyhead and ~~because~~ he was working for Percival.
- Q William Percival? A Yes sir.
- Q The man that kept a store there a long while after that? A Yes sir.
- Q You know Jess Bushyhead did you? A Yes sir, I knew him when he was killed.
- Q When was he killed? A I knew him before he was killed.
- Q When was he killed? I couldn't tell you, it has been so long, I couldn't remember.
- Q You recollect about him being killed? A Yes sir, that is all.
- Q But you can't recollect anything about the time? A No sir.

- Q You can recollect all about Buck though? A I recollect about him I don't recollect when he was dead, I heard of it.
- Q Where were you during the year 1867? A Right in Fort Gibson.
- Q Lived there all that year? A Stayed there all the time for four years.
- Q Where were you Christmas 1867? A I couldn't tell you.
- Q Were you in Fort Gibson then? A I couldn't tell you, it is so long for me to keep it in my brains, I might have been there.
- Q You were around about that country? A Yes sir, I couldn't tell you exactl .
- Q Where were you during the next year after 1867? A I couldn't tell you.
- Q The only thing you recollect definitely is the year 1866? A Yes sir.
- Q What time did you commence working there in Fort Gibson in 1866? A I tell you I couldn't tell you the date, I don't know.
- Q Was it in the spring, fall or winter? A Somewhere along in there I couldn't tell you exactly.
- Q Who did you say you were working for? A Jess Bushyhead.
- Q And you worked for him in 1866? A Yes sir.
- Q 1867 too? A Yes sir.
- Q And Buck was working for Percival during all that time? A Yes sir.
- Q In 1866 and 1867? A Yes sir, that is all I know.
- Q When did you see Buck Bushyhead last? A I believe that was in '67, if I aint mistaken.
- Q In the early, middle or latter part of the year? A It might have been the early or middle part of the year, I couldn't tell you all of them stories.
- Q Along after 1867 did you work for Jess Bushyhead any more? A No sir not after '67.
- Q Who did you work for there in Gibson after you quit Bushyhead? A Ross, William P. Ross.
- Q You was still in Fort Gibson after you worked for him. A Yes sir
- Q Where did Buck Bushyhead live? A I couldn't tell you, in a little log cabin there whe he said his wife was, I never went up to the house.
- Q You never went to his house then? A No sir.
- Q During the time he was in Fort Gibson with you in 1866 and 1867? A No sir I never did go to his house.
- Q Where did you get acquainted with his wife? A By passing and talking and during the war, he was a soldier in the Union army, Indian regiment.
- Q You got acquainted with the woman before 1866 didn't you? A No sir couldn't tell you that.
- Q Were you acquainted with Sallie Miller before 1866? A No sir.
- Q Where did you see her? A In Fort Gibson.
- Q You didn't go to the house? A No sir.
- Q You just met her on the street? A Yes sir I met her and Buck sometimes on the street.
- Q And they had these two children? A No sir not all the time.
- Q They had the two children? A Yes sir.
- Q What age were they? A About that high (indicating).
- Q Loo- like they were three or four years old? A About three I guess, I couldn't tell you.
- Q One was bigger than the other? A Yes sir.
- Q Which did you think was the oldest? A I thought the girl was the oldest.
- Q You think the youngest could have been at least three years old? A Yes sir.

- Q You don't know anything about Buck marrying her? A No sir.
- Q The first time you ever saw her was on the streets of Fort Gibson in 1866 or 1867? A Yes sir.
- Q Buck then disappeared from Fort Gibson in 1867 so far as you know? A Yes sir.
- Q And he never saw him any more? A No sir.
- Q You don't know whether he went south or north? A No sir.
- Q And you stayed at Fort Gibson during the war? A Yes sir.
- Q And worked for Bushyhead until 1866 and then worked for Hess? A Yes sir.
- Q And you don't know when Jess Bushyhead was killed? A No sir.

BY MR. BELGER:

- Q It has been a long time since 1866, what makes you remember so distinctly the years 1866 and 1867? A Guess we were right there in '66, I interpreted the Treaty of '66 is the reason I know so well.

BY MR. BELL:

- Q What Treaty of 1865? A The Creek Treaty.
- Q What time in 1866 did you meet there to interpret that Treaty? A In the fall.
- Q Whereabouts did you go? A To Fort Smith, we stayed there I think about two weeks and every nation come in there.
- Q In 1865? A Yes sir, Cherokees, Creeks, Choctaws, Osages and everything.
- Q Was there any Cherokees there? A Yes sir.
- Q Could you name any of them? A William Hess was there, Standwaite was there, old man Hicks was there, and several of them.
- Q You are certain that was in 1866? A I might be mistaken in the year but I think that was the year the Treaty was ratified, in '66.
- Q You speak all about the Creek Treaty? A That is what I am talking about, I ain't talking about no other Treaty.
- Q You didn't go down there to hear the Cherokee Treaty ratified? A No sir.
- Q Don't you think that when you went to Fort Smith it was in 1865? A It might have been, I may be mistaken, I can't remember way back, I am telling you what I think.
- Q You don't know anything about that only just sort of a recollection? A Yes sir.
- Q Wasn't the Creek Treaty really ratified out here at your seat of government by the Creek Council? A I don't know the time, we went there, it was cold and danger of wash whackers when we went to Fort Smith. We camped there and they said it was to ratify the Creek Treaty.
- Q Didn't they go there to make the Treaty? A We might have, I might have been mistaken, that was it.
- Q I want to ask you when you went to Fort Smith a come back, if it wasn't the next year you and Buck worked at Fort Gibson? A Yes sir when I come back and got employment there.
- Q You saw it was cold weather in 1866 when you went to Fort Smith? A Yes sir.
- Q And then you come back and the next year you hired to Jess Bushyhead in 1867? A Yes sir, that is right.

BY MR. BELGER:

- Q Did you know Buck Bushyhead before you went to Fort Smith that time? A Yes sir, during the war I married him.
- Q Do you know that he was in Fort Gibson while you were in Fort Smith? A Yes sir.

- Q Was he in Fort Gibson when you returned from Fort Smith? A Yes sir.
- Q How long did you remain in Fort Gibson after you got back? A I stayed there until Ross and Bushyhead broke up.
- Q How long was that? A I don't know.
- Q A year, six months or two years? A I stayed in Fort Gibson four years.
- Q Buck Bushyhead then you saw lived in Fort Gibson during the years 1866 and most of the year 1867? A Yes sir.

BY MR. HILL:

- Q Do you understand that Jess Bushyhead and Bill Ross were partners? A No sir, they were not.

This case was here continued to November 15, 1904.

It appears that on this November 15, 1904, in pursuance of continuance heretofore had this cause was called for further hearing.

APPEARANCES:

Applicants by their attorneys, Blue & Bulger.
Cherokee Nation by its representative, J. S. Davenport.

S. E. HAYES, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A S. E. Hayes.
- Q Where do you live? A Prior Creek.
- Q You are a Cherokee citizen? A Yes sir.
- Q Did you ever know a colored man who belonged to the Bushyhead's by the name of Buck Bushyhead? A Yes sir.
- Q Did you know him before the breaking out of the rebellion? A Yes sir.
- Q Did you ever see him after the war? A I saw him in Fort Scott after the war.
- Q About what year did you see him in Fort Scott? A It was in '68.
- Q What was you doing at that time, what kind of business was you engaged in? A I was freighting from Fort Gibson to Kansas City.
- Q When did you return to the Cherokee Nation after the war? A I came here in June, 1866.
- Q You had known Buck Bushyhead before the war? A Yes sir.
- Q Did you ever see Buck Bushyhead in the Cherokee Nation after the war? A No sir.
- Q About how often did you see him in and around Fort Scott, Kansas, as you would be making these trips from Fort Gibson to Kansas City? A I would not be positive, but I think nearly every time I went through Fort Scott.
- Q How often would you make the trips? A About three times a year on an average.
- Q When you would be at Fort Gibson and around there, did you ever see Buck Bushyhead there after the war? A No sir.
- Q Do you know where the Bushyhead family was living then? A Yes sir.
- Q Where? A Carrie Bushyhead was teaching school there at Fort Gibson.

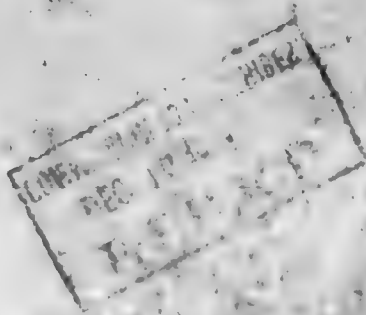
- Q Did you have any conversation with Buck Bushyhead at the time you saw him in Fort Scott, about where he was living? A I talked with him and he said he was living in Fort Scott, he talked something of coming back to the Cherokee Nation again.
- Q For whom were you freighting at that time, yourself or some one else? A It was a company store that belonged to Bryant, Percival and Bushyhead.
- Q And you began freighting for them about what year? A In 1868 I think.
- Q You don't know how long they had been in Fort Gibson in business before that? A No sir, I don't.
- Q Was Percival a Cherokee citizen or not? A He was a white man, an adopted citizen.
- Q Was he married before or after the war? A I think he married during the war.
- Q Do you know whether he went south during the war or left this section of the country? A Yes sir, he went south, he used to be in business in the Creek country.
- Q You don't know about what time they opened their business at Fort Gibson? A No sir.
- Q Do you know whether or not it was opened when you returned to the Cherokee Nation? A No sir they were not doing business there when I come back here in 1868.
- Q What year to your knowledge that they first opened their business there, when was you first there? A I commenced hauling for them in 1868.
- Q Did you know whether they established the business or bought out some business already established? A I don't remember, I would not be positive.
- Q Do you know when Jess Bushyhead died? A I recollect he was killed, but I don't recollect the date, it seems to me it was in '67, but I would not be positive, I remember it very well, but can't give the date.
- Q You saw Buck Bushyhead in Fort Scott, Kansas, several times as you was going back and forth to Kansas City? A Yes sir.
- Q But you didn't see him on any other trips you would make around Fort Gibson? A No sir I never saw him in Fort Gibson, I was around there frequently.
- BY MR. BULGER:
- Q This was in 1868 you saw Buck Bushyhead? A Yes sir, in 1869, and '70, I was freighting all along there, I met him there frequently.
- Q Do you know that was the same Bushyhead that you know then that is now in controversy? A There wasn't but one Bushyhead that belonged to the family and I knew him well, he used to work for my brother.
- Q Do you know where Buck Bushyhead was in the summer and fall of 1868? A No sir.
- Q Do you know where he was in 1867? A In 1866 and 1867 I was here all through this country and I never saw Buck Bushyhead then.
- Q But you don't know where he was? A No sir, I only knew him at Fort Scott at the time I mentioned.

H. M. Vance, being first duly sworn, states that as stenographer 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 copy of his stenographic notes thereof.

H. M. Vance

Subscribed and sworn to before me this 16 day of December, 1904.

Charles W. Sumner
Notary Public.



COMMISSIONER
JAMES H. HENRY
THOMAS B. NEEDLES
R. BRECKINRIDGE

W. W. HASTINGS
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

C.F.D-979.

C.F. D-980.

Muskogee, Indian Territory, June 30,

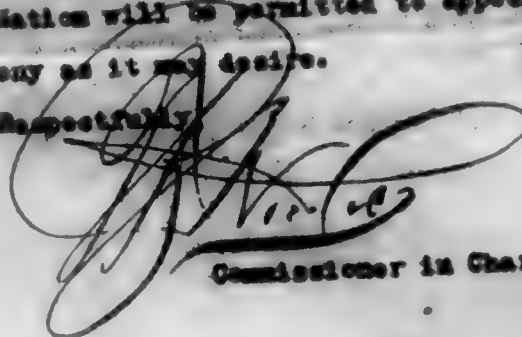
W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of Anna Butler et al, for enrollment as Cherokee freedmen, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced as to the identity and citizenship of Buck Bushyhead, father of Anna Butler and Howard Bushyhead.

The principal applicant has this day been directed to appear before the Commission at its offices in Muskogee, at nine o'clock A. M. on Saturday, July 16, 1904, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that date and offer such testimony as it may desire.

Respectfully,


Commissioner in Charge.

msg

COMMISSIONERS
JAMES 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 Freedmen
D-979-980.

ADDRESS ONLY TO
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 15, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of Anna Butler, now Anna Peterson, for enrollment as a Cherokee freedman, which case was set for hearing before the Commission at its offices in Muskogee on July 16, you are advised that in accordance with the applicant's request this case has been continued to Monday, August 15, 1904, at nine o'clock A. M.

Respectfully,



Chairman.

W. W. HASTINGS,
ATTORNEY.

OFFICE OF

H. H. VANCE,
SECRETARY.

Attorney for the Cherokee Nation,
MUSKOGEE, I. T.

December 15, 1906.

J. M. Keys,

Fryer creek, I. T.

Dear Sir:

I send you herewith the jacket in the Anie Butler case, F. D. 979. In looking over it I think it contains all the testimony in her mother's case and perhaps will be all that you want. I suggest that if you can get off, that you go to Fort Scott on to-morrow (Sunday) evening and see if you can get some testimony both as to Buck Bushyhead's residence and that of his wife, Sallie Miller, and just how long she lived there and when she came back.

Yours very truly,

W. W. Hastings

Attorney for the Cherokee Nation.
H. H. V.

Nov 21 9

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of . A. D. 1901

Given under my hand this
day of . A. D. 1901.

Marshal for the Cherokee Nation.

I, the under-igned attorney for the
within named applicant hereby accept
service of the within notice on this the

Nov 24 1901

. 1901.

W. M. Little

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of . A. D. 1901

Subscribed and sworn to before me
this day of . A. D. 1901.

Notary Public.

7/1

1001

NOTICE!

IN THE MATTER OF the application of Anna Butler
for enrollment as a Cherokee citizen:

Case No. D 979

To ~~Anna Butler or Mellette & Smith her Attys.~~

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 _____

Indian Territory, on Oct 8th 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 on the respective days above named, 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 SEP 18 1901

L. D. Bell

W. H. Hastings

Attorneys 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

MUSKOGEE, IND. TER., Sept. 12th. 04.

Mrs Carrie Quarles,
Baptist, I. T.

Dear Madam:-

Your letters both to Mr. Bell and Mr. Hastings, referring to Buck Bushyhead received, but the point that we are specially anxious about, as to whether you stayed any length of time at Ft. Gipson I. T. between the years of 1866 and 1870. it is claimed that Buck Bushyhead lived in and around Ft Gipson these years, and if you remained there during any of those years, you would have known of your old slave being in so small a town. Please write us here whether or not you are at Ft Gipson for any

ATTORNEYS

OFFICE OF

L. B. BELL

W. W. HASTINGS

J. S. DAVENPORT

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

J. C. STARR, SECRETARY

MUSKOGEE, IND. TER.,

Length of time during those years,

Yours Truly,

Cher. Fr. D 980

Cher. Fr. D 980

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 10th, 1901.

In the matter of the application of Sallie Miller for the enrollment of herself and one grand-daughter as Cherokee freedmen; she was examined by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Sallie Miller.
Q How old are you? A I am 59 years old.
Q What is your postoffice address? A Vinita.
Q In what district do you live? A Cowasscooker.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anyone besides yourself? A Yes, sir.
Q Who are they? A Yes sir.
Q What is her name? A Nattie Hicks.
Q How old is she? A 30.
Q Is she an orphan? A Yes sir.
Q Do you have children of your own? A They are all old enough to take care of themselves.
Q Do you have a husband? A He is a state man.
Q Can you get out a Cherokee license to marry you? A No sir.
Q How long have you lived in the Cherokee Nation? A I have lived here pretty much all my life excepting about 6 or 7 years at different times.
Q Where were you born? A In Flint district, near Stillwell.
Q Were you a slave when the war broke out? A Yes sir.
Q To whom did you belong? A William and Nellie Holt.
Q Were you one of the Cherokee citizens? A Yes sir.
Q Where did they live?
A They first lived in Flint and then they moved from Flint district to Webbers Falls. That was where we was living when the war broke out.
Q You was belonging to them what the war broke out? A Yes sir.
Q Where did you go when the war broke out? A From Webbers Falls to Tiger Springs.
Q In Arkansas? A No sir it is in Kansas.
Q When did you come back? A I come back in the fall of '65.
Q How long did you live in the Cherokee Nation ever since you come back in the fall of '65? A Yes sir, this has been my home ever since excepting when my husband died I went out and worked and took my children to school.
Q Where did you go when you went to work? A Fort Scott.
Q What was that, in what year was that? A The first time I went out was in '68, I took my children to school, my two oldest children by Nick Spence.
Q How long did you stay there with those children? A About 3 months.
Q How did you leave the children there then? A Yes sir.
Q Where did you go then? A Come back and went up on Big Creek, to Rachel Whitlins.
Q Did you have a home in the Cherokee Nation all that time?
A Yes sir.
Q When did you go out of the Cherokee Nation the first time? A In '71, is when I went back to Kansas, after that.
Q How long did you go up there for that time for? A I went up there to where my children they were working there then.
Q How long did you stay there then? A Went up in the fall of '75 and stayed there until July '76.
Q Did you then come back to the Cherokee Nation? A Yes sir.
Q When did you go out again? A I went up there in June, my husband got sick and was unable to work; he had been an old soldier and he went up to apply for a pension, that was about the 15 or 16th of June '76.
Q Where did you go then? A To Fort Scott.
Q How long did you stay there? A I staid there until the spring of '76.

Q What did you do? A Went to my aunt, perhaps on Fourteen Mile creek.

Q When did you go out of the Cherokee Nation the next time? A I staid with aunt Darkey and Mary Rogers a year.

Q What did you do there? A I had no husband then and went about and worked.

Q You had two children up in Kansas then? A No, sir; the boy I don't know where he was then, the girl she had come back to Big Creek with uncle Lewis Whitesides.

Q That was the two children you first took to there? A Yes sir.

Q What year was that? A That was after '80.

Q You worked then in Kansas? A Yes sir.

Q How long did you stay there that time? A About a year.

Q What kind of work did you do there then? A Laundry work.

Q Where did you go after you had done laundry work there for a year? A Came down on Big Creek.

Q When did you leave again? A I don't remember exactly, I went back in '83 or '4.

Q How long did you stay that time? A 3 or 4 months I guess, not longer.

Q Then what did you do? A Came back on Big Creek to my cousin Rachel Webbers.

Q When did you go out the next time? A I come back in '85, I got married in '84.

Q Where have you lived since '84? A In White.

Q Ever since '84? A Yes sir, I got married and my husband had promised to come down here and we come and he staid here two days and one night and I never seen him for three years again.

Q And you continued to live there then until he come back again? A Yes sir.

Q Have you lived there ever since he come back three years after he had first been there a day and two nights? A Yes sir.

Q Are you on the roll of 1880? A I don't know, I was born there.

Q Give me the name of your father? A Jack Miller.

Q Is he dead? A Yes sir.

Q Give me the name of your mother? A Ester Holt.

Q Is she dead? A No sir.

Q She is living is she? A Yes sir.

Q Where? A In White.

Q Is her name Holt now? A Yes sir.

Q How long has your father been dead? A 17 or 18 years.

Q Was he a Cherokee freedman? A No sir a Cherokee full blood.

Q Is your mother a Cherokee freedman? A Yes sir.

Q Did your mother come back with you when you come back after the war? A No sir.

Q You were married and came by yourself? A No, sir, we had advertised.

Q But you had been married? A Yes sir.

Q And you wasn't with your mother? A No sir.

Q Give me the name of this grandmother? A She goes by the name of Kate Lewis.

Q You say she is 70 years old? A Yes sir.

Q Give me the name of her mother? A Bettie Holt.

Q How is she now? A Yes sir.

Q How long has she been dead? A She died I don't know with her when she died, I was down to Aunt Darkey's.

Q Well when did she die? A In '70 I guess.

Q Was Bettie Holt your daughter? A Yes sir.

Q Where was Bettie Holt born? A At Wetmore Falls.

Q After the war? A In my father's time.

Q Did she belong to the same people that you belonged to? A Yes sir.

Q And she go out with you during the war? A Yes sir.

Q Did she come back with you after the war? A Yes sir.

Q Did she live in the Cherokee Nation from the time she came until she died? A No sir, she went to Fort Scott to school part of the time.

Q How long did she go to school there? A 4 or 5 years.

Q Did she stay in the Cherokee Nation all the time from the time she came on with you right after the war excepting the time she was out to school? A Yes sir.

Q Give me the name of the father of this child Katie Davis? A She told me that Katie's father was named Douglas Putman.

Q Was Katie ever married to Putman? A If she was I don't know it, he was a postal clerk on the M. & T. Railroad.

Q Was he a state man? A Yes sir.

Q How many times have you been married? A 3 times.

Q Who was the first man you ever lived with as husband and wife?

A Dick Whitmore.

Q Did you and he take up as husband and wife before the war?

A No, we were married by the district clerk of Flint district.

Q After the war? A No sir before the war.

Q You and he were married then when the war began? A Yes sir.

Q How long did you and he live together? A About 8 years.

Q How was it you parted, during the war? A Yes sir.

Q You went north? A Yes sir.

Q Where did he go? A He came north.

Q Did you have been parted? A No sir they took him in the army and he run off in '65.

Q Did you parted in war times? A Yes sir.

Q Who was the next man you lived with? A Buck Whitehead.

Q When were you married to him? A In the winter of '65.

Q Where was he in Kansas? A No sir in Fort Gibson.

Q After you got back? A Yes sir.

Q How long did you live with him? A Until '77.

Q Is he dead? A Yes sir.

Q Did you live with him until he died? A Yes sir.

Q Who did you next live with? A Stephen Miller.

Q When did you marry him? A I think it was in '84.

Q Is he living? A Yes sir.

Q Is he a state man is he? A Yes sir.

Q You married him in Kansas? A Yes sir in Fort Scott.

Q How long after you married him before you come to the Cherokee Nation? A About 6 months I come back to Fort Gibson.

Q Did he come with you? A No sir.

Q Where were you when he come down and staid a night and two days?

A At Vinita.

Q And then he left you? A Yes sir.

Q When did he come back to you in the Nation? A About 3 years after.

Q And you had never seen him in that time? A No, sir, he is in Vinita now.

Q How long has he been in Vinita? A 8 or 9 years.

Q Have you and he been living together those 8 or 9 years? A Yes sir.

Q How did this granddaughter get the name of Davis? A She is married.

Q Is her husband living? A Yes sir.

Q Why don't he apply for her? A He don't know nothing about her at all.

Q What is the name of her husband? A John Davis.

Q When did she marry him? A Sometime in March, this last March.

Q Is he a Cherokee Freedman? A Yes sir.

Q What was this woman's name before she married Davis? A She went by the name of Putman.

Q You were never married to Putman? A No sir, this is my daughter's child by Putman, she is my granddaughter, not my child; my daughter

had her with a man named Putnam.

Q Did you go by in 1880? A Bushyhead.

Q Applicant cannot be found on the 1880 or 1893 rolls.

Q Was your father's name Charles? A No, sir, only drawn

money.

Q Applicant not found on the Kern Clifton or Wallace rolls.

Q You are not on any of these rolls, is your granddaughter Katie Lewis in there, sir you are? A I think she is enrolled with her

father.

Q What was his name? A Dick Whitmire.

Q Was she the granddaughter of your first husband Whitmire? A Yes

sir.

Q Her mother, Mattie, was a child of Whitmire? A Yes sir.

Q And do you think the child Katie Lewis is on the roll as Whit-

Hire? A No, sir, I think it is on as Putnam, but that her grandpa

Whitmire enrolled her.

Q Was your father's name Charles? A No, sir, I think her

father drew it for her.

Q Was the applicant's granddaughter not found on the Kern-Clifton

roll upon examination of same.

Q The roll of the Cherokee nation examined and the name

of the applicant's granddaughter found as follows-

page 146 No. 3047, Katie Putnam, Coover-scoover district.

Q The applicant's granddaughter not found on the 1880 or 1893

rolls upon an examination of same.

Q Can you tell me here who knows when you came back after the war?

A Yes sir.

Q Who were you here? A Polly Nivens, Pastor Bennett, Darkey

Whitson.

This continuation of this case taken by Bruce C. Jones.

Chas. von Weise, being sworn, states that as stenographer to the commission to the Five Civilized Tribes he reported in full all the proceedings in the grove cause, and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise,

Subscribed and sworn to before me this the 22nd day of June, 1901, at Nowata, I. T.

Signed, E. B. Needles,
Commissioner.

Continued from testimony taken by Chas. von Weise: June 10, 1901.

SALIM MILES, recalled and examined by Commissioner, testified as follows:

Q You say you and Dick Whitmire were married before the war? A Yes sir, before the war.

Q Where was it that you and he parted during the war? A He lived in Going Snake district and I lived at Webbers Falls time of the war.

Q How did you happen to part, did he go one way and you go another, or did you quarrel and part? A No, sir, I was living at the falls and he lived up in Flint District; Going Snake district,

and I went out, the soldiers came and got us there and took me to Baxter Springs, and he came after that. I don't know where he came from.

Q How long after that while the war was still going on? A Yes, sir.

Q Did you re-unite in the mean time? A No, sir.

Q Well, was your still your husband at that time? A Yes, sir, he was with me.

Q You haven't parted then down to that time? A No, sir.

Q Were you and he husband and wife up in Kansas during the war, at Baxter Springs? A Yes, sir.

Q Well, what became of him after that? A He got away from there in '65.

Q And how long was it that you saw him after that? A I never seen him till the fall of '68.

Q When you saw him in the fall of '68 you hadn't married? A No sir.

Q Had he married? A I don't know, he was living with a woman.

Q Did he claim you and live with you as his wife? A No, sir.

Q That was, you say, in the fall of '68? A Yes, sir.

Q Now Buck Bushyhead, you say you married him in the winter of '65?

A Yes sir, in the winter of '65.

Q Well, most of the winter of '65 was a long time before the fall of '68? A '68; I don't know I made a mistake, I come back, that is in '68, Dick Whitmore was living with a woman.

Q Before you married Bushyhead? A Yes, sir.

Q When you married Bushyhead he didn't any longer claim you as his wife? A Yes, sir.

Q Dick Whitmore was living as man and wife with another woman, and no longer claimed you as his wife? A No, sir.

Q And you felt free to marry Buck Bushyhead? A Yes, sir.

Q And you lived with Buck Bushyhead until he died? A Yes, sir.

Q And after that you married Stephen Miller? A Yes, sir.

Q And you are living with him now? A Yes, sir.

POLLY HIVENS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Polly Hivens.

Q How old are you? A About 56.

Q What is your postoffice? A Fort Gibson.

Q How long have you lived in the Cherokee Nation? A All my life, never was out.

Q Were not out then during the war? A Went out about five weeks.

Q Were you a slave in the Cherokee Nation when the war came on?

A Yes, sir.

Q To whom did you belong? A Joe Hivens, or Mose Hivens, it is all the same.

Q Do you know the applicant here? A Yes, sir.

Q Did you know her during the war? A Yes, sir.

Q Who was it she belonged to? A Old Mrs. Holt, at the Falls

at Webbers Falls? A Yes, sir.

Q Nellie Holt, was it? A Yes, sir, Mrs. Nellie Holt.

Q How far did this woman live from you in that day? A She lived at Webbers Falls, and I lived at Fort Gibson, at Hivens Ferry.

Q How far is it apart? A I don't know exactly how far.

Q Is it very far? A No, sir, it is not very far.

Q Did you know her husband back in that day? A No, sir. I didn't know him, I just knew her; when her mistress would come to our camp to see them.

Q Did you know her down to the time the war broke out? A Yes, sir.

Q Did she have any children in that day? A When I saw her she just had two.

Q Do you remember their names? A No, sir, I don't remember their names.

Q Did she ever have a daughter named Lattia, or do you know that?

A No, sir, I don't know about that.

Q Do you know anything about where this woman went during the war?

A No, sir, I don't know where she went during the war.

Q When did you first see her after the war? A She I saw her first at Fort Gibson.

Q When was that? A That was when the refugees was coming

6
rations, you can count back from this, I can't.

Q Do you know what year that was in? A No, sir, I don't.

Q It was when the refugees was drawing government rations?

A Yes, sir, just after peace was made.

Q Do you know how long she had been back then? A She said she had just come back a short time before that when we first met, hadn't long come back.

Q Had peace been made then? A Yes, sir, peace was made.

Q How long was that after peace was made before you saw her, do you know? A No, sir, I can't tell that exactly.

Q Well, what do you know about her from that day to this, have you been seeing her all the time? A No, sir, I can't locate her all the time, she stayed a while in Gibson and said she was going away from there, and I asked her where she was going and she said I am going to take my children back to school, and said, there is nothing here for them but badness, and I said, you had better come back down here.

Q Did you ever know this child Nettie after the war? A No, sir, she just had two children with her and I never paid no attention to them at all.

Q Well, have you seen much of her from that day to this? A No, sir, I haven't seen her for a good while until I met her here again; I heard of her but I haven't seen her.

Q Did you remember and recognize her distinctly? A Yes, sir.

Q As the woman you knew before the war? A Yes, sir, know her the minute I saw eyes on her.

Q The same woman you knew in Fort Gibson? A Yes, sir, same woman; I was glad to meet her alive.

Q You don't know anything about her marriages since the war time?

A No, sir, don't know anything about her marriages at all.

Q Now these people that this woman belonged to, the Holts, were they well known and recognized Cherokee citizens? A Yes, sir.

Q And you know her as their slave, did you? A Yes, sir.

Q She passed as such in the neighborhood? A Yes, sir, she called her mistress, she would be waiting on her everywhere she would go.

Mr. Davenport: How long before the war broke out had it been that you had seen her, Aunt Polly? A I can't tell you how long exactly because they just came to my house on a visit.

Q That was some years before the war began? A Yes, sir, some years fore the war began, but not so very long, though.

EASTER WILLIAMS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Easter Williams, now.

Q Did your name used to be Grinnett? A Yes, sir.

Q How old are you? A I guess I am about 52, I guess.

Q What is your postoffice? A I get my postoffice here while I am here.

Q At Chelsea? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A I have been here all my days.

Mr. Smith: Do you know this applicant here, Sallie Miller? A Yes, sir.

Q How long have you known her? A Ever since the war.

Q Did you know her before the war, or not until after? A Not until after the war.

Q Where did you first meet her after the war? A Met her in Gibson.

Q When? A The time they brought the refugees back in there.

Q Do you know what date that was, what year it was? A No, sir, I don't know what date it was they brought us back to Gibson; I can't tell you just what date that was.

Q Where did you see her, where was she when you first saw her?

A At Port Gibson.

Q What was she doing there? A Working, among the refugees.

Q Do you know whose daughter she was, did you know her mother?

A Yes, sir, Hester Holt.

Q Have you known her since? A Well, I have seen her since then, of course where I saw her at Port Gibson and I have met her here since then.

Q What do you mean by here, what place in the Cherokee Nation have you seen her since '66? A She was in Port Gibson in '66, she went by bushead at that time, she was living in Gibson

Q Did you know her husband? A Yes, sir.

Q Do you know whether or not he died? A Yes, sir, he died.

Q When did he die? A I can't tell you just when he died.

Q Do you know whether she was married again or not? A Yes, sir

Q Who did she marry? A Mr. Miller.

Q Do you know who Sallie belonged to before the war? A Yes, sir, I know her before the war, Billie Holt and Nellie Holt.

Q Were they Cherokee Indians? A Yes, sir.

Q Do you know how many children Sallie had when you saw her in '66?

A Yes, sir, she had two.

Q Do you remember their names? A Kate was one.

Q Do you remember the other? A Nettie.

Q What has become of Nettie? A She died.

Q Did Nettie have any children? A Yes, sir, Katie Putman.

Q Was Nettie married? A I can't know that, but I know she had one child.

Q Do you know where that child is now? A In Vinita.

Q Do you know who the child lives with? A Sallie Miller.

Q Her grandmother? A Yes, sir.

Mr. Barronport: How far were you living from Aunt Sallie when the war broke out? A They brought us up to Port Gibson, we were all there during the war, and I was cooking for the officers.

Q Was Sallie brought to Port Gibson with you? A Yes, sir, from Keesho, they brought us to Port Gibson with you, they brought us as refugees from Keesho.

Q Before the war broke out I am talking about now, not about the refugee time? A We lived in Flint.

Q You don't know anything about where she was living when the war broke out? A No, sir.

Q Do you know anything about where she was living when the war broke out? A She belonged to old man Holt, her mother belonged to old Holt

Q What was before the war began? A Yes, sir.

Q You don't know anything of them after they left Flint district and went to Canadian, up to the time the war began? A I seen her in Gibson.

Q Not before the war? A No, sir, but after we came in scattered during the soldiers, we all met at Gibson, they brought us to Gibson, carried us to where we first met, to Keesho, and back.

Q Did she move down about Webbers Falls sometime before the war began? A There is where she lived I guess before the war broke out.

Q They moved away then from where you were living? A Yes, sir.

Q And you don't know anything more about them until after the war began, do you? A No, sir.

Q And you don't know where she went during the war, do you? A No sir, don't know where she went.

Q All you know about it is she came back to Port Gibson sometime before the close of the war or about the close? A Yes, sir.

Q You don't know where she has been living since the war closed?

A No, sir, I can't place her where she has been living since.

Q There would be several years at a time you didn't hear of her?

A Of course I can't know only where she went.

Q Where do you live? A I live at Big Creek.
Mr. Smith: Do you know how long Sallie Miller, the applicant, was at Fort Gibson when you saw her at the time the refugees were there?
A We were all there about three years.

DORCAS BUFFINGTON, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Dorcas Buffington.
Q How old are you? A I am 78 years old, according to what Mr. Bushyhead told me.
Q What is your postoffice? A Melvin.
Q How long have you lived in the Cherokee Nation? A I was born in the Cherokee Nation, in Tennessee.
Q Did you come here with the Cherokees in old times? A Yes, sir.
Q Have you lived here ever since? A I have lived here ever since; of course my folks hired me out once in a while in the state, but that was when I was small.
Q Went out during the war? A No, sir.
Q Here during the war? A Yes, sir, all during the war.
Q Were you here when the war began? A Yes, sir, right here.
Q Who was it you belonged to? A I belonged to Mr. Bushyhead, that lady's (indicating) husband's father.
Q The father of Chief Bushyhead? A Yes, sir.
Mr. Smith: Do you know this applicant, Sallie Miller? A Yes, sir, she married in my town.
Q How long have you known Sallie? A I been knowing her, I can't exactly tell you, but it has been long before the war.
Q You know her before the war? A Yes, sir.
Q You know whether she was a slave or not? A I know she was a slave, I don't just think it, I know it.
Q Who did she belong to? A She belonged to old Mrs. Holt, old Mrs. Tommie Holt, she married a white man.
Q Were the Holts citizens of the Cherokee Nation? A Yes, sir, citizens.
Q Where did they live? A They lived away down there in Flint, I can't tell you exactly the place.
Q When did you first see Sallie in the Cherokee Nation after the war? A Well, I can't tell you exactly the time I seen her, but then she came to my house and stayed with me when they put out word about the negroes must come back to the old country, and she came to my house and stayed there for a week or so, and then she went off to Mr. Rogers, and I don't know how long she stayed there.
Q Where were you living? A I was living on Fourteen Mile Creek.
Q Did you go out of the Nation during the war? A No, sir.
Q Not at all? A No, sir, not at all, only when I was traveling with the army waiting on the Cherokees.
Q Do you know what year it was you saw her? A Not clear, I can't tell you that part, I never kept the dates of the years, I never thought nothing about it.
Q Where did this man Rogers that you spoke of live? A He lived between Grand River and I lived on Fourteen Mile Creek.
Q Do you know whether she had been to Fort Gibson, or whether she went to Fort Gibson after you saw her? A She went to Gibson, said she was going when she went from my house.
Q What was her name then? Her name was Sallie Walker, Charlie Walker married her.
Q Was she ever married after that to anybody else? A I can't tell you that, I know before she married Charlie Walker she lived with a man named Dick Whitwire, one of the Whitwires, and I believe she had some children by him; I don't know, I never seen the children.
Q Did Whitwire ever go by any other name? A No, sir.
Q Who did he belong to? A He was a free man, he was a Cherokee the Whitwires was.

Q He wasn't a colored man at all? A No, sir, he owned slaves; Temple Holt married Johnson Whitacre, and you know Temple was a fine lady, she wouldn't want a nigger.

Q When did Sallie marry Miller, her present husband? A I can't know sir, I don't know that.

Q How many children did Sallie have, if she had any children, at the time you speak of her coming to your house? A She had two.

Q Do you know what their names were? A I think one was named Annie and the boy I disremember what that child's name was right now, but she had two children.

Q Do you know whether Sallie has been married more than once? A No, sir, I don't, I don't know nothing about her whether she was married more than once or not, but I know she was married once and that was to Charlie Walker.

Q What was he, a colored man? A He was a colored man, he was my sister's son, and you know I am colored.

Q Was Charlie Walker a slave? A That is what he was, a slave of the same people I was.

Q Did they sometimes call Charlie Walker Charlie Bushyhead?

A Yes, sir, got the Charlie Walker from his father.

Q His father's name was Walker and his mother's name was Bushyhead?

A No, sir, it isn't that way; after the slaves got free, he went by the name of his father, and when he was a slave we all went in the name of our masters.

Q What was that? A Bushyhead.

Q Charlie Walker, the man who married Sallie, his name was Walker?

A Yes, sir.

Q And his mother's name was Bushyhead, is that right? A No, sir, that isn't right yet; Charlie Walker he went by the name of the man that his father belonged to, after he got free, and when he lived at home why he went by the name of Bushyhead.

Q Then he went by two names? A Of course, after he got free.

Q What were they? A When he got free, he went by the name of Walker, and when he was living at home at Bushyhead's, he went by the name of Charlie Bushyhead.

Q That was this woman's husband? A That was her husband.

Mr. Smith: If the Court please, in making this record, I would like to have a reference to the case of Joshua Holt, D-844. Joshua Holt was this woman's brother.

SALLIE MILLER, recalled, testified:

Commissioner: Did you have a brother named Joshua? A Yes, sir.

Q Full brother? A No, sir.

Q Not a full brother? A No, sir, brother on my mother's side.

Q Is he older or younger than you? A Younger.

Q How much younger? A I guess he must be 18 years younger, I am 58 and I think he is 52 or 53.

Q Was he with you during the war? A Yes, sir.

Q Did he come back with you when the war closed? A No, sir.

Q You didn't come back with him? A No, sir.

Q Did you and he belong to the same people when the war broke out?

A Yes, sir.

Mr. Davenport: Now Sarah, did you ever apply to the old Senate, or the State Court to establish your rights after you returned to the Cherokee Nation? A No, sir, I never was but once, went to Tallahassee, I think it was somewhere in ninety, when I didn't get the value money.

Q You applied to the Kern-Clifton Commission? A Yes, sir.

Q Now here were you living when your husband died, Bushyhead died?

A Back Bushyhead you mean; why he died in Fort Scott.

Q Where were you living at that time? A On Big Creek.

Q You were down on Big Creek when he died in Fort Scott? A Yes, sir.

he went up there to apply for his pension, he was there two weeks.

Q You has been in Fort Scott during the war? A Yes, sir.

Q You went from Baxter Springs? A Yes, sir.

Q You stayed there a few months, and then came back, and you and your husband went to Fort Scott? A Yes, sir.

Q Do you know the time when you were in Fort Scott? A No, sir, not before he died.

Q When were you and your present husband, Miller, married, in what year? A In 1864.

Q Where were you living at the time? A I was living in Fort Scott.

Q Miller was a resident of Fort Scott then, wasn't he? A Yes, sir.

Q How then you and Miller lived there some time after you married before you came back to the Cherokee Nation? A I stayed about six months.

Q You stayed there first and last altogether about seven years?

A No, sir, I never stayed in Fort Scott seven years at one time.

Q I mean first and last? A Yes, sir, about that first and last since the war.

Q About that first and last since the war closed? A Yes, sir.

Q Now you are not a full sister of Joshua Holt? A No, sir.

Q Both had the same mother, but not the same father? A Yes, sir.

Q Easter Holt is your mother, isn't she? A Yes, sir, Easter Holt.

Q Did you and Easter Holt and your half brother go out of the Cherokee Nation together during the war? A Yes, sir.

Q Well who returned first? A Why I returned first.

Q When did your mother and Joshua return? A Why they -- now I can't say they did --

Q Do you know really when they returned? A Yes, sir, they came back when they had that fight up here at Horse Creek.

Q They came back the year of the Horse Creek fight did they?

A It seems to me, I can't say positively.

Q Mr. Smith, are you the daughter of Easter Holt, who applied for enrollment this morning over there? did you see her over there?

A Yes, sir.

Q Commissioner, where did you marry your husband Buck Bushyhead?

A In Fort Gibson.

Q Was he a Cherokee Freedman? A Yes, sir.

Q Dorcas Buffington stated about your being at her house on Third Street Mile Creek? A It is Fourteen Mile Creek.

Q What time was that after the war? A It was in '70.

Q That was a long time after the war? A Yes, sir.

Q She doesn't know anything about when you came back? A Well now I don't know whether she did or not, because I stayed in Gibson.

Q Before you saw her after the war closed before '70? A Yes, sir, I saw her then in Fort Gibson, at the saddle's store, Mr. Survival run the store, and Buck Bushyhead worked at the store.

Q You spoke of going to Tallapoosa soon to see about getting your rights? A Yes, sir.

Q What did you do there? A I went down there and I saw Mr. Thompson, W. W. Chapman.

Q Did you apply to my court? A Yes, sir, there at Tallapoosa.

Q And what did the court do? A They told me that I was permitted they said all these things that the names on the 1860 roll to go down there with proof and they could put them on the roll, and I went and I thought I knowed him in time of the war there at Fort Gibson and I thought I would get him and he would attend to it for me.

Q Did you appear before the court? A Yes, sir.

Q You give in your testimony? A Yes, sir.

Q Did you have any witnesses? A Yes, sir.

Q And the court heard your case? A Yes, sir.

Q Did the court pronounce a decision in your case? A Yes, sir, the chief would have a ten days session and then he would sit down to it.

Q Did you ever get any notice of what that decision was? A No, sir.
Q In what year was that, as near as you can remember? A It has been, I guess, six years ago.

Q Was that the only application you ever made to any Court or Commission or authority to have your rights fixed? A No, sir, went before the Wallace Court, and went before the Clifton and Kerns.

Q Why wouldn't they put you on the Wallace roll? A I don't know.
Q Why didn't they put you on the Kern-Clifton roll? A I don't know, unless it was because I didn't have a whole lot of money to pay out, they asked me for some money and I told them I didn't have any.

Q Who asked you for money? A Turner, he wanted ninety dollars, and I told him I didn't have ninety cents.

Q Well, your rights ought not to depend upon your having money; how about the roll of 1880? A It was at Fourteen Mile Creek at that time when the 1880 roll was made.

Q Were you at Dorcas Suffington's at that time? A Yes, sir.

Q What about they making that roll? A They didn't come, and I got Uncle Harry to go down to see Mr. Lips, I believe old man Lips had something to do with that, and he went there, and said Mr. Lips said it was all right, and that was the reason I didn't bother anything about these rolls, I thought I was all right till it came around and I didn't get any money.

Mr. Raverport: I would like to object to that hearsay part about what that fellow went down there and said Mr. Lips said.

Mr. Smith: What did you state was the occasion, or why did you go to Tahlequah in the nineties to see about your citizenship?

A They had a notice in the paper to all them didn't appear on the 1880 roll to go down there and with sufficient proof and they would put them on the roll.

Q Who had the notice? A It was in the paper, in the Vinita paper.

Q And you went to Tahlequah? A Yes, sir.

Q Who did you go to when you went to Tahlequah? A I went to this Mr. Thompson.

Q W. A. Thompson? A Yes, sir.

Q Now you spoke of going before some Court or Commission: what Court did you ever go before? A Before the Wallace Court and before this Clifton and Kern.

Q But when you went to Tahlequah? A The Council was going on, the Council was in session at that time.

Q You didn't go before the Council, did you? A Yes, I guess it was, Stick Ross was one of the Councilmen, and Spade was one of the Councilmen.

Q What ever became of that W. A. Thompson you went to see? A They said he died.

Q Did he? A I never seen him since.

Q Now as a matter of fact, do you know whether you went before any Court or not down there? A There was eight or ten men in a room, they said they was.

Q Did you pay Thompson? A Yes, sir, gave him \$10.

Q Do you know of your own knowledge whether there were any applications made, of your own knowledge, outside of what Thompson told you?

A No, sir, I don't, I just had faith in him, and he knew me during the war at Fort Gibson and I thought sure he would do what he told me.

Mr. Raverport: You hadn't heard at that time about Thompson going back to Georgia and having a friend to write home to his mother that he was dead and having his mother send money to pay his funeral expenses? A Yes, sir, I heard about that afterwards, and I never tried to see anything more about it.

Commissioner: Did you ever apply to the Daws Commission in 1888 to have your rights recognized? A No, sir, I don't think I ever went before them.

Commissioner: The applicant applies for the enrollment of himself and one grandchild. The applicant is not identified upon the roll of 1860 or on the Wallace roll or on the Kern-clifton roll or upon the roll of 1896. It appears from the testimony that she was in the Cherokee Nation at the breaking out of the Civil War, and was the slave of a Cherokee citizen. There is considerable testimony to the effect that she returned to the Cherokee Nation in 1865, and is living in the Cherokee Nation at this time, and has been so living for a number of years past, but it appears that altogether, for six or seven years, but not in a continuous way, she has since the war been absent from the Cherokee Nation and in the State of Kansas. In the light of her omission from the rolls, what she has to say in connection therewith, the testimony of her return to the Cherokee Nation within the time prescribed by the Treaty of 1865 though not far quite definite, and reasonably satisfactory, requires to be carefully considered, and some attention should be given to the testimony relating to her subsequent marriage to determine whether or not she has adjured her citizenship. It appears that she made application at Tablequah for recognition before some Court of the Council of her rights as a Cherokee citizen, and that her application was not granted. The testimony in this particular is not very definite. Her change of name arising from marriage is established in a reasonably satisfactory manner. She will, under the conditions stated, be listed for enrollment as a Cherokee Freedman on a doubtful card, and the final decision of the Commission will be made known to her at her postoffice address.

As for her grandchild, her application will not be considered at this time, inasmuch as she is said to have been born in 1878, or prior thereto, and to be now married, but the examination with reference to her rights has been quite carefully made, as this child can only claim through its mother, and when she does apply it will be desirable to file the grandmother's testimony with the application. It appears that the mother of this grandchild, called by the applicant Nettie Holt, died in 1878, and was the daughter of her first husband, Dick Whitmore, a slave in the Cherokee Nation at the time of the breaking out of the war, and with whom the applicant continued to live until about the time of the close of the war. It further appears that this Nettie Holt returned with the applicant from Kansas and so far as the applicant's rights in that particular maybe concerned, acquired all the rights of her mother; and also, it appears that this Nettie Holt, after her return to the Cherokee Nation about the time of the close of the Civil War, was never out of the Nation except some four years when she was at school. This daughter, now known as Katie Davis, is shown to be Nettie Holt's daughter by a man citizen. Therefore, when the facts of her own residence be duly established in the Cherokee Nation, her rights apparently will turn exclusively upon the date of the return of the applicant, her grandmother, to the Cherokee Nation, with reference to the treaty of 1865. As indicated, the application for this grandchild was not continued further at this time than simply to develop the testimony through the grandmother, upon which that application must rest when it is made in its regular order.

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.

Signed, Bruce G. Jones.

Sworn to and subscribed before me this 15th day of June, 1901.

Grace C. Jones, being duly sworn, says that as administrator of the Commission to the Five Civilized Tribes he personally copied the foregoing, and that the same is a true and correct copy from the original.

Grace C. Jones

Sworn to and subscribed before me this 15th day of June, 1901.

M. D. Green
Notary Public.

RECORDED
JUN 15 1901
NOTARY PUBLIC

Department of the Interior,
Commission to the Five Civilized Tribes,
Newata, I.T., July 1, 1901.

In the matter of the application for the enrollment of Howard
Bushyhead as a Cherokee Freedman.

Appearances:

L. T. Brown, attorney for applicant;
J. S. Davenport, of counsel for Cherokee Nation.

~~Witness~~ Anna Butler, being duly sworn and examined by Commissioner
Needles, testified as follows:

Commissioner: Anna Butler applies for the enrollment of
her brother.

- Q What is his name? A Howard Bushyhead.
Q How old is he? A 24 years of age.
Q What is his postoffice? A Vinita, I.T.
Q You live in Vinita? A Yes, sir.
Q Why didn't you enroll when we were in Vinita? A Because I was
waiting for my mother to enroll, here witnesses were not there.
Q Why isn't Howard Bushyhead here himself? A He is in custody.
Q Incarcerated in prison? A Yes, sir.
Q Where at? A In Canada, Starford.
Q For how long? A His trial is not until September or October.
Q Is he living at this time? A Yes, sir.
Q How long since he went to Canada? A It was in the month of May.
Q How did he happen to go to jail Canada? A He went with a show.
Q Is his name on the roll of 1880? A No, sir.
Q Where was he born? A He was born at Fort Gibson.
Q Cherokee Nation? A Yes, sir.
Q Is he married? A No, sir.
Q Was he ever married? A Yes, sir.
Q Has he any children? A No, sir.
Q Where is his wife? A She is dead.
Q Has he always lived in the Cherokee Nation? A Except the time
when he went to school.
Q He was at school a good deal of the time? A Hardly.
Q Off and on for a good many years, wasn't he? A Yes, for a while.
Q What is his father's name? A Buck Bushyhead.
Q What was his mother's name? A Sallie Miller.
Q He claims his citizenship through his mother? A Yes, sir.
Q Is his name on any of the rolls of the Cherokee Nation? A Yes,
sir.
Q You nor he either have never been recognized by the Cherokee
authorities as citizens by the Cherokee authorities? A No, sir.
Q Why not? A I don't know why we didn't have our names on the
roll.
Q The fact is, he has been living in Kansas almost all his life?
A No, not all the time, he stayed there while he went to school
and then he would come back home.
Q How long was he going to school? A I guess about nine or ten
years.
Q Pretty good scholar, isn't he? A I don't know.
The 1880 authenticated roll of Cherokee Freedmen examined
and the applicant not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the
applicant not identified thereon.
The Kern-clifton roll examined and the applicant not identi-
fied thereon.
The Wallace roll examined, and the applicant not identified

Howard Bushyhead - 2.

thereon.

By L. E. Brown: At the time your brother Howard was attending school in Fort Scott, Kansas, where was his mother? A She was there some time.

Q Where was she living at? A Vinita.

Q Where is Vinita? A In the Indian Territory, Cherokee Nation.

Mr. Davenport: You say Howard is 24 years of age? A Yes, sir.

Q When did your mother and father go to Fort Scott, Kansas?

A I don't know, sir.

Q They went there on account of your father's health, isn't that what your mother said? A I don't know whether she said that or not.

Q Were you and Howard both born before you went to Kansas? A Yes, sir.

Q Your mother married Miller in '79? A I don't know sir, what year she married.

Q Don't you know that Bushyhead and your mother was married and that both you and Howard were born in Fort Scott, Kansas? A No, sir, I don't know it.

Q And that your mother continued her residence there until '79?

A I don't know.

Q Then after she married Miller, her present husband, she came back to the Cherokee Nation and stayed a while and went back up there and in about '90 or '91 she and Miller moved to the Cherokee Nation?

A Mr. Miller didn't live here with her.

Q He is in the Cherokee Nation now? A Yes, sir.

Q And he came here about '90 or '91? A I don't know what year he came.

Q You were at Vinita when they moved? A Yes, sir, when they lived there.

Q Miller and your mother continued to keep house near Fort Scott until they moved to the Cherokee Nation? A No, sir, they didn't, for she was and him separated.

Q How long were they separated? A I don't know.

Q You were with Miller all that time they were living at Fort Scott? A I was at school.

Q And you would come down and stay at nights with him? A Yes, sir.

Q It was your mother's home? A I suppose what is the man's is his wife's.

Q And they didn't break up that home and come to the Cherokee Nation until 1890 or '91? A I don't know what year.

Q You were still in school? A Yes, sir.

Q Your brother up there at school? A You might say he ended school in '91.

Q And during the time Miller lived in Fort Scott and before he moved to the Nation? A Yes, sir.

Q And your brother Howard was in Fort Scott with Miller going to school? A He was in Leavenworth, Kansas.

Commissioner: Applicant applies for the enrollment of Howard Bushyhead, her brother. She avers that her father's name is Buck Bushyhead and his mother's name is Sallie Miller. He claims citizenship through his mother, Sallie Miller, who is listed for enrollment on D card 448. The testimony in said case will be made part of the record in the case at bar, and a copy thereof filed herewith. The witness gives satisfactory reasons why the said Howard Bushyhead is not present. As to his residence, reference is made to the testimony heretofore, as well as the testimony of her mother, Sallie, and her own. His name is not found upon any of the rolls of the Cherokee Nation. He has never been recognized by the Cherokee authorities as a Cherokee freedman. The testimony would indicate that the

Howard Bushyhead - 2.

applicant and his sister both were residents of the State of Kansas until a few years ago. The said Howard Bushyhead will now be listed for enrollment as a Cherokee Freedman on a doubtful card. He will be notified by mail of the action of the Commission in the premises.

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 13th of July, 1901.

[Signature]
Commissioner.

File with case of Howard Busbyhead, C.F.-D.#980.

Expi. S.F.-B.#648.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 5th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
SALLIE MILLER as a Cherokee Freedman, introduced on behalf of
Cherokee Nation:

APPEARANCES:

Mr. Holbatts, of Counsel for applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

SIMON MCKENZIE, being duly sworn by Commissioner Needles,
testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Simon McKenzie.

Q Where do you live? A I live up Dryer Creek, about five miles
north of Prior Creek.

Q What is your age? A I am 59.

Q How long have you lived in the Cherokee Nation? A Been living
here all my life, only few times I have been out of the Nation.

Q Well, you were out of the Nation; when you were out of the Nation
what places were you in? A When I was out of the Nation I lived at
Fort Scott, Kansas.

Q About what year did you live in Fort Scott, Kansas? A I lived
from 1862 down to 1868, '87 and down to spring of '68.

Q During the years you lived there did you become acquainted with
Sallie Miller, or Holt, or Walker? A Yes, sir, I was acquainted
with one lady named at that time Sallie Holt.

Q Well, did you know her family at that time, her mother?

A Yes, sir.

Q What was her mother's name? A Aunt Ester Holt.

Q Did you know any of her brothers? A Tequameh and I forget
the other one's name, was another one.

Q Do you know whether it was Moses or Joshua? A Yes, sir, Moses and
Joshua.

Q Did you know any of her sisters? A Yes, sir, but I forget their
names.

Q Now, where were they living, if you know, during the years you
lived at Fort Scott? A They lived in an old Government building
right in Fort Scott.

Q You went there in 1868? A In '65.

Q How long had you been there before you knew these people, or got
acquainted with them? A I was there about a month or two or three
months, I could not state the time.

Q Well, where were they living when you left Fort Scott, Kansas,
if you know? A Well, Sallie Miller was living in an old Government
building.

Q Have you seen any of them since that time? A No, sir.

MR. MCKENZIE: Now, Mr. Davenport, you don't know that the woman
who is an applicant here, the Freedman is the woman whom you say
you saw up at Fort Scott, Kansas, at the close of the war, do you?

A I don't know the woman.

Q You don't know that that is the same woman? A In the same name.

Q It is not the same name? A The name Holt.

Q Well, you don't know that that is the same woman that you knew
up there, do you? A Well, it was a daughter of Ester Holt, it
was a Sallie woman.

Q Well, you don't know anything about this applicant; you have
never seen this applicant here? A I haven't seen her here.

Q Well, you have never seen her since she has made application here for enrollment have you? A No, sir.

Q Now, when did you leave Fort Scott, Kansas? A I left there early in '68, in the spring.

Q In the Spring of '68? A Yes, sir.

Q What were you doing up there at Fort Scott? A I was working there at Fort Scott, for Billy Shanahan, stone mason, doing public work there.

Q Did you keep track of these colored people? A All I saw.

Q Did you ever testify in this case before? A I guess I did.

Q When? A Not long ago at Fort Gibson.

Q You give testimony up at Fort Gibson? A I think I did.

Q How long ago? A I don't know exactly whether it was last month.

Q How old are you, Mr. McKenzie? A I am 59.

Q Well, it has been 35 or 6 years ago then since you saw them up there at Kansas? A Yes, sir, I guess so, I never kept count of the time.

Q Well say 35; well, Mr. McKenzie, can you remember just about the time you saw these people up there 35 years ago? A Well, I guess I could remember it, I stated before.

Q There is no reason why you paid particular attention to them? A No, just seeing them pass and repassing about.

Q You left there in the Spring of '68? A Yes, sir.

Q Well, they could left there a year before that and you not remember it 35 years afterwards? A Didn't I saw they back and forth all the time I was up there, off and on.

Q Well, now, off and on there, you saw them? A Every week.

Q Can you remember 35 years ago you saw these people every weeks?

A I guess so, I wouldn't be here if I didn't thought I could testify nothing.

Q Well, you feel because you are here you have to testify something? A I don't know.

Q Well, I want to know if you can remember 35 years ago you saw these people every week? A I did while I was living in Fort Scott most every week.

Q Is it possible they might have left there a year before you did? A If they did they went back in a short time.

Q What were you paying so particular attention to those people for? A I could not tell you.

Q You just watched them? A Well, just seeing them pass and pass every day.

Q Who else did you see up there at Fort Scott? A Why I see good many.

Q What other colored people? A Good many. Good many other colored people, but I don't know their names.

Q Well, now, give the name of some other colored person you saw up there except this family? A I could not give their name.

Q There were a great many colored people in Fort Scott?

A Yes, sir.

Q And of all the colored people that was in Fort Scott this family is the only one you remember the names? A Yes, sir; of course I was passing there and some lived out in the country.

Q Well, who else lived in the Government building there?

A Good many families.

Q Good many families? A Yes, sir.

Q Why don't you remember the names of the other colored people? A Because the boys I remember them, and part lived in town.

Q Why can't you remember the names of some other colored people you saw there some time? A Well, I could if I wanted to state the whole thing I can, there was Bill Thompson.

Q Who is Bill Thompson? A There he is (pointing to a man in the audience.)

-3-

Q And who else was there? A BILL was blacksmith; Tom Brown.
 Q Was it Tom Brown or Bill Brown? A Tom Brown.
 Q When did they leave there? A I don't know.
 Q Were they there when you left? A I don't know; they lived out at the edge of town; of course when I left town I went out about three miles of town and a family lived there by the name of Campbell, worked right there at Fort Scott. I know the whole generation if you will give me time to call the names over, the whole generation of them.
 Q What makes you remember seeing these people there all the time you were there? A I saw them off and on, because I was working in town; Tom Brown was a blacksmith, worked in town.
 Q When was the last time you remember seeing this Sallie Miller?
 A Well, I saw when I left Fort Scott.
 Q Did you see her the day you left? A No, sir; I didn't see her the day before I left.
 Q How long before you left did you see her? A Oh, short time, maybe a week or two weeks.
 Q You remember them of seeing her two weeks before you left?
 A Yes, might have been two weeks, and maybe longer and not so long.
 Q Maybe a year ago? (No response.)
 Q Was it a year? A No, sir, I don't think it was a year; if she left there at all she went west, went towards Mapleton.
 Q How do you know she went to Mapleton? A Well, if she left at all.
 Q What makes you think that? A That was the talk.
 Q How was that? A That is why I found out by talking with her brother.
 Q You got a letter? A No, sir, talking with her brother.
 Q You are testifying to what her brother told you?
 A That is how I found out where she went, if she went off at all.
 Q That is the reason you are swearing that she was there all the time you were there? A No, sir; I know it.

WILLIAM MARGRAVE, being duly sworn by Commissioner Needles, testified as follows:

MR. DEVEREAUX: What is your name? A William Margrave.
 Q What is your age, Mr. Margrave? A My age is 430--about 82; I am away along in the 83 year.
 Q Where do you live, Mr. Margrave? A Fort Scott, Kansas.
 Q How long have you lived at Fort Scott, Kansas? A Since 1854.
 Q Since you lived at Fort Scott, Kansas, did you become acquainted with a colored family by the name of Holts or Holt? A Yes, sir.
 Q You know the old lady's name? A Yes, sir; do you mean the mother?
 Q Yes, sir; what was her name? A Esther Holt.
 Q How many of the children do you remember, Mr. Margrave? A Let's see, there was Hoss, Guss, Sallie and Josh.
 Q When did you become acquainted with the family? A I am not positive, I think they came there along towards the close of the Civil war, if they didn't they came there very shortly afterwards.
 Q Well, now, where did they live with reference to where your home was? A Well, most of the time they lived in, I should judge, about a hundred yards, except Hoss he lived, after he married, he lived about 50 yards.
 Q Well, now, where is Hoss Holt living now, do you know?
 A Lives right there by me at Fort Scott.
 Q Do you know where Josh is living? A I do not, he has been away from there a good many years, I don't know how long.
 Q Well, about how many years had it been since Josh moved away from there? A Of course that would be from guess work, something I never took no count of; I don't think it has been more than 15 years, I might not be correct about it.

Q About how long has it been since Tecumseh moved away from there?
Q That maybe all the way from a five, six, seven or eight years,
not longer than that.

Q Well, when did Bettie leave there, about when did she leave?
A That is quite a while ago, I could not tell that.

Q Well, did Sallie Holt marry while she was up there? A Yes, mar-
ried twice.

Q What was her first husband's name? A Walker he died and then
she married a Miller.

Q Do you know what Miller's first name was, or what he was known
by up there? A Stepney I believe it is.

Q Have you seen Sallie Miller, the applicant, since you been down
here? A I saw her this morning, spoke to her.

Q Did you recognize her as the same woman you knew up there as
Sallie Holt? A Well, she lived right there near me for I expect
30 years, I don't know that it was that long; of course I knew her
as well as I knew anybody in Fort Scott.

Q About how long ago was it since Sallie left Fort Scott?
A Well, now, I can't tell you.

Q Well, you came from there in -? A Seven, eight or ten years.

Q Do you know where Aunt Raster Holt is living now, whether she is
living or dead? A I saw her I think about a year ago up in Fort
Scott. I have never heard of her dying.

Q When did she move away, if at all, from Fort Scott, Kansas?
A It comes to those dates-

Q About how long? A I would think it was six or seven years ago.

Q You got acquainted with this family as I understand you, sometime
about the close of the war? A Yes, sir, I knew them by sight and
afterwards got acquainted with them.

Q They afterwards lived right near you? A Yes, sir. It was
right close to me, I don't think it was over a hundred yards from
where I now live.

Q And they lived there then in your neighborhood from the time you
got acquainted with them up until a few years ago? A Yes, just
as I stated.

MR. BELLETTE: Now, where was Sallie Miller in the fall of '65?
A I don't think I could tell just that because-

Q Well, now, where was she in '65? A The family was there, I
am satisfied they were in Fort Scott in '66.

Q I am talking about Sallie Miller now? A I know you do; one of
the family might have went away.

Q You can't say that Sallie Miller, or Sallie Holt, was not here
in the Cherokee Nation in 1866 can you? A No, sir, I cannot;
I know the family was living up there at that time. One of the fami-
ly could go off and I would not know anything about that; go off
and return again.

Q Can't it a fact that she was down here in '66, and didn't go
back up to Kansas for a couple of years after '66, about '68?

A No, I don't know.

Q You don't know? A No.

Q That might be true, might it not? A Yes, the family was there,
I know they didn't all come here; might be such a thing as she did,
of course not looking for a thing of that kind I might not know.

Q Well, these people might have come down in the Territory from
time to time without you knowing their business, might they not,
35 years ago? A You mean one at the time?

Q Yes, or two at the time? A Of course they might.

Q Sallie Miller's husband died up there, one of them? A Walker.

Q Didn't she take some children back from here the first time
she went back? A Children; I don't know anything about it.

JOHN FORBES, being duly sworn by Commissioner Keebles, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A John Forbes.

- Q What is your age, Mr. Forbes? A 36.
- Q Where do you live? A Fort Scott, Kansas.
- Q How long have you lived in Fort Scott, Kansas? A 33 years.
- Q Since you have been living at Fort Scott, Kansas, did you get acquainted with a colored family by the name of Holt? A Yes, sir.
- Q What was the old lady's name, if you knew Mr. Forbes? A I don't exactly know what the old lady's name was.
- Q What was the children's names? A I have heard the names; well there was Mose and Josh and Mrs. Miller; well, there was one or two others.
- Q Do you know whether her name was Sallie Walker or what her first name was? A Her name was Sallie Walker.
- Q Did she marry a man by the name of Walker? A Yes, sir.
- Q Where was Walker at the time of his death, if you know? A I don't know where he died, but I was informed that he died; that I don't know where he died, away or whether he died in Fort Scott.
- Q Well, do you know whether or not she married after Walker's death? A Yes, sir.
- Q Who did she marry that time? A Man by the name of Miller.
- Q Do you remember his first name? A Well, I have heard it called Step Miller.
- Q What business did he follow? A Sweeney.
- Q Well, did you know any of her brothers or sisters that you remember the names of? A Well, there was Sam or Bit, I think that is it; and there was Mose and Josh.
- Q Any one else you remember? A I think there was more than that.
- Q Do you know where Mose Holt is living now? A Living at Fort Scott.
- Q Do you know anything about where Josh is living? A No, sir.
- Q About when did Josh Holt move away from Fort Scott, Kansas? A Well, he moved away from there good many years ago, I don't know very well; I wasn't very well acquainted with him on that account.
- Q Well, when did the applicant, Sallie Miller now, formerly Sallie Holt, move away from there? A I could not say, I think the best of my judgment it was eight or ten years ago, but I could not after I got acquainted with them in '70, then I was personally acquainted with them after that.
- Q Was the mother of them living there and keeping house when you got acquainted with them in '70? A I am not sure whether the mother was there, but she was there afterwards.
- Q Do you know what became of Bettie whether she is living up there or alive? A No, I do not.
- Q You don't remember what year they left but they left there a number of years after you got acquainted with them? A Yes, sir.
- MR. MULLIKEN: Mr. Forbes, you don't know where these people, any of them, were in 1865, '67 or '8, do you? A No, sir.
- Q Isn't it a fact that they came, after you know them, that they came back and forth down here in the territory and back up to Kansas? A I didn't know anything about that; I think I heard some of them talking about going down to Fort Smith or going from Fort Smith, or something when I got acquainted with them.
- Q Fort Smith down here on the border? A Yes, sir; I wouldn't be positive of that; some little recollection in my mind but I couldn't be positive.

JOHN MULLIKEN, being duly sworn by Commissioner Keebles, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A John Mulliken.
Q Where do you live, Mr. Mulliken? A Fort Scott, Kansas.

- Q How long have you lived in Port scott, Kansas? A 20 years.
- Q Since you have been living at Port scott, Kansas, have you become acquainted with a family of colored people by the name of Holt?
- A Yes, sir.
- Q What members of the family are you acquainted with? A I know Mose, Mose lives there now, well I think anyother one, George Maybe.
- Q Did you ever know any of the girls? A Oh, I have seen them, I don't know.
- Q You are not very well acquainted with them? A I knowed Mose well and knowed where they lived well; no, I am not well acquainted with the lady folks.
- Q Did you ever know the mother? A No, sir.
- MR. MELLETT: You don't know where the women folks made their homes, whether they made it here and visited up there, or where they really belonged, do you? A No, sir.

WILLIAM SEXTON, being duly sworn by Commissioner Needles, testified as follows: On part of Cherokee Nation:

- MR. DAVENPORT: what is your name? A William Sexton.
- Q Where do you live, Mr. Sexton? A Fort scott, Kansas.
- Q How long have you lived at port scott, Kansas? A I have lived at Fort scott ever since '69.
- Q Well, since you came to Fort scott, Kansas, did you get acquainted with a colored family by the name of Holts? A I did.
- Q Did you know the mother, the old lady, or reputed mother of the family? A Yes, sir.
- Q What was her name? A Her name was Easter Holt.
- Q What were the names of the children, or as many as you can remember? A There was one by the name of Mose, Josh, and Cumsh and Jennie and Gallie; that's as many as I recollect.
- Q Well, did you know Gallie Holt, if she was a grown woman?
- A Sallie she was a woman when I got acquainted with her.
- Q Josh, was he grown when you got acquainted with him?
- A No, sir, he was a young man.
- Q Would you know Gallie Holt if you would see her now?
- A Yes, sir.
- Q I wish you would look back through the audience and see if you see her? A Yes, sir.
- Q You recognize her as being the same woman, Sallie Holt, you know?
- A Same woman.
- Q Did she marry while she was living up at port scott? A She was married when I got acquainted with her.
- Q Do you know what her husband name was? A Her husband's name was Walker.
- Q Do you know whether Walker is living or dead? A He died.
- Q Well, did she marry again? A She did.
- Q Do you know who she married? A She married a man by the name of Miller.
- Q Do you know his first name? A Stepney.
- Q What was his business? A He was a shoemaker up there.
- Q You knew Josh too up there did you? A Yes, sir.
- Q And Tecumseh? A Tecumseh.
- Q Did you know any other girls of the family, was there any other girls that you remember? A I do not.
- Q Do you know whether or not there was a girl by the name of Bettie?
- A I wouldn't be positive but it appears to me there was.
- Q Were they living in Fort scott when you went there in '69, Mr. Sexton? A Yes, sir.
- Q Well, about how long after you went there did they continue to live in Fort scott? A Now, I could not say; I didn't pay particular attention, sometime they would leave and sometimes they was there.

- Q Did they keep house while they were there? A Yes, sir.
Q Did Sallie live there with Walker when he was living?
A Yes, sir.
Q Where is Mose living now? A Moses is living up there now.
Q About how long has it been since you remember of Josh and then living in Fort Scott? A Josh hasn't been there for some considerable time.
Q Well, about how long? A It has been, I should judge, some ten or 12 years.
Q Well, how long has it been since Tecumseh has been living there?
A She has lived there to the best of my recollection, it has been that long since I seen ~~him~~ there.
Q Do you know where he went when he left there? A No, sir.
Q You don't know whether he went to Kansas City or not?
A No, sir, I do not.
Q Well, how long has it been since Sallie has been living there?
A I don't know.
Q Has she lived there any since she and Miller married? A Yes, sir.
MR. MELLETTTE: Well, how long do you think it has been since Sallie Miller lived there regularly? A Well, now, I could not say positive, it has been since she left there regularly.
Q Well, isn't it a fact that she was back and forth ever since you have known her, to the territory and back to Kansas, would come down here a stay a while and go back to Kansas? A Yes, sir.
Q That is true? A Yes, sir.
Q You don't know where any of these people were in '66? '67 or '68?
A No, sir; I came to Scott in '69.
MR. DAVENPORT: And they were living there when you came?
A They was there when I came.

Com'r Needles: This testimony will be made part of the record in Freedmen doubtful cases #953, #979, #980, #645, and in case of Bettie Hicks.

---000000000---

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 15th, 1901.

J. O. Rosson
Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washoe, D. C., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mallett & Smith; Cherokee Nation, by V. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitacre, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Howard Bushhead, D 900;

By V. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commissioner:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Hill of the United States Court, of the Northern District, Indian Territory.

By Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

V. V. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the notice of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cherokee Freedmen D-980

Department of the Interior?
Commission to the Five Civilized Tribes.
Muskogee, I.T., November 15, 1904.

SUPPLEMENTAL PROCEEDINGS in the matter of the application for the enrollment of HOWARD BUSHYHEAD, as a Cherokee Freedman .

It appears that on the 14th day of October, 1904, the applicant, his attorney and the attorneys for the Cherokee Nation were duly notified by letter that an opportunity would be given each of them to appear before the Commission at its offices in Muskogee, Indian Territory, on the 15th day of November, 1904, and then and there introduce further testimony touching the points mentioned in said letter.

APPEARANCES:

Applicant appears by his attorneys, Blue & Bulger Cherokee Nation by Attorney, Jas. S. Davenport.

F. H. NASH, being duly sworn, testifies as follows:

BY MR. DAVENPORT:

- Q What is your name? A F. H. Nash
Q Where do you live, Mr. Nash? A Fort Gibson.
Q How long have you lived at Fort Gibson? A Since before the war.
Q Were you living in Fort Gibson in 1866 and '67? A Yes, sir
Q Did you know a man by the name of Percival? A I did.
Q Was he living in Fort Gibson in 1866 and 1867, Mr. Nash?
A No, sir, he was not.
Q Do you know whether or not he engaged in business in Fort Gibson after the war, at any time?
A He came there in 1868, and commenced a business, a mercantile business, with Dennis Bushyhead and Joel Bryant, I think that was the name-Joel- a Mr. Bryant.
Q Did you ever know a darkey by the name of Buck Bushyhead.
A I do not remember him. I remember the name- of such a man being in the country, but I can't place him.
Q Do you remember him working for Percival?
A I don't remember him.
Q You have lived there, in Fort Gibson, continuously from the close of the war? A Yes, sir, I have lived there continuously.
Q And you know that Percival did not begin a mercantile business there until 1868? A 1868, in the Spring of 1868.
Q Who did he succeed in business, Mr. Nash? A Jesse Bushyhead, who was killed there about Christmas, 1867.
By MR. BULGER:
Q Mr. Nash, were you ever acquainted with Howard Bushyhead?

C. F. D. 200, Howard Bushhead-2

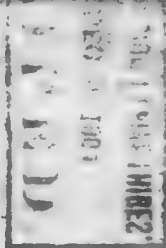
A I have no recollection of him at all. I remember the name, and remember there was someone called Bush Head, but cannot remember him at all.

Lucy M. Newman being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she recorded the testimony and proceedings in this case and that the above and foregoing is a full true and correct transcript of her stenographic notes therein.

Lucy M. Newman

Subscribed and sworn to before me
this 3rd day of November, 1904.

Clarence A. Stewart
Notary Public





Kingston, Ont. Jan 12 1907

W. W. Hastings Esq
Montreal, I. T.

Dear Sir
Replying to yours of Jan 7
Howard Walker died in Kingston
Pennsylvania, Nov. 17th 1902.

Yours Truly
J. M. Platt
Warden

NSP 980

INDIAN TERRITORY,
CHEROKEE NATION

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 1901.
Wm. H. Lett
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

9/20 5. 6. 1901

NOTICE!

IN THE MATTER OF the application of Howard Bushyhead
for enrollment as a Cherokee citizen:

Case No. D 980

To Howard Bushyhead or Mellette A Smith his Attys.

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 Vinita, Indian Territory, Indian Territory, on Oct. 8th at 8 o'clock A. M. from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, 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 SEP 18 1901

L B Bell
W. W. Hastings
Attorneys for the Cherokee Nation.

Cher. Fr. D. 981

Cher. Fr. D. 981

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

1898

XXXXXXXXXX, et al.

981

MOTION FOR REVIEW OF DECISION.

Come now the above named persons who have been denied enrollment as Cherokee Freedmen, by their attorneys, Hine & Balger and McGowan & Serven, and move the Honorable Secretary of the Interior to open their respective cases above named; to review the decisions of the Commission to the Five Civilized Tribes denying said applications; to reverse said decisions, and to enroll each of the said applicants as a Cherokee Freedman, for the following reasons:

The decision of said commission in the matter of each application was and is contrary to law.

The evidence adduced by said applicants in support of their applications show:

1. That each of said applicants was a slave of a Cherokee citizen at the time of the commencement of the war of the rebellion and was liberated by voluntary act of his Cherokee owner or by law, or is the descendant of such slave.
2. That each of said applicants, if born, was a resident in good faith in the Cherokee Nation prior to June 26, 1866.
3. That said applications were made prior to September 1, 1902.
4. That at the date of said application, the said applicants had not abjured or forfeited their Cherokee citizenship by moving out of the Cherokee Nation with their effects to some other state or nation and by becoming a citizen thereof.

~~XXXXXXXXXX, et al.~~

WHEREFORE, said applicants, by their attorneys, respectfully request that they be enrolled as Cherokee Freedmen.

~~XXXXXXXXXX~~

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at White, I. T., this _____ day of _____, 1905.

WILL, HASTINGS & BARNHART,
Attorneys for Cherokee Nation.

By _____

David Hayes - 2.

came? A No, sir, I didn't return with my father.

Q You returned in the latter part of February, 1867, or along in the year 1867? A Yes, or earlier, I don't know which.

Q Didn't you testify before the Kern-Clifton Commission that you returned in the latter part of February, 1867? A I don't know for certain whether it was February or January of what.

Q Didn't you say then it was the latter part of February, '67?

A I don't know.

Q Now which is correct? A I don't know, I wasn't old enough to know, I suppose it was sometime in '67.

Q When you came back, you came on Big Creek? A Yes, sir.

Q You kn came near Tuck and Rube Sanders? A Yes, sir.

Q They know when you returned? A Yes, sir, they know.

Q They were here last week attending the enrolling of the Commission? A Yes, sir.

Q They are not here this morning? A I don't think they are.

Q Did you speak to them about witnessing for you? A No, sir, I could have got them, but I had already in spoke to them, they said they didn't know whether they were coming down.

Q They said they didn't know whether you came back? A I don't know.

Q Didn't Dan Sanders tell you last week that you didn't get back here until the last part of February, 1867, or late in the year? A No Dan Sanders never told me that.

Q Isn't it correct that you didn't come back until that time? A It was sometime in '67 that is right, I don't know whether it was February of January or which.

Q Or whether it was March? A No, sir, it wasn't that late though.

Q It was after Christmas considerably? A We came down here and made a little crop that year.

Q Guilt you a house? A Why the house was built when we came.

Q Any land broke out? A No, sir.

Q Who was living there when you came? A Why he brought my oldest brother and sisters.

Q That was Josiah? A Yes, sir.

Q You and your mother ~~remained~~ remained in Kansas then until your father came back? A Yes, sir, he couldn't bring us all the first time.

Q Where have you been living since that time? A Right there on the old place.

Q Lot of people own farms up in that country that are not citizens?

A Why I don't know, I can't say.

Q You have known several of these claims, you know E. H. Singleton owned a farm up there for years? A I don't know, I didn't know a Mr. Singleton, I have heard of him.

Q You don't know of any of these claims: you know J. S. Hargroves?

A Yes, sir.

Q Know he owned a place there for a number of years? A Yes, sir.

Q He wasn't a citizen, was he? A I don't know.

Q Don't you know he was a claimant? A Why I heard he was.

Josiah Hayes, being duly sworn by Commissioner Needles, testifies as follows:

L. E. Brown: State your name? A Josiah Hayes.

Q 1867 A 44.

Q Postoffice address? A Centralia.

Q Do you know the applicant Dave Hayes? A Yes sir.

Q What relation is he to you? A Brother.

Q Do you know to what he belonged at the beginning of the Civil War? A Yes, sir.

Q What was his owner's name? A Johnson Whitwire.

David Hayes: - 8.

Q Johnson Whitacre a citizen of the Cherokee Nation? A Yes, sir.

Q By blood? A Yes, sir.

Q Do you know when Dave Hayes returned to the Cherokee Nation after the close of the Civil war? A Yes, sir.

Q When was that? A It was in the early part of '67, just after Christmas sometime.

Q Who brought him back to the Cherokee Nation? A Why his father and mother brought him.

Q Prior to the time his father and mother brought him, had his father been down here? A Yes, sir.

Q What year was that in? A That was along in '66.

Q What did your father do when he came down in '66? A He came down and taken him a claim.

Q And went back? A Went back and moved them.

Q Was that in the early part of '67? A Yes, sir.

Q About how long after Christmas? A Right directly after Christmas, right along in there.

Q Was it a week or two? A Yes, sir, about a couple of weeks as near as I can remember.

Q Has the applicant, Dave Hayes, lived in the Cherokee Nation since that time? A Yes, sir.

Q Living here now? A Yes, sir.

Fr. Davenport: Now it wasn't quite two weeks after Christmas, was it, Joe? A Why I suppose it was somewhere along there.

Q See if you can't remember and know it was just about a week after Christmas when he came back down? A No, I can't know that.

Q You haven't the slightest idea when your father brought these people down here, have you? A Yes, sir, I know it was somewhere along in there.

Q What makes you say it was just about two weeks after Christmas?

A That is as near as I can remember.

Q You are simply trying to get in within six months after the treaty was made? A No, sir.

Q Didn't you have that in mind when you answered the question?

A No, sir, I didn't.

Q Do you know what time the six months would have expired after the treaty, in '67? A No, sir, I don't know exactly.

Q Never have understood what time it did? A No, sir.

Q And didn't fix your answer with that view? A No, sir.

Q You don't know but what they had the whole year of '67 to come back, do you? A No, sir, I don't.

Commissioner: How old are you? A I am 41.

Q You are older than Dave? A Yes, sir.

Q What relation are you to him? A Brother.

Q How much older are you than Dave? A I don't know just exactly how old.

Q You and Dave were there at the same time in January when you came back together? A I came back before that time, I said.

Q He don't recollect just when he did? A No, sir.

Q You are older than him and probably can recollect better?

A Yes, sir, I naturally had a better recollection, but then when he was small of course I could recollect before he can.

Q Then you were about 7 years old when you returned to the Cherokee Nation? A Yes, sir, somewhere along there I guess.

Q And Dave was about how old? A I don't know just exactly how old he was, we didn't have our own cows.

Q When you answered a while ago that he was a slave before the war you didn't know that? A Yes, sir, he was born.

Q He wasn't born before the war, was he? A Yes, sir.

Q Well he is now that 42 years old? A Yes, sir, born along

in there somewhere.

Q How long before the war was it he was born? A I don't know just

How long before the war he was born.

Q You were about 7 years old at that time? A Breaking out of the war?

Q Seven years old though when Dave came back when you say he came back here in '67 how you were how old then? A I don't know exactly just how old I was.

Q Big enough to plow? A Yes, sir, I could plow.

Q 7 or 8 years old then? A Yes, sir.

L. T. Brown: Your father made two trips to the Cherokee Nation?

A Yes, sir.

Q One in '68 and one in '67? A Yes, sir.

Q At that time the applicant here, Dave Hayes, was a small boy? A minor? A Yes, sir, he was small.

Q I believe you said when your father made the trip here in '68 that he took up a claim and built him a house? A Yes, sir.

Q And moved in '67 with his family? A Yes, sir.

Sgt. Webber, being duly sworn by Commissioner Needles, testified as follows:

L. T. Brown: State your name? A Sgt. Webber.

Q Age? A About 58.

Q Postoffice address? A Nowata.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A Yes, sir.

Q Do you know the applicant, Dave Hayes? A Yes, sir.

Q To whom did he belong at the beginning of the war? A I can't tell you that altogether, of course I heard he belonged to Johnson White, but I don't know that part of it.

Q Where did you see him for the first time after the close of the Civil War? A When his father brought him in there.

Q When was that? A Along sometime just after Christmas they came in, along in January sometime.

Q Prior to the time that his father brought him here in January, '67, had his father been here, that is, after the close of the war?

A Yes, sir, yes sir came down and built and brought part of his things and part of his family.

Q In what year was it he came down and built the place? A Along in the fall of '66 when he built him a shanty.

Q You know whether or not the applicant Dave Hayes has lived in the Cherokee Nation since he returned with his father in January, '67?

A He grew up there, stayed there.

Mr. Davenport: Do you undertake to say it was in January, '67, that his father brought this boy down? A Yes, sir.

Q What makes you remember it was in January, '67? A Because we were looking for him to fetch his family up there.

Q You remember about that, it was January? A Yes, sir, it was sometime in January.

Q Might not have been February or March? A Sometime along after Christmas.

Q And you are positive it was January? A Yes, sir.

Q What makes you fix your answer positively in January, what difference does it make if he got back in January or March?

A I don't know what difference it makes, I am just telling you when he came.

Q You live how far off that? A About a mile or a mile and a quarter, something like that.

Q You were there many times and about all along through the winter and you remember distinctly he came back in January, '67? A Yes, sir, because we were to help each other to work.

Q As had put up a cabin before he got that? A Yes, sir, and left

David Hayes - 3.

part of his family there.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1886 census roll of Cherokee Freedmen examined and the applicant not identified thereon.

The Kern-Clifton roll examined and the applicant identified thereon, page 191, No. 25W, Cherokee District, as David Hayes.

The Wallace roll examined and the applicant not identified thereon, page 182, No. 272B, Cherokee District, as David D. Hayes.

David Hayes, recalled, testified:

Commissioner: What is your name now, is it David B.? I go by David D. but they missed putting it down, I go by David sometimes.

Q Do you sign your name David B.? A I did the Wallace Court.

Q Do you now? A No, sir.

Q Your name now is Shuffy David? A Yes, sir.

Q Are you married to Sarah Miller? A Yes, sir.

Q Is she a citizen? A No, sir.

Q What proof have you got of your marriage? Is your wife dead?

A Yes, sir.

Commissioner: Applicant presents a certificate certifying that he was married to Mary Miller, a citizen of the United States, on the 6th of January, 1899. Certificate is recorded by Joe M. Luby, on the records of the Cherokee Nation.

Q Are these children living at this time? A Yes, sir.

Q Are they your children by Sarah, your wife? A Yes, sir.

Q Your wife isn't living now? A No, sir.

Q Have you married since? A No, sir.

Mr. Sawyer: The representatives of the Cherokee Nation object to the introduction of the marriage certificate for the reason that at the time he purports to have been executed there was a law of force in the Indian Territory in the Cherokee Nation requiring visiting a party who wasn't a recognized citizen of the Cherokee Nation to produce a marriage license from the Clerk of the United States Court for the Northern District.

Commissioner: David Hayes applies for the enrollment of himself and two children, Jennetta G. and Richard H. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. He is identified upon the Kern-Clifton and the Wallace rolls. He swears that he was the slave of one Johnson Williams, a Cherokee citizen. Swears and the testimony shows that he returned to the Cherokee Nation with his father while he was a child, about the month of January, 1867, he at the time of said return being a minor. He makes satisfactory proof of his marriage to one Sarah Miller in 1899, by what he swears he has the two children for whom he applies. He swears and the testimony shows that he has been a citizen of the Cherokee Nation from the date of his return until the present. He swears that his two children are now living, consequently, David Hayes and his two children, Jennetta G. and Richard H. Hayes will be listed for enrollment as Cherokee Freedmen upon a doubtful card. It will be necessary for him to file satisfactory proof of the birth of the two children. He will be notified by mail of their action in the presence of his post-office address.

DAVID MAYES - 6.

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 15th of July, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 16th 1901.

SUPPLEMENTAL TESTIMONY in the case of Ben Adams, C. F. D. 715.

Appearances:

James S. Davenport for the Cherokee Nation.
Mellette & Smith for the applicant, in C. F. D. 722, but not in the present case, being present in this case simply in order to cross examine the witnesses for the benefit of C. F. D. 722.

BEN ADAMS called three times and appears not either in person or by attorney. Satisfactory proof of notice filed, that this testimony would be taken on this day by the Cherokee Nation.

Witnesses placed under the rule.

C. L. LYNCH, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Mr. Davenport)

- Q What is your name? A C. L. Lynch
Q Where do you live? A In Flint District, Cherokee Nation.
Q How old are you? A 61.
Q Where were you living at the breaking out of the war? A In Saline district, Cherokee Nation.
Q How far from Grand river? A About a mile in some places, the closest point.
Q What was your father's name? A Joe M. Lynch
Q Did you go away during the war? A Yes sir in '63 and I came back in February of '67.
Q When you came back to what point did you come in the Cherokee Nation?
Q To our old place on Grand river, Saline district.
Q When was that? A '67.
Q Who was living there on the old place when you came back? A Mr. Scraper, he was living there then,
Q What was his first name? A George.
Q Did you then know a colored man named Warren Adams? A I don't know him by that name.
Q Did you ever know a colored man named Warren? A Yes sir, he belonged to the Martins.
Q Did you see him after the war? A No sir.
Q Was he or his family living on your old place when you came back?
A No sir.
Q Did they move there after that to your knowledge? A No sir.
Q Do you know Ben Adams, the applicant in this case? A No sir, never saw him to know him.
Q How long did you stay at this old place? A Often and on during the year '67.
Q This man Warren was not living there at that time? A No sir.
(By Mellette)
Q This man Warren was a slave before the war? A Yes sir.
Q Who owned him? A Dick Martin.
Q Were you well acquainted with this slave? A Yes sir some of them
Q You never have seen him since the war? A No sir.
Q Don't know what country he has lived in since the war? A I have lived on Grand river.
Q I say, he? A Oh, no sir.
Q You don't know if he was in the Cherokee Nation or not? A No sir.
Q Don't know if he was in the Cherokee Nation in '66? A No sir.
(By Davenport)
Q You do know that he was not on your father's old place in '67? A No sir he wasn't there, I was there and he wasn't there.

GIESIE CLARK being first duly sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation:

(By Davenport)

Q What is your name? A Gibbie Clark.

Q What is your post office address? A Vinita.

Q How old are you? A 58.

Q Where did you live before the war broke out? A I have lived in the Territory all my life.

Q Did you go away during the war? A Not much, I was a soldier in this country.

Q After the war closed in '65 where did you locate? A In Saline district.

Q How far is that from the old Joe Lynch place? A I located within 4 or 5 miles from it, my father in law was living on that place then.

Q Who was he? A G. W. Scraper.

Q Did you ever know a colored man named Warren Adams? A Yes sir.

Q Did you know him before the war? A No sir.

Q You know him after the war? A Yes sir.

Q When did you first get acquainted with him? A In the '70's

Q Were you ever on your father in law's place in '67? A Yes sir I was there often, I visited my wife's folks.

Q Did Warren Adams and his family live on the old Joe Lynch place in '68 and '67? A No sir.

Q Do you know of your own knowledge if he lived there after that?

A I dont think Warren ever lived there, his father came there and bought, his father lived in one of the negro out houses and made four or five crops there on the Spring Branch.

Q What year was that in? A I think he staid there three or four years after that. I think he went there in '68.

Q They didn't live there at all while Mr. Scraper was there? A No sir.

(By Mollette)

Q Did you say that Warren Adams father mover there in '67 or '67

A I think it was in '68.

Q Do you think your recollection is positive on that point? A Yes sir.

Q It was either in '67 or '67 A Yes sir.

Q What time in '68? A He went in one of those outhouses in '67. I think but he never made a crop there until '68.

Q You cant tell if Warren Adams moved there in December of '67 or not? A No sir not positive as to the month.

Q You didn't pretend to keep the dates? A No sir.

Q You dont know where Warren Adams was in 66? A No sir.

(By Davenport)

Q Do you know the applicant Ben Adams? A Yes sir.

Q Have you known him for the last few years? A Yes sir, for several years, he is a relation of the Beans and lives right there.

This will be filed in Cherokee freedman cases D-715; D-722; D-726 and D-981.

Chas. van Weise, being sworn states that as stenographer to 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.

Subscribed and sworn to before me this 15th of October, 1901.

Chas. van Weise
[Signature]
Commissioner

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 26th 1901.

In the matter of the application of Martha Virgel, C. P. N. 728.

SUPPLEMENTAL TESTIMONY.

Witness placed under the rule.

Appearances:

- W. W. Hastings for the Cherokee Nation
- A. S. McRea for the applicant.

WILLIAM RAY being first duly sworn by Com'r T. B. Noddles, testified as follows on the part of the Cherokee Nation.

(By Hastings)

- Q What is your name? A William Ray.
- Q What is your age? A 63 past.
- Q What is your post office address? A Garnett, Kansas.
- Q How long has that been your postoffice? A Since '67 or '18.
- Q Did you know a colored man or woman there, James Warren and Ibbie Adams? A Some acquainted with him, saw her, not much acquainted with her.
- Q Where were they living when you first knew them? A East of Garnett.
- Q On a farm? A Yes sir.
- Q How long did they live there after you came to Garnett? A Not long.
- Q Well, about how long? A They must have left here in '69 or '70.
- Q Were they living there when you came? A Yes sir.
- Q Did they have any children that you remember? A They had some children, I dont know exactly their names.
- Q How long after you came there until you got acquainted with them? A It was just before they went away, I saw them at church, I dont know just when I did get to say acquainted with them.
- Q Whose place was it that they lived on? A At that time I didn't know, I know who owns it now.
- Q Who? A Man named F. G. Burns.
- Q About how far from town was it? A Right round about two miles, one and a half or two miles.

(By McRea)

- Q You dont know who owned Warren and Ibbie Adams? A No sir.
- Q You dont know when they first came to this particular place you speak about? A No sir.
- Q You dont know whether or not they ever lived out of the Cherokee Nation during the war? A No sir.
- Q You dont know where they were in '66? A No sir.
- Q Or in '67? A In the early part of '67 I dont know where they were.
- Q When did you say your acquaintance first commenced with those two people? A I cant tell when exactly or at what place it was, just before they left to come back here though.
- Q Your acquaintance with them wasn't very intimate was it? A No sir they lived quite a ways from town, and I didnt get outvery often.
- Q You dont know the applicant in this case, Martha Virgel, the reputed daughter of Warren and Ibbie Adams? A No I dont know her.
- Q And you dont know if that Warren and Ibbie Adams that you know in Kansas is the reputed mother and father of this applicant, Martha Virgel or not? A I do not
- Q You have no acquaintance with the applicant whatever? A No sir, if I does, I dont know it at this time.

W. J. JOHNSON being called and sworn by Com'r T. B. Noddles, testified as follows on the part of the Cherokee Nation.

(By Hastings)

- Q What is your name? A W. J. Johnson.
- Q Your age? A 71.
- Q Your post office address? A Garnett, Kansas.
- Q How long has that been your post office? A Since '67.
- Q How long has that been your post office? A Since '67.
- Q How long has that been your post office? A Since '67.

the name of Warren Adams who had a wife named Fbbie? A I know Warren Adams, I dont remember his wife's name,

Q When did you first begin to know Warren Adams? A Soon after the close of the war.

Q About how long did you know them there after the war? A I dont remember when Warren Adams was last at Garnett—it was—he was there about three or four years, in my judgment about it.

Q After the war? A Yes sir.

Q You are not distinct as to the date, but you think it was three or four years? A No sir I cannot tell exactly about the date, as there is no fact about Warren Adams's leaving that calls to my mind when I last knew him.

(By McRea)

Q Colonel, where did you say you first become acquainted with Warren Adams? A Garnett, Kansas.

Q What year? A It must have been in 1866.

Q What time in '66? A I cant be positive about that

Q Do you know when he came there? A I do not, thru these colored people came there while I was away in the army, I found them there when I returned to my home along in the fall of '65 or the winter of '66

Q Do you remember under what circumstances you met him, Colonel? A I do not.

Q Now Colonel, are you willing to swear positively that the Warren Adams you met in Garnett, Kansas, is the Warren Adams who has is he alleged father of the applicant, Martha Virgel? A No sir I cant be positive about anything of that kind, I dont know who the father of this applicant was.

Q You cant answer it? A No sir.

Q You wouldn't swear that? A No, I wouldn't swear wh her father was.

Q You dont know the mother? A No sir I didn't know any of Warren Adams's family except himself.

Q Well now Colonel, did you keep tabs on Warren Adams's movements from the time you first met him until he left there? A No sir I had no occasion to.

Q He may have returned to the Cherokee Nation in '66 or the early part of '67 without your knowledge? A He could have done it but I dont think he did.

Q You wouldn't swear positively that he didn't would you? A No sir, I wouldn't

Q When did he leave Garnett, Kansas, this Warren Adams that you knew? A Well, it would be only a matter of judgment with me about that, I would say it was about 1870.

Q You think he left about 1870? A Yes sir, it might have been earlier, but that would be my judgment about it now according to my recollection.

Q Do you know where he went to? A No sir, and I dont know exactly when he left; I know him there as I know the other colored men that were there; he disappeared from my observation and I dont know where, when or how he left; it is a difficult matter to say when any one leaves a country unless there is some facts to fix the time.

Q Did you ever see him back there any more? A I dont recollect seeing him any more.

Q And you dont know what became of him? A No sir, I don't.

This will be filed in Cherokee Freshmen cases, D-725; D-715; D-681 and D-673.

Chas. von Seise, being sworn stating that as stenographer to the Commission to the Five Civilized Tribes he reported in full the above and that the foregoing is a true and complete transcript of his stenographic notes thereon.

Subscribed and sworn to before me this 22nd of October, 1891.

W. R. Reddick

To be filed with F. D. 391.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May, 13, 1902.

In the matter of the application of Elizabeth Meigs for the enrollment of herself as a Cherokee Freedman.

Cherokee Nation appears by F. W. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows:

MR. HASTINGS: What is your name? A Mrs. Lydia Barton.
Q What is your postoffice? A Fort Scott, Kansas.
Q Do you hold any official position at the present time? A Yes, sir.
Q What is it? A County Clerk.
Q Of the county in which Fort Scott is located? A Yes, sir.
Q Have you an official paper? A Yes, sir.
Q What is it? A Our official paper at the present time is the Republican, but that changes you know from time to time.
Q Do you know what your official paper was in December, 1866, up to and including March of 1867? A Yes, sir.
Q What was it? A The Fort Scott Monitor.
Q Are you required to keep files of this paper in your office? A Yes, sir.
Q Have you a file of the official paper including December, 1866, up to and including March of 1867? A Yes, sir. (Here presents files.)

MR. HASTINGS: The Cherokee Nation offers in evidence the account found in the Fort Scott Monitor of date Wednesday, December, 27, 1866, found on the second column of the editorial page, headed "Another Murder."

MR. BROCK: Comes now the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.

COMMISSION: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder.

Shooting of B. Hayford.

Testimony given before the coroner.

On Saturday night, the 22nd. inst., a few dark, Mr. Byer Hayford of this city was found murdered. A colored man, named Eli Mackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Bigler Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these.

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Being missed almost immediately, and learning that Mackey had taken it, and was then on his way home with it, (Mackey resides near Fort Scott Mills,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mill, where Mr. Hayford was found on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

suspicion was at once directed to Mackey and he was arrested. As the news spread through the city, the excitement and the indignation was great, and many threats of lynching Mackey were made; but wiser and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Maygrave was called on to hold a coroner's inquest. A jury was empanelled, consisting of Messrs. C. F. Drake, Joseph Ray, Frank Clough, Porter Williams, Jos. Warden, and R. L. Phillips. The body of Mr. Hayford having been removed to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Drs. J. S. Redfield and B. F. Hepler made a post-mortem examination, and testified that they found four pistol or gun-shot wounds on the body and face of Dyer Hayford, then lying dead before them. One shot entered the region of the stomach which came out over the liver, in the side of the back. This wound bears evidence that the pistol was held close to the body when discharged. The other wounds found on the body were about two inches above the left nipple and about an inch and a half apart - one ball passing through, and out below the left shoulder, the other ranging downward, and was found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chin, not fracturing the bone, and lodged in the right shoulder, (evidently fired, we think, after he was on the ground.) The surgeons testified that any of the three wounds found on the body would have been mortal.

Alonso Cullin, (colored) sworn - Was at Hayford's store at 11 o'clock, just after six o'clock, came on horseback, left my horse at the door, went in and found Hayford alone and coming toward the door. Eli Mackey, colored, was standing on the walk when I went into Hayford's; a sack of flour was standing on the box at the door. I went in; Hayford came out and the flour was gone; he asked me if I was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides; he was blowing right smart; I inquired if he had seen a steer with a rope on his neck; he said no; I rode back toward Hayford's and told him Mackey had the flour and where it was; Hayford said he would go and get the flour, and asked me for my pony; he got on and rode down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot, before I heard the firing. When I saw Mackey at Hayford's he had on a soldier's coat; it was off when I found him with the flour. Didn't notice that at any time whether Mackey had any arms or weapons with him; saw him again after he was arrested, a short time after Hayford was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked who had seen him with the flour; he was then told he had shot Hayford, and he said he had nothing to shoot with. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayford started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayford was shot, is about one hundred yards. I heard three shots distinctly.

Harry Lender, (colored) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not, he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek; looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

M. C. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed, when I went to my house and inquired for me; I heard him and knew by his voice that it was Mr. Hayford. Have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots, from the south, thought they were about 100 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Looney, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Along Gullin told me he saw Mackey on the road towards home, and that Mackey heard he called, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's black coat; he had a revolver on him then, it was a big navy revolver. When I saw him after he was arrested I think he had on a different coat.

Daniel O'Neil, sworn - Saturday night I was at Groves and heard a shot fired. The next after heard a man halloo; ran out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Festly Licker and myself ran down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the wound I knew it was a pistol that was fired. Came to town to find out where the man was killed.

The coroner's jury returned to the justice their inquisition, stating that Iyer Hayford came to his death by gunshot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Yarrave, and will no doubt be committed for trial at the next April term of the District court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having conspired to murder the Nation, before he came to Fort Smith.

+

and he was once before arrested here, for shooting at a man; but before his trial came off the prosecuting witness left for parts unknown, and Mackey was discharged without trial. Let him be tried for the offence with which he now stands charged, and if guilty he should expiate his crime on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February, 27, 1867, as follows:

"Eli Mackey, colored, accused of the murder of Dyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, has not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers in evidence the following from the Fort Scott Monitor of Wednesday, March 27, 1867:

"A Chapter of Horrors.

Murderer of Hayford Captured and Hung.

Tragic events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Dyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 20th inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started, in company with his son, Charles T. Wheaton, Edward Coe - who were on police duty in this city - and Benj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Coe and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Coe, being nearest, received the first shots that were fired. He stepped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charley Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon became empty. Finally, when nearly dead from the wounds he received from his pursuers, he signified his readiness to surrender; but even after they approached him his bloodthirsty spirit was not satisfied, and he fired the two remaining shots in his revolver at the crowd. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer was secured he was taken back to the house from which he had fled and hung by the neck until he was dead. Before his death he tried to implicate an innocent negro in the murder of Mr. Hayford, but having been caught in the falsehood, he confessed to having committed the deed himself. He also confessed to having killed five other men, and also to having shot at Major Hafford last winter. - All reports indicate that he has always been a character with scarcely a parallel in the annals of history for desperation

and bloodthirstiness. - We are informed that at one time, in the Cherokee Nation, 25 men attempted to arrest him but failed on account of his desperation. The colored people, who knew him, were terrible afraid of him. History has seldom presented a character so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of life except by due process of law, as dangerous to the peace and quiet of the community and to the best interests of society. We have always found that nothing but the most extreme necessity would justify it, but we believe in this instance that necessity existed; for every moment this desperado was allowed to live, endangered the lives of good citizens. We learn that the house he occupied was since burned to the ground. The sufferers from their attempt to arrest him, were among the best of our young men. As members of the police force of this city they have performed their duties faithfully. Generous and brave to a fault, the death of one and the danger to the other creates a spirit of sadness that cannot soon be eradicated.

The body of Mr. Coe was brought into the city, and on Friday after a funeral sermon by Mr. Irwin was escorted by a large procession, headed by the members of the Grand Army of the Republic, to the cemetery where it was interred.

Sequel.

On Thursday night a crowd of about fifty men, still laboring under the excitement growing out of the tragedy of Wednesday, entered the jail and having possessed themselves of the keys took Jackson Mackey and Harry Vann - on the brother who harbored the murderer and the other charged with furnishing provisions and aiding in his concealment, to the ravine near the poorhouse and hung them to a tree where their lifeless bodies were found next morning. So quietly was this done that few in the city except those who participated know of it until the next morning."

Benjamin Files, being first duly sworn, testified as follows:

ME. HASTINGS: What's your name? A Benjamin Files.

Q What is your postoffice? A Fort Scott.

Q Kansas? A Kansas, yes, sir.

Q Were you living there at the close of the war? A Yes, sir.

Q Were you living there in '66, December? A I have lived there ever since '62.

Q Did you know Dyer Hayford? A Yes, sir.

Q Had you known him before December '66. A Yes sir, I had known him in the neighborhood of two years before that and knew him up until that time.

Q Was he killed? A He was killed at Fort Scott.

Q Was he killed in the town? A He was killed just at the brink of the hill along in the mouth; yes, sir he was killed in the city just about the brink of the hill.

Q About what time of the day was he killed? A He was killed just after dark, just dark.

Q Do you know who killed him, who was said to have killed him, who was accused of killing him? A Yes, sir.

Q Who? A Eli Mackey.

Q Was he a colored man? A Yes sir, he was.

Q Did you assist in his arrest? Yes, sir.

Q Who arrested him? Myself and a man we called Deacon Jones.

- Q That this other man here with you? A Yes, sir.
- Q About how long after this reported killing? A I heard the shots fired, then run down there and run over him; I lit a match and this man drew his breath twice. From the time the shots fired I wouldn't it was more than twenty minutes.
- Q Twenty minutes? A Yes, sir.
- Q Had it become generally known at the time of the arrest? A No, sir.
- Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.
- Q And a few people know that the killing had taken place before he was arrested? A Yes, sir.
- Q And the excitement then, was that after that? A Yes, sir, they didn't have time to know it.
- Q Was he put in jail? A Yes, sir.
- Q You remember how long he remained in jail? A Till about the twentieth, sometime in February, 28th I think it was.
- Q Of February following, of '67? A Yes, sir.
- Q Well did he make his escape? A He got away.
- Q He got away? A Yes, sir, he got past the turnkey, Ed Coe.
- Q Ed Coe was the turnkey was he? A Yes, sir.
- Q I will ask you then if there was any searching parties out for this man? Yes, sir.
- Q For how long? I think he was killed on the 20th of March.
- Q From then about the 26th of February until the 20th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.
- Q Well were there quite a number of people out searching for him? A Yes, sir.
- Q Considerable excitement at that time? A Yes, sir.
- Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched lands, they looked around for him, but failed to find him.
- Q Up until that time? Yes, sir.
- Q You say that was for about three weeks? A Yes, sir, something over three weeks.
- Q From the 26th of February up until about the 20th of March? A Yes, sir.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee darkey or not? A Yes, sir, he was.
- Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.
- Q What I want to get particularly from you was whether there was any search made for him at the time he was killed or whether search was made for him after his escape, after the 26th of February? A There was no search made for Mackey until he broke jail.
- Q No houses searched, nor no wagons, nor no nothing when he was first captured? A He was in jail. I don't think it was much over a half an hour, I don't think it was any; he was in jail in not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.
- Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a match and he was too far gone to speak.
- Q You had known Hayford prior to that time? A Yes, sir, his and me was friends.
- Q You was a friend of his? A Yes, sir.

H. C. Jones, being first duly sworn, testified as follows:

- MR. HASTINGS: What is your name? A H. C. Jones.
- Q What is your postoffice? A Fort Scott.
- Q Kansas? A Kansas, yes, sir.
- Q What is your age, please sir? A 66.
- Q Were you holding any office in the town of Fort Scott, Kansas, in December of '66? A I was.
- Q Well were you holding any office at the time a man by the name of Hayford was killed by Eli Mackey? A I was.
- Q What office was that? A City marshal, called town constable.
- Q You was a city policeman? A Yes, sir.
- Q Did you assist in his first arrest? A I did.
- Q Who assisted you in the arrest? A Mr. Benjamin Files.
- Q This man that's present here? A Yes, sir.
- Q Did you hear the shots that killed Hayford? A I did.
- Q How soon after Hayford was killed was Mackey arrested, Eli Mackey?
- A 20 or 25 minutes, inside of a half hour at most.
- Q Very short time? A Yes, sir.
- Q Had any houses or wagons or anything of that kind been searched in the mean time? A No, sir, there was no knowledge.
- Q People didn't generally know it up to that time? A No, sir.
- Q Put in jail then? A He was taken right to the jail as soon as he was arrested, he was hurried off to jail for fear of any mob violence.
- Q Well how long did he remain in jail, do you remember? A Why I think something like six weeks or more.
- Q Well the Fort Scott Monitor puts it about February 26th? A I presume that was right, it was correct. It was hard for me to remember exactly.
- Q Well he remained in jail up to that time? A Up till that time, he was not out of jail except while he was under guard.
- Q He made his escape then? A He made his escape, yes, sir, at the time.
- Q You know how long he was at large? A Well I put it something like three weeks.
- Q I will ask you if there was any searches at that time made for him?
- A You mean after?
- Q When he got away after February 26th? A Oh yes, sir, there was considerable hunt for him at that time.
- Q Reward offered for him? A Yes, sir, reward offered.
- Q People searched around in the country for him? A There was quite a number of both officials and independent searches, they would search for him for the first couple of weeks of his escape from there.
- Q He was afterwards captured was he? A Yes, sir, he was located afterwards, he hadn't been out of a radius of probably ten miles from there after he got away, he was captured.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee colored man? A He was called a Cherokee refugee, yes, sir, had the reputation, that is his name, of being a Cherokee nigger.
- COMMISSIONER: You are positive about these dates? A To the best of my knowledge now, I would have put it, that is, a week before the holidays, and I knew it was only a few days before Christmas when the killing was done.
- Q '67? A In '66 the killing was done.
- Q Few days before Christmas of '66? A Yes, sir.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced in the case of Aaron Webber, D-216, with reference to the return of the Webber detachment, be introduced and made a part of the record in this case.

MR. BROWN: Come now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, and immaterial and not the best evidence, it being purely hearsay.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-394, D-396, D-397, D-401, D-402, D-404, D-407, D-775, and in D-391, the same being the case at bar.

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

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 14th day of May, 1902.

(Seal)

(Signed) Philip G. Fowler,

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and perfect copy of the original now on file with the Commission as the same was made by me.

Arthur G. Evans

Subscribed and sworn to before me this 23rd day of July, 1902.

Philip G. Fowler
Notary Public.

Freed D 880.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tuskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellotte & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmore, Trustee for the Freedman, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 492, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

David Hayes, D 981;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1803, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

File with F. D. 961.

F. D-574.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I.T., May 27, 1902.

In the matter of the application of Nancy Smith et al for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-574.

APPEARANCES:

Kellette & Smith for applicants.
W. W. Hastings for the Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced by the Cherokee Nation in the case of F. D-818, together with the testimony of Aaron Webber and the testimony introduced by the Cherokee Nation in the case of F. D-216, also the testimony of Reuben Sanders, together with the testimony introduced by the Cherokee Nation in Freedman Doubtful 391, be introduced and made a part of the record in this case.

MR. SMITH: The applicant objects to the introduction of the said matter for the reason that the testimony of the witnesses mentioned is immaterial and incompetent and as to this case hearsay, and to the introduction of the alleged documentary evidence for the reason that the same is not the best evidence; that it is incompetent in the manner and form offered and is hearsay.

MR. HASTINGS: The testimony is introduced by the Cherokee Nation for the purpose of showing the time that the Webbers and Whites returned to the Cherokee Nation, and that no women whatever returned with them, and that none were living in that section of the country in the winter of '66, and that none came earlier than the spring of '67, and to contradict the witnesses who testified for this applicant.

MR. SMITH: The applicant makes especial objection that it is incompetent to contradict any witness by evidence of contradictory statements made at another time or place unless the proper foundation is laid by asking the witnesses when upon the stand in this particular case whether or not they made such statement, which the record in this case shows was not done.

COMMISSIONER: This testimony will also be filed with and made a part of the record in the application of Sallie Crump, D-575, and in the case of Jackson Smith, D-576, in addition to the case at bar; also in the case of Josiah Hayes, D-976, and David Hayes, D-981. All the applicants in the above named cases are represented by Kellette & Smith.

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 correct transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger

Subscribed and sworn to before me this 7th day of May, 1902.

(Signed) P. G. Reuter,

(Seal)

Notary Public.

James S. [unclear] to the [unclear] to the [unclear]
Civilized Tribe, being [unclear] [unclear] [unclear] [unclear]
in a true and correct copy of the original [unclear] of said
proceedings.

James S. [unclear]

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

James S. Jones
Henry [unclear]

Supl. C: D. #818. Freedmen.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedman, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on E. B. Larson, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tend to disapprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1903, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation represented by its representative, L. B. Bell.

C. B. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name? A C. V. Rogers.
Q Age? A 63 years old.
Q Place of residence? A Claremore.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q For long have you been such? A All my life, a little over 63 years.
Q Did you go out of the country during the war? A Yes, sir.
Q When did you return? A '66.
Q Where did you come to? A Come to Fort Gibson.
Q And stayed there did you? A Yes, sir.
Q Well what was your business? A After I come back?
Q Yes? A I followed freighting for something over three years.
Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
Q Were you ever acquainted with a Freedman by the name of Moses Whitire? A Yes, I know him.
Q Where did he belong before the war? A He belonged in Coing Snake District.
Q Do you know what particular Whitire he belonged?
A I don't remember whether he belonged to George Whitire or Lee Whitire.
Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
A As well as I can remember it was in February, '68; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 28 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I know in the outfit.
Q Did you have any conversation with them, stop and talk with them?
A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
Q Did you ask them where they was going to? A They said they was moving back.
Q Well this 25 or more wagons was loaded with people?
A Yes, mostly every one had household goods in them.
Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
Q Well now that was; where you say it was? A It was right on this side of the Neosho River; between the old Hudson place and Neosho River.
Q How far from the Neosho River? A I suppose half a mile.

Q How far from the north line of the Cherokee Nation?
 A I think the river is the line, about half a mile.
 Q And how far is that from the Kansas line? A The Neosho is the line, way I understand it.
 Q You had reference to where the military road crosses the Neosho river? A Yes, sir.
 Q At Jack McLean's ferry? A They called it Hudson ferry at that time.
 Q Hudson lives there? A Yes, sir, in about a half mile.
 Q And this Moses Whitire you met and talked with is the same one you knew in Going Snake and belonged to the Whitire family there?
 A Yes, sir.
 Q About how old a man was he when you met him? A He is an older man I think than I am.
 Q And you saw other with him you know? A I think Aaron Whitire and Moses Whitire and old Major Wright in the old ones I know.
 Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
 Q Do you know where this man Whitire lives now, Moses Whitire you met?
 A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know whereabouts he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

—00000000—

I 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 transcription of my stenographic notes thereof.

(signed) J. O. Harrod.

Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 30, 1902.

In the matter of the application of Edward Wright for enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Sam J. Seoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Sam J. Seoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Cherokee Commission on Citizenship as found on page 57 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Docket of the Cherokee Commission on Citizenship," as follows:

No. 25 Edward Wright
vs
Cherokee Nation.

(Ex. 7th of June.
Answer filed.)

Judgment against claimant June 27, 1879.

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

No. 22 Major Wright
vs
Cherokee Nation.

(Ex. June 7th. Statement filed
on the 28 of June,
1st July set, 1st Aug.
set for trial.)

Judgment against claimant June 27th, 1879.

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 26th day of June, 1878, as found on pages 184 and 5 of book B, entitled, "Citizenship records 1878," as follows:

"Before the Commission sitting at Talliquah to rev claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmire

75
Cherokee Nation

respectfully presents the following statement of his claim according to the requirements of the Commission.

Claimant claims under classification five of class one as the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they could subsist without discomfort and exposure and until a removal of them was practicable though removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his mine in the spring of 1867.

Claimants rights have been called in question by constant authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.
This June 26, 1872.

Lewis Whitmire,
By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

Report the Honorable Commission sitting at Talequah to try rights to Cherokee citizenship.

In case of Moses Whitmire
vs
Cherokee Nation,
claiming Cherokee citizenship.

Claimant claims under the fifth specification of the clauses of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,
Moses Whitmire.

June 26, 1872.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Cherokee Court, Book A," page 239, case No. 60, as follows:

"Case 60.

Aaron Whitmire)
vs)
Cherokee Nation.)

Talequah,
July 5, 1872.

Mike Field a witness for claimant called and sworn.
"I do think I am about 47 years old. I live in Illinois
Miner, O. S. Am a citizen of the Nation. I have seen up the
country and had my rights proven up before the Cherokee Court.

As a result of the treaty of 1866. I went north to the state of Kansas and returned in August - 21st or 22nd, 1866. I left my family at Fort Scott when I came. I came down to get me a claim. I stayed about three weeks that time, and then returned to Fort Scott. After that time at Fort Scott there were others who started down, the first of them was of the name. The claimant was one of them. They returned to Fort Scott before I did. I left Kansas about the 2nd week in January, 1867 and on the morning of the Neosho river about the last of January. When I first came down there was about 15 in the party. They were all men and women in Kansas when they came down here. There was one woman with the Whitesides who piloted the Whiteside party. Her name was Mrs. Webber. Mike Daniels, Sam Webber, Jr., Aaron Taylor, John Sanders, Frank Sanders.

The names of the people were Aaron, Lewis, Ross, Dennis and Nelson. There are others that I do not recollect. The object of this party was for the purpose of erecting houses. When I moved out here I started on Foyers Creek at Mrs. Alborty's and remained there for some time. The reason we left that part of the country was because most of the country was not sparsely settled and bare of timber. I was passing that the first time we were over the mountains. They were some who came here were with the Whitesides. There were no claims for them, one was by McKee and one by Taylor. The original request filed.

John Edwards.

I can not remember the date of my arrival here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1867. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Rocky Mountain on this side of Arkansas. When the Whitesides returned to Fort Scott I do not know if they left there or came to this country as I left the country when I left. It was reported when they returned to the Whitesides that the Whiteside party had built houses. But I do not know this myself. I only heard they had. The Whitesides did not know it myself but people told me so.

I do not know the date it was the month of Aug. When I came down here, as I was told it was that time.

Re Forest.

It was the month of February the time I first came down that the Whitesides were here to select and improve claims.

Nick Fields.

1866.

Aaron Taylor
 Charles Sanders
 John Edwards
 called for a witness

I reside in the same town district, S. E. I am a native of the State of Missouri during the war. I returned to the State of Missouri near the mouth of Neosho River, George's Creek District.

on the 2nd of September, 1866. I had occasion some time in the last of Oct., or the first of Nov, or probably it might have been as late as the middle of November, to go to the Viridiana. While out there I fell in with a party of seven or eight persons who were camped with others near San Francisco. I did not go to the camp. They were colored people. I knew most of them. The names were old Sam Webber, Amos Whitacre, and a younger brother and Lewis Whitacre.

There was a single person that I was told was a landman. I do not recollect any of the others and can not identify them. The Whitacres were Johnson and George Whitacre, Amos, Lewis and his brother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to sink their own horses or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man, but that he had sent his son down to work for him and make him a claim. He then asked me if anyone there was to get provisions over on the river; I told him there was none there, but that there was a lot of condemned flour at Gibson and if they would go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build their horses and so forth. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I camped out at night. I did not see any of these parties after this 1st, May, 1867. There was no provision to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare to go for themselves and families. They told me so at least. Major Wright belonged to Carmeline Wright before the war.

Gross Examined.

I heard after this word of them went back to Kansas. At the time I saw them I do not know whether their families were with them. I think I saw Dennis Whitacre with this party, but am not certain of seeing Dennis or Nelson. I know there was four of the Whitacre boys. They were owned in the Nation and resided here up to the breaking out of the war.

B. F. Liberty.

Amos Whitacre

vs

Cherokee Nation.

I am Melissa Patten. She was twelve or thirteen years old at the close of the war.

She was living with me then and still lives in my family. Jack Landrum was one of the men above referred to, also James Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unappropriated lands. We crossed the Florida in coming down at McLean's Ferry in 1866. The chief ferryman who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Liberty but had no conversation with him, but Sam Webber had in my presence.

Cross Examined.

I am a claimant before this court for citizenship. I was half-brother of Aaron Whitire, Louis, Dennis and Nelson are also my brothers. Mariah Whitire is my sister. Major Wright is my stepfather. The names of the party that came with me to the Nation are as follows: Mike Sanders, Sam Reches, Peter Reigs, Bill Parham, Tuck Sanders, Ranson Daniels, Sam Polbar, Jr., Louis Whitire, Nelson Whitire, Dennis Whitire, Aaron Whitire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any other. Witness was born of family in 1862 which we came on from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Ida, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1866 to Kansas after coming to the Nation. When witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Ranson Daniels, Tuck Sanders, Peter Reigs and the families of those who had families all came as I did besides others not particularly remembered. This was the first time any of our families and best to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alce R. Liff at breaking out of war. She first came in March 1867. Jack Laffman was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Albany as a witness in this case.

He Direct.

Mariah's family at the close of the war was a separate family. Harry Whitire, her son, represented his father on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

his
Mariah Whitire.
mark.

Case 63.

Aaron Whitire & family)
vs) Claiming citizenship.
Cherokee Nation.)

Now comes claimant by Atty before the Commission sitting at Tablequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as African under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Geo. Whitire a Cherokee citizen at the commencement of the war of the rebellion and was then living in this

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence. While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to renit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in person and as representative of his family within the time provided for by treaty, in that having no residence to come to as other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as long as his means allowed to provide a home in this Nation.

Respectfully submitted,
Aaron Whitire,
By Atty. Wm. P. Roudinot.

Aaron Whitire
vs
Cherokee Nation.

August 1st, 1872.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Coowescoowee, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military road leading from Fort Scott, Kansas to Fort Gibson, C. N. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I meet him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having meet claimant and Hoss, Lewis, Dennis and Nelson, Whitire, Peter Meigs, Mike Sanders, Sam Webber, and Young Sam, Bill Foreman and others but I do not recollect anything about Lem. They were traveling. They stated they were coming from Fort Scott, Kansas, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. McLean gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I meet claimant and the others spoken of it was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas at I left them at Christmas or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the time.

I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Lewis, Nelson and Dennis Whitmire and little Sam Webber and I think they were there who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped there long enough that were they any women and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I set them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire)
Vs)
Cherokee Nation.)

July 4th 1873.

Wm. McCracken for Claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McCracken.

D. L. Nicholson, Clerk.

Aaron Whitmire
vs.
Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arka.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools &c until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The note of claimant is in the same locality as that at the time mentioned above. In Feb. of Nov. 1866 I gave claimant and other colored men permission to occupy the old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitwire is the name of the other man. I also permitted to go on the old field. The spring of 1867 I saw Aaron and Louis Whitwire at work on the two fields spoken of. This settlement of colored folks had the character of quiet industrious and law abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards in the neighborhood for the purpose as they said at the time of selecting their homes. Several claims was then in sight of witness which the colored party said they had selected and are now the names of the party above indicated.

Agent Jones was at the time advising said Col party. A Delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to expel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

"Continued on page 223."

Aaron Whitwire et al
vs
Cherokee Nation.

July 16th 1878.

John Riley,

sworn as witness for Deft. I live in Cooperscove Dist. I first moved there in 1858 and have continued to reside there except in time of war. I came back in the month of August 1866 to the Nation. I knew Aaron Whitwire. He returned or came to the Verdigris River to live in the month of March 1867. Also came at that time the Peter Heigs, Mike Sanders, Sam Webber, Billy Foreman, with their families and others whom I don't recollect. Claimant made a crop that spring in 1867 on an old place of Aaron Landman. He had settled no other place before that.

Cross Examined.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1866 to locate homes but I know of several who came in Sept. '66 for that purpose. I knew where Aaron Whitwire lived at this time. I was near Coody's Bluff in Decr. 1866. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never know of Bluford Albert being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitwire was not along but Mike Sanders, Sam Webber, Colbert & perhaps Billy Foreman. Moses was not along. Heigle was not along as I know of not Major nor Major Wright nor Nelson Whitwire that I know of. If any other party had come down in Decr. 1866 I think certainly I would have known it.

John Riley,

Respondent Riley.

(page 223)

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this colored party told witness that they returned in March 1867 to the Nation.
Be Direct

I learned from John Coker that most of this colored party returned to Kansas after their families and a few remained. I was at General Convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug. 1866 in my information. It might have been July 19, 1866.

Witness went south during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. F. Liberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitire)
vs)
Cherokee Nation.)

Filed at May 10, 1878.

This day cores John P. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John P. Lyons,
Atty for C. N.

Arthur G. Croninger, being first 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.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1868.

(SEAL)

(Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 15th day of Aug., 1868.

Bruce G. Jones
Notary Public.

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9, 1901.

In the matter of the application of Aaron Webber for enrollment as a Cherokee Freedman.

Aaron Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Aaron Webber.
Q How old are you? A 36 I think.
Q What is your post office address? A Wymer, Cherokee Nation.
Q What district do you live in? A Cooweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Just myself.
Q Have you ever applied to be enrolled by any other tribe or Nation besides the Cherokee Nation? A Yes, sir, the Clifton Court and the Wallace Court.
Q The you apply to any other Nation, the Creeks? A No, sir.
Q Never drew any money from any other Nation? A No, sir, I didn't.
Q Have you been recognized by the Cherokee authorities as a Cherokee citizen? A Yes, sir.
Q Is your name on the roll of 1880? A It is on this roll here Mr. Bledsoe has got here; I ~~ENNA~~ come with my brother Sam Webber.
Q Is your name on the roll of 1880? A No, sir.
Q Did you ever drew your strip payment money? A Yes, sir.
Q How much did you draw? A \$15.50, and then I drew this other payment, this last payment, I drew it.
Q You drew the last payment? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
The 1886 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
The Kerns-Clifton roll examined, and the applicant identified thereon, page 126, No. 315, Cooweescoowee district.
Q Were you a slave before the war? A Yes, sir.
Q Who did you belong to? A Takie Webber.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where did you go during the war? A Went to Kansas.
Q When did you come back from Kansas? A Came back in 1866.
Q You been living here ever since? A Yes, sir.
Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q Got no children then? A No, sir, I haven't.
Q You are certain you came back in 1866? A Yes, sir, I did.
Q Who did you come back with? A Sam Webber and my father.
Q Why is your name not on the roll of 1880? A Why I can't tell you about that.
Q Did you ever try to have it put on? A Yes, sir.
Q They refused to do it? A Yes, sir, must have, for it aint there.
Mr. W. W. Hastings; attorney for Cherokee Nation: You say you returned with your brother Sam? A Yes, sir, I did.
Q Did you come the first time he came out here? A Yes, sir, I did.
Q What time of the year was it? A '66.
Q That time in the year '65? A Well you see I can't read and I can't write, I didn't keep no count of the days and the months because my owner's didn't give me time to get my education.
Commissioner: Was it in the fall or summer? A It was along in March when I came back in 1866.
Mr. Hastings: Was it the March after the treaty was made? A Yes, sir.
Q You are certain of that? A Yes, sir, I am.
Q And you came back with him at that time? A Yes, sir.
Q Did he bring his family along then? A Yes, sir.
Q His wife and children? A Yes, sir.
Q He had already been out there and put up a house? A Yes, sir, I had come out before that and I come with him, and we put up a house and I came back with him in '66.

- Q The first time you came back was in March after the treaty was made? A Yes, sir, that is when we moved there.
- Q How long before that was it when you came out? A I can't give the days of the months, how long it was we came out, but we came and put up a house one fall and went back and came right on down.
- Q About how long did you stay out here when you had put up the building? A We stayed three or four days and then went right back and moved down.
- Q What kind of buildings did you put up? A We put up a log cabin.
- Q Out on Big Creek? A Yes, sir.
- Q How far from where Sam Now lives? A Sam lives on the north side of Nowata and we live up there on Big Creek, I can't tell you exactly how many miles, but he lives at Nowata and we live up there on Big Creek.
- Q What old citizen lives near where you first located, where you first located when you first moved out? A There isn't anybody lives there now.
- Q Name some old citizen who lives at the place now where you located then? A Sam Webber.
- Q Does Sam Webber live at that place now? A He did live there but he don't live there now.
- Q Who lives at the place Sam and you came to? A The Meigs and Whitmires and Sanders, and a whole lot of them.
- Q You have lived there ever since? A Yes, sir.
- Q You came out in wagons the first time? A Yes, sir, because Sam Webber drove the ox wagon and I drove the horse wagon.
- Q Do you know anything about dates? A I know when they say the year is out; and this year is in.
- Q What year is this? A If I am not mistaken I think this is May.
- Q The year though? A I can't tell you exactly what year it is, because I am not educated like you smart men.
- Q You are satisfied in '66 you came here in March? A Yes, sir.
- Commissioner: Do you know when the treaty was adopted, know what month it was adopted in, the treaty; you told Mr. Hastings you came here the march after the treaty was adopted; you don't know what month in 1866 the treaty was adopted? A No, sir, I don't.
- Q Have you got any witnesses? A Yes, sir, Sam Webber, and Abe Hare.

Sam Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Sam Webber.
- Q What is your age? A About 58, somewheres nearabout that.
- Q What is your post office address? A Nowata.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
- Q Your name on the 1880 roll? A Yes, sir.
- Q Do you know Aaron Webber? A Yes, sir.
- Q Is he any relation to you? A He is my brother.
- Q Was he a slave? A Yes, sir.
- Q To whom did he belong? A Takie Webber.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q By blood? A Yes, sir.
- Q Where was he during the war? A He was with us in Kansas.
- Q When did he come back? A He came with us when we came back in July.
- Q You came in July from Kansas and he came with you? A Yes, sir.
- Q What year was that in? A In 1866.
- Q He was a slave the same as you? A Yes, sir, same as me, with the same owners.
- Q Ought to be entitled to the same rights you have got? A Yes, sir, have just the same right, belonged to the same parties too.
- Mr. Hastings: Q What time of the year was it you say you brought him back? A We came in July and built houses and went back and moved down.
- Q You had heard of the treaty passed? A We were right in the same month the treaty was made in because we overtook the delegates

at Fort Scott.

Q You had heard of the treaty before you left there? A As soon as we arrived at Fort Scott and talked to them, and they told us they had made a good treaty.

Q And you came on down and he came with you? A Yes, sir.

Q Did you bring your families at that time? A I didn't have any family then.

Q The rest of the people, they come along? A Yes, sir, I was small myself, I was with father, we came and built and went and moved some of them after that.

Q How long did you stay down there at this time? A I didn't stay long, I couldn't tell you just how long we really stayed, we didn't stay only long enough to find claims and cut logs and build shanties.

Q Who lives up there at the place that you located, now? A Reuben Sanders lives right where I built my house, he is living there to-day

Mr. Bell: Where did you start from when you started from Kansas down to Big Creek? A Started from a little creek six miles south of Mound, said to be about twenty miles north of Fort Scott.

Q Had you started to the Cherokee Nation when you came across these delegates at Fort Scott? A Yes, sir.

Q What was your notion about starting? A I had been down here and looked through the country and went back and told them the war was over here as well as everywhere else, and let's come home.

Q You hadn't started then with a view to saving your rights here under the treaty? A We didn't know nothing about the treaty, it wasn't made when we started as we knowed of, until we got to Fort Scott, and we saw the delegates.

Q What time was that? A Along in the last part of July, the last week in July, as near as I can remember.

Commissioner: When Aaron says he came in March he is mistaken?

A He is mistaken, he don't know dates; he is no'tright enough to know dates.

Abraham Hare, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Abraham Hare.

Q How old are you? A About 70.

Q What is your post office? A Wymer.

Q Are you a Cherokee Freedman? A Yes, sir, claim to be.

Q Your name is not on the roll of 1860, is it? A No, sir.

Q Were you a slave? A Yes, sir.

Q What was your owner's name? A Arlie Hare.

Q Do you know Aaron Webber? A Yes, sir.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Tarkie Webber.

Q Well, did you know Aaron Webber before the war? A Yes, sir.

Q Did he go out of the Cherokee Nation during the war? A He Yes, sir.

Q Did you go out? A Yes, sir.

Q What made you colored people go out during the war? A We couldn't stay here.

Q Thought it was safer to go out? A Yes, sir, I had to go out.

Q Why couldn't you stay here? A They wouldn't let us.

Q Who wouldn't let you? A The Rebels and the Yankees neither one.

Q Where was Aaron Webber during the war? A He was with us his father up in Kansas.

Q When did he come back? A He come back in the fall of '65.

Q How do you know? A I come with him.

Q And you came at that time? A Yes, sir.

Q Have you known Aaron Webber since that time? A Yes, sir.

Q Has he always lived in the Cherokee Nation? A Yes, sir, lives right by me now.

Mr. Hastings: Your rights are disputed? A Yes, sir, same as his.

Q You were in here this morning; your case was presented?

A Yes, sir.

Commissioner: Aaron Webber applies for the enrollment of himself as a Cherokee Freedman. His name does not appear upon the authenticated roll of 1880, but does appear upon the Kerns-Clifton pay-roll. By reason of the protest of the Cherokee Nation the name of Aaron Webber will be placed upon a doubtful card awaiting further consideration of the Commission.

~~XXXXXXXXXXXXXXXXXXXX~~

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 10th of May, 1901.

C. R. Breckinridge,

Commissioner,

Department of the Interior
Commission to the Five Civilized Tribes,
Winita, F. T. October, 29th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Jos Ross
C. F. R. 300.

Appearance:
W. W. Hastings, for the Cherokee Nation.
Hollister & Smith for the applicant.

NICHOLAS WALKER, being first duly sworn by Commissioner C. R. Breckinridge, testified as follows for the Cherokee Nation.
(By the Commission.)

- Q Give me your full name? A Douglas Walker.
- Q How old are you? A 30.
- Q What is your post office? A Mound City, Kansas.

(Hastings)

- Q How long have you lived in Mound City, Kansas? A Since May 1857.
- Q What was your father's name? A James Walker.
- Q What was your mother's name? A Niama Walker.
- Q Was your father and mother here the first of the month? A Yes sir.
- Q They testified in this matter at that time did they? A Yes sir.
- Q Do you know Samuel Webber? A Yes sir.
- Q Did you know his son Samuel Webber? A Yes sir.
- Q Where did you know them? A Near Mound City, Kansas; in the neighborhood where I live.
- Q Do you know the applicant here; Joe Ross? A I knew him as Joe Webber.
- Q Is the the same fellow? (pointing) A Yes sir.
- Q Where was he living at the time? A He lived with the older Sam Webber at the time.
- Q You know this applicant here is the same party? A Yes sir.
- Q Did you know a woman named Chlora? A Yes sir.
- Q What relation was she to Joe Ross? A Sister.
- Q Did you know Aaron Webber a little duck legged fellow? A Yes sir.
- Q Where did you know him? A In the same family in Mound City, Kansas, Linn County.
- Q Whose farm did Samuel Webber live on, if you know? A He lived on a farm that belonged to a man named Jeff Flemings.
- Q I mean in the year 1856? A My father bought the farm.
- Q Of whom did he purchase the farm? A Of Flemings.
- Q Do you know where young Sam Webber was married? A He was married there in Linn County, near Mound City, in the neighborhood there, where I was living.
- Q Did he marry before or after he moved from that country? A Before he moved.
- Q Mr. Walker, have you looked up the date of when your father purchased that farm? A Yes sir.
- Q The date of the deed? A Yes sir.
- Q What was that date? A The date of the deed is October '56.
- (By Mr. Smith) Object to that if you have not the deed.
- (By Mr. Hastings) Have you looked up the date? A Yes sir, but have forgotten the exact date as to day.
- Q At that time, where was Sam Webber living? A On this farm that father purchased.
- Q Where was young Sam living at the time he married? A On this farm on the same place.
- Q What is your best judgment as to the time Sam Webber, including Joe Ross, Chlora Grayson and Aaron Webber left that country with their women folks and come to this country? A According to my best recollection it was the latter part of February or early in March of '67, I can't state exactly the month; early in the spring of '67 though.
- Q Did they all move down at the same time? A All started together.
- Q Left there together? A Yes sir.
- (By Mr. Smith) Do you know where he lived on, if you know? A He lived on that you know at that time in Kansas as Joe Webber.
- Q How did you know it? A I recognized his countenance as one man knows another.
- Q How? A Well I saw him in the neighborhood there.
- Q Where? A On the street.
- Q And you knew him as Joe Webber? A Yes sir, the name Joe Ross was not used much.
- Q When did you first become acquainted with old man Sam Webber? A In '65 he moved on that farm.
- Q Which farm? A The farming fellow bought in the neighborhood where I lived, the old Flemings farm.
- Q How did your father buy that farm? A In the fall of '66, I have forgotten the exact day, in October or September.

Q Who owned the farm at the time old man Sam Webber was on it? A Jeff Flemming owned it until my father bought it.

Q How do you know it was '63 that you became acquainted with Sam Webber? A I remember that it was during the last years of the war and the refugees were coming into Kansas, both white and black, in '63 and they were amongst them.

Q Did any come after '63? A Yes sir some came later and some come earlier, and I remember again by this farm, I remember how long they farmed it before we got it.

Q How long? A Three years--four years in the spring of '67.

Q They farmed it four years before your father got it? A They farmed from '63 to '67.

Q You say the reason you knew that you knew this man in '63 was because you knew how long they worked this farm before your father got it? A Yes sir.

Q You say it was in September of 1867 that your father bought that farm? A In '66.

Q You are positive about that? A Yes sir we got possession the first of March '67.

Q Did old man Sam Webber rent this place from your father? A No sir he rented it from Flemmings.

Q Did Sam Webber, the old man and the boys, come down here or leave that country in the fall of '65? A I think not.

Q Don't you remember that they did and that the old man came back by himself one time? A If my memory serve me, it was in '66, late in the summer, or early in the fall of '66.

Q What was in the fall of '66? A That they came down here--started away from there.

Q Who came then? A Sam Webber, the old man, and young Sam and Aaron.

Q What is your recollection as to how long they staid? A They came back I think in November or late in October.

Q Well which came back first? A Why I think the older Sam Webber came first.

Q How long do you think it was before you saw Sam Webber Jr. again?

Q Well, it was a short time, a month or so--I can't recollect that, it is a good while ago.

Q Who helped Sam Webber make a crop in '66? A Johnson Webber and the old man Sam made a crop in '66.

Q Who helped him? A Them two and the little boys I think worked too; Aaron did, I don't know but as Joe did too, I don't remember much about that.

Q Where was old man Sam Webber in July 1866? A That summer he raised that crop and worked part of the summer for my father on this farm.

Q Is it not a fact that in July of 1866 that Sam Webber Jr. came here for his father and that they left there for this country to build some houses? A That is not the way I remember it.

Q You have stated that it was a long time ago, do you think that you remember the date absolutely? A Not to the day or month exactly, but that is my best recollection.

Q Are you testifying to the best of your recollection? A Yes sir.

Q Do you remember of Sam Webber Jr. bringing any hides to that country?

A Yes sir.

Q When was that? A In the fall or beginning of the winter of '66 and '7 he brought some hides and furs.

Q To refresh your memory, was it not in March? A March when?

Q '66? A No sir.

Q Upon what trip was that that he brought those hides? A He left and said he was coming down on a hunting trip.

Q Was that the trip when he left Kansas and when old Sam returned first that you spoke of a while ago? A Yes sir, that was the one, the same trip.

Q Do you remember of Sam Webber calling out a crop up here? A I don't.

Q Do you remember of them leaving there to come to the Territory to build some houses? A Yes sir.

Q Was that after the time that he brought the hides there? A It was that trip that he left there for the purpose of building some houses that he brought the hides when he returned.

Q Don't you remember of them leaving there to come to the Territory for the purpose of building houses? A Well that was with in the spring or winter, in the latter part of February or early in March I have not given the matter any considerable study.

Q How do you fix the dates you have given? A I remember them and then by the dates I have looked up.

Q What dates have you looked up? A The purchasing of this land.

Q Are you testifying from the date of the purchase of that land? A Father bought the place in the spring of '66 on condition and paid \$80 down, or traded cattle, as a forfeit, and in the fall he got some money and got full possession of the place; Webber had possession until the first of March, that is the Kansas law, from the first of March one year until the first of March the next year; they had possession of it until March first 1867.

Q Mr. Walker, when you had occasion to investigate this matter, you had forgotten all about it practically hadn't you? A No sir, but it was something I had not thought much of.

Q You couldn't have told on the moment what year Sam Webber left there could you? A I would have had to look at the dates.

Q Then you are not testifying from your recollection, but from the dates that you have looked up since? A Part of it is from recollection and part of it is from looking up the dates.

Q How long has it been since you thought of the time Sam Webber left that country before you made this investigation? A I was asked the question as to when they moved and I hadn't given the matter any thought till then.

Q You didn't know then did you? A Yes sir after I thought it over.

Q How long did it take you to think it over? A I don't exactly remember.

Q Can't you give us some idea of it? A 2 or 3 weeks.

Q Were you here when your father testified in this case? A Yes sir.

Q Did you know as much about it then as you do now? A Yes sir.

Q How long was that from the time you had first been asked to about the date? A I had not expected then to give testimony in this case and had not thought such about it.

Q What were you doing here then? A I was subpoenaed in another case.

Q You had been talking about this case then? A Not much.

Q How much? A A word or two.

Q And you were here all the time your father and mother were here and yet didn't testify in this case? A Yes sir.

Q You went back to Kansas? A Yes sir.

Q And came back here again to testify? A Yes sir.

(By Hastings)
Q You were subpoenaed by the Cherokee Nation? A Yes sir.

(Continued by Stenographer J. O. Rossen)

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Tribes, he reported in full the above cases and that the foregoing is a true and complete transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 9th of November, 1871.

F. B. Hodges,

Commissioner.

The undersigned, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original.

Roy Palmer

Subscribed and sworn to before me this the 14th day of August, 1902.

Robert L. Jones
Notary Public.

Before Commissioner Breckinridge, at Tahlequah, I.T., Supplemental C.F.D.-350, Joe Ross.

(By Stenographer: This following testimony was originally taken down by stenographer J.O. Rossen, and afterwards dictated by him to stenographer M.D. Green.)

--00--

HENRY C. SHORT, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Henry C. Short.
 Q How old are you, Mr. Short? A 48.
 Q What is your post office? A Mound City.
 Q In the Cherokee Nation? A In Kansas.
 BY MR. HARRIS:
 Q How long, Mr. Short, have you lived in and about Mound City, Kansas? A Well ever since the spring of 1857.
 Q What was your father's name? A John Short.
 Q Were you living there in the years '66 and '67? A Yes sir.
 Q Were you living in town or in the country? A Living in the country.
 Q Do you know Douglass Walker that left the stand? A Yes sir.
 Q Did you know a colored man by the name of Sam Webber up there?
 A Yes sir.
 Q Do you know that young Sam Webber, his son? A Yes sir.
 Q Do you know Joe Ross? A Yes sir.
 Q This is the man there? (Pointing to the applicant.) A I wouldn't have known him unless he had been pointed to me. They always called him Joe; I don't remember about him being called Joe Ross up there.
 Q Have you talked to him? A Just spoke to him.
 Q Did he recognize you as being the man? A He recognized me as being Short by telling him who I was and where I was from; he claimed that he was one of the boys.
 Q Do you know Aaron Webber, a little duck legged fellow? A Yes sir.
 Q Where did you live in the spring of '66? A In Linn County, on Elk Creek, in Kansas.
 Q Did you live on the same place in the fall of '66? A Yes sir.
 Q Did you live in the same house? A I lived in the same house now that I moved into in the fall of '66.
 Q Well now what time in the fall did you move into it? A Well now it was the last of October or the first of November, I won't say which; along about in them times I moved, that is my folks moved; of course I was small, I moved there after that from the west part of the place to the east part of the place.
 Q Do you know where Sam Webber was at that time? A They lived then at that time in the fall of '66 they lived on the place known as the Fleming place, adjoining farms of ours.
 Q Were they living there when you moved? A That fall?
 Q Yes sir? A They were living there then.
 Q I will ask you what is your best judgment as to the time they moved with their families and left that country? A Well I could not say just how, for I have got nothing to fix them dates. The best of my judgment they left there in February.
 Q February now of what year? A Of '67, I would say that, but now I aint certain, I aint got no opinion about what time they left.
 BY MR. HARRIS: Now I move to strike out the testimony to that effect, because the witness says that is his opinion.
 Commission: We will take it for what it is worth and let the Commission pass on it.
 BY MR. HARRIS:
 Q That is your best judgment? A Yes, sir.
 Q That is your best recollection? A (No response.)

Joe Ross (sup'1) 6

Q You said I believe you know they were there in the fall? A Yes sir, that is all I can state positively, I don't know how long they were there.

Q You know that by your news? A Yes sir, that is the one thing I have got you know.

Q Do you know Joe's sister, Chlora? A Yes sir, there was a girl there called Chlora, I supposed it was Joe's sister.

BY MR. SMITH:

Q Mr. Short, how old were you in '66? A About 13 years old, September 6, 1866.

Q Now when were you asked first as to the time when Sam Webber left that country? A When was I asked first.

Q Yes? A I think it was last Sunday.

Q Well you didn't know did you? A No, I don't know what day he left there at all.

Q Did you have that opinion then? A Yes, I have the same opinion I got now, it was the best of my opinion they left in the spring; I got nothing to say they did or did not.

Q Where was Sam Webber, Jr., in February 1866? A I don't know.

Q Where was he in October, 1865? A He was on the Creek.

Q Did you see him? A Yes, he was there; he hadn't moved; he come down here and went back again in the fall; and the whole family was all there in the fall.

Q That was in the fall of 1865 was it? A Fall of 1866.

Q I am talking about 1865? A Well they was there too.

Q Did you see him? A Yes; of course they was there.

Q Of course, well how do you know, did you see him? A Yes I saw him.

Q Where did you see Sam Webber in the fall of 1865? A Oh I don't know; he worked some for us.

Q Did he work for you in the fall of 1865? A Worked for my grand'ather some.

Q That young Sam Webber? A Yes, sir.

Q You say you know young Sam Webber, the younger of the two?

A Yes, sir; I knowed young Sam and old Sam too.

Q Did you know young Sam Webber, called Sam Webber, Jr.? A Yes sir, of course it had been a long time from the time I saw him, from the time he left there until I come down here, saw him the first time as soon as I moved there.

Q What did you say about his being a boy? A I suppose he was a young man, I couldn't say as to that.

Q What about Joe Ross, was he a boy? A Yes sir, Joe was younger than me if I am not mistaken? A Hadn't much difference in the ages; but I think he was younger than me.

Q How is it not a fact that Sam Webber and his father old Sam Webber and Aaron Webber came to the Cherokee Nation in the fall of 1865?

A I think not, I don't think they did; they was there in 1865 but they was going and coming all the time they come down in 1866 and located.

Q They came in 1866 and located? A Yes sir, but they come back and got their family.

Q Now you know only that they were there in 1865? A I know they were there in '66.

Q You don't know what time in '66 they were there? A They were there before '66.

Q Well I am talking about '65 were they there in the spring of '65?

A I couldn't say what time of the year; I think they were there all the time.

Q You don't know whether they were there all the time in 1865 or not? A No sir, I couldn't say they was.

Q Do you remember Sam Webber Sr. and Sam Webber Jr. and Aaron Webber coming down to the Cherokee Nation at any time? A They come down in the season of '66 I think, directly after crops was made; they come down here and they went back together back up there in the fall.

Joe Ross (sup'1) 7.

Q Well did they ever come back together? A I don't know whether they did or not; Aaron didn't come back I don't think.

Q What about Sam Jr., did he come down with his father? A Yes sir, I don't know whether Aaron come back or not; I know Sam and the old man come back and got the family.

Q Do you know that they came back together? A Yes, I am pretty sure that they came back, I know I saw them afterwards.

Q Do you remember of Sam Webber Jr. ever bringing any hides into the country? A No sir, I don't remember; I remember Sam telling me he had his cabin up.

Q When did he tell you he had his cabin up? A In the fall of '66. He had been down here in the fall of 1866 and had built a cabin? A Yes sir, he told me he had his cabin built.

Q And now that final move when they took all the people out you think was in what time? I don't know, but it runs in my mind as February or March; I wont say anything about that.

Q What year? A '67. Q You say you wont say anything about that? A I don't know whether it was or not.

Q You don't know whether it was or not? A No sir, that is a fact, but it runs in my mind it was.

Q Where was Sam Webber during the winter of 1865 and '66, the winter that commences with December, 1865 and ends with February 1866? A I think he was there.

Q Well, did you see him there? A Yes, I think he was there pretty much all the time.

Q Well do you know it? A I got no way to fix it; that's my opinion he was there.

Q You can't state it positively that he was or was not? A I know most of them was there and I believe he was too.

Q You can't state that positively? A No sir, not unless I got something to fix the date.

Q You wont say that? A No sir.

Q How can you remember about Sam Webber coming up there in the spring of 1866 and bringing some beef hides? A No sir, I can't remember, of course that date is a long time ago; how I have got these things fixed in my head that was in the fall of '66 I was moving from one farm to the other, and that was in the fall.

Q You didn't go off of that farm? A No sir, just moved from the west to the east side.

Q And you were a boy about 13 years old? A Yes sir, Q What is there in that to fix the date in your mind it was in 1866 any more than 1865 you moved? A I know we moved from the things that occurred; the death in the family of a young man that was there; I know it was '66.

Q How about that now, about the death in the family? A There was a young man died in the family in '66, 3 years after we moved there it must have been from the things that he did when we moved from one house, but he didn't move in the house at all.

Q You don't seem to be positive about any of those dates you give? A Why I do, when the family moved down, remember that fact.

Q I mean about Webber's movements? A They was all there in the fall of '66; they was all there in the month of December one of the ten months, because we moved there.

BY MR. BASTIAN: Q Now you never missed that to move in 1866 did you? A No sir. MR. SMITH: I object to that; it is not competent whether he missed them or not.

Q Did you ever miss them to until the summer of 1867? A No sir, I have no recollection of that.

Q That is your first recollection of the summer of 1867? A Yes, sir. MR. A. Nicks, being sworn and examined by the witness, says: I have no recollection of that.

Joe Ross (sup'1) 8

Q Give me your name, Madam? A Mary A. Hicks is the way I sign my name.

Q How old are you? A If I live to the 21st of next month I will be 67 years old.

Q What is your post office? A Hunter.

Q Is that in Kansas? A Yes sir.

BY MR. HASTINGS:

Q How far do you live from Hound City, Kansas, Mrs. Hicks? A I live 6 miles.

Q How long have you lived in that neighborhood? A Ever since the spring of 1857.

Q Were you living there then after the war? A Living there in the time of the war.

Q Do you know Mr. Walker, Douglass Walker, that has been on the stand? A Yes sir.

Q Do you know Mr. Short that left the stand here? A Yes sir.

Q Mrs. Hicks, did you know of a man up there by the name of Sam Webber? A Yes sir.

Q How far did you live from him just after the war? A Well I think it was about 175 steps; they used water out of my well.

Q Did you know his son, Young Sam Webber? A Yes sir.

Q Well did you know a little short one called Aaron Webber? A Yes sir.

Q Did you know a boy called Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this time? A Why I see Joe Ross down there; he said he knew me and come up and shook hands with me and I saw Sam Webber.

Q I will ask you to look if this is the same parties now? A Well I tell you Ross don't favor himself so much, but Joe he is just like his father and I knowed him because he is just like his father; well old uncle Sam was older than Sam is of course.

Q I will ask you if you had any deaths in your own family in the fall of '66? A Yes sir.

Q What was the date of it? A The date of the death?

Q Yes, madam? A Well it was in October.

Q Did you make any record of it in your Bible? A Yes sir.

Q Is this your Bible? A I reckon it is; if you will let me look I will tell you.

Q Look at it and see if this is your Bible? I think it is, but I can't read it, I haven't got my specs.

Q You haven't got your specs? A No sir.

Q Well of the family record here of births and deaths appear this: "Franklin Hicks, was born November 7, 1866;" A Yes sir.

Q And under the column of deaths appears: "Died October 23, 1866"

A That is correct.

Q Who was Franklin Hicks? A He was my son.

Q Do you know where Sam Webber was when your son Franklin died?

A No sir; I could not tell you.

Q Don't know? A No I don't; you mean this Sam?

Q That was? A Oh the old gentleman; he lived up there by me I think; I am not positively he lived there then.

Q Do you know where his wife was? A His wife died there.

Q Well do you know whether she was dead at the date of your son's death? A Yes sir, she died I think before he died; there was an old lady, they called her old aunt Maria, living.

Q She was living? A Yes, sir.

Q Was she a member of this family? A Yes sir, she lived there with them.

Q Well do you know whether she was there during the sickness of your child? A Yes sir, she sat up with me several times, and if it was a bad night and she saw me one time in she would come and sit up with me.

Q Did you know a sister of Joe's called Chappin? A Yes, sir.

Q Now I would like to have your best judgment Mrs. Hicks as to the time Old Sam Webber moved with his family and children from that country?

Joe Bass (sic) 9

MR. SMITH: The applicant objects to the witness giving her opinion as to the time when this sickness took place, because it is not the subject of their expert or opinion evidence.

COMMISSIONER: I understand the question to be her best recollection.

A It has been a long time you know.

Q Well, answer the question? A About his being there?

Q I want to know, the question is, what is your best recollection as to the time Sam Webber and his family, when he left Kansas with his family? A -

OBJECTION by applicant.

A Well my best recollection was that, I would not be positive of course, but I think it was in February or March, of or the other. The best of my recollection, because the old lady, old aunt Rhoda and uncle Cy, that was her husband, they both was old and feeble and I think old uncle Sam stayed there on that account more than anything as long as he did.

Q Well now that would be February of what year? A It would be '67 wouldn't it?

Q You lived then about 175 yards from there? A Yes sir, I could hear them sing over there and hear them laugh and talk to my house.

Q On whose place were they living? A Well they was living on Mr. Walker's place then.

Q He had recently purchased it? A Yes sir.

Q Do you remember who he purchased it of? A I think it was a man by the name of Fleming; I think it was Fleming's owned it.

BY MR. SMITH:

Q About how long, Mr. Hicks, had Mr. Walker owned this place at the time those people lived there? A Well I couldn't answer that question.

Q Well you could tell whether it had been a few miles or whether it had been a year or two? A It was, I suppose it may be quite a while; I couldn't tell you.

Q You remember that Mr. Walker owned a place there? A Of course I know he had charge of the land; I think Mr. Walker bought it from Mr. Fleming if I ain't mistaken.

Q And you know these Webbers were living on the Walker place?

A Yes, sir.

Q Well what is your best recollection as to how long Mr. Walker had owned that place? A I don't know; I won't pretend to say anything I don't know; I don't want to make no mistake with, I ain't come down here to criticize or anything about it; I want to tell the truth as far as I know.

Q Where was young Sam Webber in December, 1866, and up until January or February of 1867? A I would not tell you where he was, I think Sam worked out some around; I couldn't tell you whether he was at home all the time or not; I couldn't tell you.

Q There was young Sam Webber at the time your child died? A I couldn't tell you that, this was.

A Yes, I ain't sure.

Q He was not there was he? A I don't know; I couldn't say as to that.

Q Do you remember did you Sam Webber and young Sam Webber and lady Webber and others leaving Acres place and coming down to the community in 1866 and coming down to the community? A I recollect only was coming down here, I don't know; I want to be positive, I guess though it was in '66.

Q Well about how long was it ago, your best recollection, was it this date in the fall that you were spoken of? A I don't know.

Q Now, I want to know, do you remember about the time you were spoken of and you were spoken of?

Q Do you remember of young Sam Webber was spoken of in the community? A No sir, I don't charge my mind with anything like that.

Q Well now give me some idea, Mrs. Hicks, about the time old man Sam Webber started off on this trip to the Cherokee Nation in 1866 that you testified about? A Why I don't know; he came in the fall I reckon.

Q You don't know whether it was fall, summer or spring? A No sir, I don't.

Q Well how is it you have no better recollection of this very time that you mention he came than you have of the first time? A I know he was there when that child of mine died.

Q And you don't know how long after that? A No; they went along the latter part of the winter, but I don't know what time; I think though it was in February or March.

Q You couldn't be positive whether it was February or after Christmas could you? A I don't think it was before Christmas.

Q You don't think that was? A No I can't, for several facts.

Q You can't state positively whether it was before or after Christmas, you can't swear it? A I wouldn't want to swear it either way.

Q Where did you move from to this place that you live? A Where did I move from?

Q How long have you been living at this place now where you lived when your child died? A I have been living on the place ever since the spring of '57.

Q About how long did you remain on the place? A I stay there yet, when I am at home; my husband is dead.

Q Do you know how many trips Sam Webber made to the Cherokee Nation before this time that he came away from there the last time? A No sir, I don't.

Q You know of his coming one time? A I know him and his father and I think Aaron, and I don't know whether Joe was along or not.

Q Well is this Joe? A Well of course, oh that one, Joe Webber that one sitting there?

Q Yes? A I think it is.

Q Which one of them don't look familiar? A That one, he was nothing but a boy when I knew him.

Q Which one, the right one here, the black one? A Yes sir.

Q What is his name? A Joe we always called him.

Q And what is this man right here? A Sam, that is the way we always called him.

Q You think that is the man you knew up there in Kansas? A This Joe? A I don't know, he says it is; he was nothing but a boy when I saw him.

Q You don't recognize him then? A Hardly, I wouldn't know; he says he is the man; I used to think he was a very good boy when they lived there, but then he has grown out of my knowledge.

Q You don't know where the old man Sam Webber was in July '66 do you? A No sir.

Q You remember anything about young Sam Webber coming for the old man and the family in July 1866? A Well he might have come after them but they didn't come down here in July.

Q You don't know when they did come? A They I think they come some time in the latter part of the winter, but I say I would not be certain what month it was, in February or March.

Q You were there at that time or either of them? A I say they left, I was there and Sam started, in February or March.

Q You would be certain it was either February or March? A I think they did.

Q You think so? A Yes sir.

Q I was going to ask you if you knew when young Sam Webber marry- ing? A They would be married, I didn't meet them.

Q Did you hear of his marrying up there? A Yes sir.

Q Was that before or after he left? A It was before they left.

Joe Boss (sup'1) 11

JANE SPEARS, being sworn and examined by Commissioner Brock-
bridge, testified as follows:

- Q Give me your full name? A Jane Spears.
Q How old are you? A I am 46 years old.
Q What is your post office? A Mound City.
Q In the State of Kansas? A Yes sir, Mound City, Kansas.
BY MR. HASTINGS:
Q Mrs. Spears, was Mrs. Hicks who left the stand your mother?
A Yes sir.
Q How long have you lived in and about Mound City, Kansas, I mean
in the neighborhood? A Well I came there when I was about a year old.
Q And have you lived there ever since? A Yes sir, well since I
have been married I have just moved one mile north.
Q You moved a mile north of your mother? A Yes sir.
Q Do you know Douglass Walker? A Yes sir.
Q Do you know Henry C. Short? A Yes sir.
Q Do you remember at an early date just after the war some colored
people that lived up there; one of them by the name of Sam Webber?
A Yes sir.
Q Do you remember his son Sam? A Yes sir, I know him.
Q Were you living with your mother at that time? A Yes sir.
Q Did you know Joe, that was living with them, Joe Boss? A Yes sir.
Q Have you seen any of these parties since you have been here this
time? A I met them to-day.
Q Talked with them some? A Well I just spoke to Joe; Sam I did
not.
Q Did he recognize you? A Well he let on as though he did; I don't
know that he did; I suppose he heard we were here.
Q I will ask you if this is your mother's family Bible? A Yes sir.
Q That is the family record of the births and deaths? A Yes sir.
Q I will ask you if you had a brother by the name of Franklin Hicks?
A Yes sir.
Q Do you remember the date of his death? A Yes sir, October 23,
1866.
Q I will ask you if you know where the Webber family was living at
the time he died? A Yes sir, they were living there.
Q About how far from your mother's? A About 175 steps I suppose,
in a cabin.
Q Short distance? A Yes sir.
Q Did you know Aaron Webber, a little short legged duck legged
fellow? A Yes sir.
Q I would like to know from you Mrs. Spears your best recollection
as to the time old man Sam Webber left that country permanently with
his family? A
BY MR. SMITH: The counsel for the applicant objects to that
question, because it is incompetent and calls for the opinion
of the witness.
COMMISSIONER: The counsel for the applicant has put a number of
questions in the same form and asked as to their best recollection
that exists; it is entirely competent to give the best re-
collection and belief in regard to the facts.
Q My best recollection is that it was in the spring of '67, either
February or March.
Q Did you know whether or not young Sam Webber married up there?
A Yes sir.
Q Did you know whether that was before or after they left there?
A That was before they left there.
BY MR. SMITH:
Q Now, Mrs. Spears, did you know Sam Webber, Sr., leaving that country
and coming to the Cherokee Nation, or leaving that country for the
Cherokee Nation before the time you mentioned? A No, none in the fall
I think, or in the spring and out a chain I think.

- Q Fall of what year? A '66, and then came back.
- Q How do you remember young Sam Webber's coming back with reference to the time Sam Webber Sr. came, who came first when they returned from this trip looking for claims you speak of? A They came together.
- Q You are sure of that? A Yes sir.
- Q Where was Aaron Webber, did he come back with them? A I don't remember very much about him.
- Q You don't remember whether he did or not? A No, I won't be positive whether he came with them or not, when they came after their claims.
- Q Do you know when the older Sam Webber made the first trip to the Cherokee Nation after the war? A Well it was in the fall of '66 I guess, about that time, either summer or fall.
- Q Either summer or fall? A Yes sir, sometime along in the summer or fall.
- Q Might not it have been the late spring? A No, it was not, because he made his crop there and then came afterwards.
- Q Made a crop in '66? A '66.
- Q What did he do with that crop? A I suppose he put it up here, disposed of it.
- Q Do you know whether he sold it or not? A No, I don't know whether he sold it or not. I think they fed it to their stock before they left.
- Q Where was Sam Webber Jr. in December 1865? A I don't know where he was at.
- Q Where was he in January and February of '66? A January or February of '66, I can't say.
- Q Where was he in July of '66? A I don't know where.
- Q Do you have any recollection of Sam Webber Jr. coming there after his father in July '66? A No sir.
- Q Do you have any recollection of Sam Webber coming there at any time with any hides, beef hides or any kind of hides? A No sir.
- Q Where was old man Webber living in the year of 1865? A He was living there close to my mother's farm I speak of.
- Q In 175 steps of you? A Yes sir.
- Q And you don't remember of his coming there at any time off of a trip except the time he came back with his father? A He went to Fort Scott I guess, I never tried to keep any trace of his whereabouts.
- Q Now what makes you think it was February or March of '67 that these people left there? A Well I have all reasons to believe that circumstances about it; well the old darkey had a wane patch and the darkey boys trapped on the land that winter.
- Q These darkey boys? A The Webber boys.
- Q Did what? A Trapped for game that winter on the patch of cane where we had left the seed on the corn.
- Q That the winter that commences in December and ends in February, December, '66 and February of '67? A It was all in the winter of course.
- Q Well the winter is pretty well over by the last day of January isn't it? A Not always it ain't.
- Q Well the bigger part of it; two months is gone isn't it? A No sir, not in our country.
- Q How many months do you have in the winter there? A Some winters we have pretty hard and some winters we don't have so much.
- Q So that as a matter of fact the fact that they trapped there on your place during the winter would not of itself lead you to believe that they didn't leave there until February or March? A Well it was along toward spring they left; that is the best of my knowledge.
- Q Now in what way do you fix the date, you speak of your people then?
- Q And the way you fix the date, by that? A No sir, I fix it by memory, of course that is the way by the people, of this child's name; they were there then; that is, the family were, I don't see

member so much about the man; there was an old lady that moved down here with the man that sat up with my brother in his sickness.

Q Do you remember Sam Webber bringing you any sassafras and spice switch up there? A Yes sir.

Q When was that? A That was the first time they came down.

Q When was it? A That was in '66.

Q What month? A I don't know.

Q Can you state within two months of the time? A No I don't know as I could.

Q Can you remember that as well as you could the other time? A (No response).

Q You know that they were gone from there before the spring of '67, and it must have been in '66 they brought the sassafras? A Yes sir.

Q What was it, sassafras roots? A Yes sir.

Q That must have been in the spring? A I don't know.

Q Well they don't make sassafras in the fall? A We used it for tea

Q It was not in the spring at all Sam Webber brought the sassafras?

A No sir, it was not; he didn't bring it at all; the old gentleman brought it.

Q Well now as a matter of fact do you remember any one of these people being there at the time your brother was sick and died except the old woman Rhoda? A Well this family was there on the place; I don't remember them being there.

Q Well if they were you tell me who you saw except Rhoda the old woman? A Well I don't know as I remember. There was Johnson's wife, of course I don't just remember who was there, I was just a child then; there was a great many of the neighbors in, but I remember the old lady, sitting up with my brother at the time he was sick.

Q How isn't it a fact that the old lady Rhoda is the only one you remember being there at the time? A No sir.

Q How who else was there? A Chlora was there.

Q Well now name some other one, all you know that was there? A I don't know, I don't remember them, there was hardly any day but what they was there, some of them.

Q Well now that I want to know, who was there except this woman, Thoda? A I don't know anything about that.

Q You don't know? A No sir.

Q How many trips did the Webbers make down here to this country, do you know? A They came once and get claims and came back and went again.

Q All you know of? A Yes sir.

Q If they make others you don't know it? A No sir, I don't know anything about any more trips they made.

Q Now when was this entry in this Bible, the date of your brother's death, made, was that made at the time? A Just when he died?

Q Yes? A I don't know as it was, I suppose about the time.

Q Well about when, do you know who wrote that? A I know who wrote that?

Q That is what I am talking about? A This was drawn off from another Bible.

Q You don't think that this entry, "Lizzie Bell Lewis, born September 1st, 1866" is in the same handwriting that this is do you?

A No sir.

Q You don't know that this is in the same handwriting? A No sir, it is not.

Q Now who wrote that date, October 23, 1866? A Park Nichols.

Q Well now can you tell me how nearly at the time of your brother's death that entry was made? A No sir, I could not.

BY MR. HASTINGS:

Q How long has this Bible been in your mother's possession? A I can't tell.

Q Has this entry been in here a long time to your knowledge? A Yes sir, it has been several years.

Q It was in there long before any investigation came up wasn't it?

A Yes sir.

BY MR. SMITH:

Q Didn't Sam Webber and his father come down here in '65? A If they did I never missed them from home.

Q If they came here you didn't miss them? A No sir.

MARY A FICKS, re-called for additional cross examination.

BY MR. SMITH:

Q Mrs. Ficks, when was the entry upon this Bible you have with regard to the date of the death of your child made with reference to his death? A Well I don't just remember when it was; it was not long.

Q Was it put there at or about the time he died? A Why it was not long after he died.

Q Well give us your best judgment as to how long? A Well he died that fall and I don't know just how long it was.

Q Well was it as much as a month? A I wont say sir.

Q You can give some idea? A Well I tell you now, I wont say anything when I don't know anything.

Q I thought probably you might know better than I do, as I know nothing about it? A If I know when I set it down I would recollect it; I have had a good deal of trouble about it.

Q I don't want to cause you any trouble about it, but I would like to know, it is some importance in this case? A There was a young man working for us that set it down.

Q What was his name? A His name was Nichols.

Q Do you remember how long after your child died before Nichols went to work for you? A No sir.

Q Well when it was set down what was it set down from, your recollection? A Why I had a husband then and all of us recollected it, who wouldn't recollect it?

Q I am asking you how long it was before this entry was made, if you can tell me? A I don't know when.

Q Do you think it was as much as two years? A No sir.

Q It was not? A No sir, if I should guess at anything about it I should think it was along in the summer sometime, I should think now; afterwards this young man was breaking prairie and of course he broke it in the winter.

Q Was this the first place it was made where it was made here in this Bible? A Yes sir.

MR. SMITH: If the Court please, I want to show by the title page of the Bible that it was not published until in 1869.

COMMISSION: The title page has been examined and it shows that the edition of the Bible in evidence was published in Philadelphia in the year 1869.

BY MR. HASTINGS:

Q Do you remember, independent of the Bible, of the dates of your son's death? A Yes sir.

Q You didn't attempt to give distinctly when that entry was made in your Bible? A No sir.

Q You so stated? A Yes sir.

BY MR. SMITH: I object to that; it is leading.

BY MR. HASTINGS:

The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, recalled, in the case of Jefferson Ross and others, Freedman D-872, be made a part of the record in this case.

COMMISSION: It is ordered that the testimony just taken be filed as supplemental testimony in Cherokee Freedman Doubtful case 495, the same being the case of Chloa Grayson, and it will likewise be filed in Cherokee Freedman Doubtful case 216, the case of Aaron Webber, and in Cherokee Freedman doubtful case 350, the same being the case of Joe Ross.

It is further ordered that a set of all the testimony

Joe Ross (sup'1) 15

given by Sam Webber in Cherokee Freedman Doubtful case 872, the same being the case of Jefferson Ross, be filed in case Cherokee Freedman D-350, of Joe Ross, and in Cherokee Freedman D-496, of Chlora Grayson, and in Cherokee Freedman D-216, of Aaron Webber.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in this case, as dictated to him from the stenographic notes of JOHN C. Rossol, by said Rossol, 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 November 16th, 1901.

J. C. Starr,

Notary Public.

SEAL.

To be filed with _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 29th, 1901.

SUPPLEMENTAL TESTIMONY IN THE MATTER of the application of Joe Ross
C.F.D. 350.

Appearances:

W.W.Hastings, for the Cherokee Nation.
Mollette & Smith for the applicants.

BY MR. HASTINGS: The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, re-called, in the case of Jefferson Ross, and others, Freedmen D 272, be made a part of the record in this case.

COMMISSIONER: - - It is further ordered that a set of all the testimony given by Sam Webber in Cherokee Freedmen Doubtful case 942, the same being the case of Jefferson Ross be filed in the case Cherokee Freedman D 350, of Joe Ross, and in Cherokee Freedman D 496, of Chlora Grayson and in Cherokee Freedman D 216, of Aaron Webber.

-00-

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 26, 1901.

In the matter of the application of Jefferson Ross for the
Invent of himself and four children as Cherokee Freedmen.

Appearances:

Mollette & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

Sam Webber, being duly sworn by Commissioner Needles, testified
as follows:

Mr. Smith: What is your name? A Sam Webber.

Q How old are you? A About 58.

Q Where do you live? A I live about two miles west of here.

Q How long have you lived in the Cherokee Nation? A I was born
and raised here, and after the war came back.

Q Do you know this applicant, Jefferson Ross? A Yes, sir.

Q Were you acquainted with him before the war? A No, sir, I
wasn't acquainted with him before the war.

Q When did you first know him? A I got acquainted with him just
after the war.

Q Where? A Here in the Nation.

Q About what part of the Nation? A He came to my house there on
Big Creek in the Nation.

Q What time? A Along in the spring of '67.

Q Do you know of your own knowledge when he first came back to
the Territory after the war? A No, sir, I don't know of my own
knowledge.

Q Do you know where he was living at the time he came to your house?
A He had been working on Snow Creek he claimed and he was on his way
hunting his sister.

Q Did you ever see after you saw him that time? A I put him
on the trail down to his sister's and I never saw him for quite a
little bit from that; when I saw him he was there on Lightening
Creek.

Q Did you see him after that at his sister's? A I saw him
then often and on for near about two years I guess.

Q Where? A There at Lightening Creek.

Q In the Cherokee Nation? A Yes, sir.

Q Was he a married or a single man at that time? A He was a single man to my knowledge.

Q Do you know where he is living now? A No, sir, I don't.

Mr. Hastings: You saw him around here for about two years?

A Yes, sir.

Q Then how long was it till you saw him again, Sam? A I remember after that of seeing him on Big Creek again.

Q How long after that? A Must have been six months of a year after that I met him again there.

Q You know where he was married? A No, sir, I can't tell you.

Q Was he married at that time? A If he was I didn't know it.

Q Did you know his wife? A No, sir, I don't know his wife.

Q Did you ever see his wife? A Not to know it was her.

Q Has this man ever kept house to your knowing? A When I saw him he was to his sister's.

Q What was her name? A Katie Thornton.

Q You never saw him in a separate, independent house, keeping house with his family? A No, sir, never did.

Q What is his occupation? A I can't tell you.

Q Did you ever see him making a crop anywhere? A I never saw him farming, I have seen him working for people around there.

Q He never made a crop to your knowledge? A No, sir, not to my knowledge.

Q Has he got any special occupation like a carpenter? A Not as I know of.

Q What is Katie Thornton's husband named? A Henry Thornton.

Q Was that her husband at that time? A Yes, sir.

Q With whom does this man stay now? A I don't know that.

Q You never saw him anywhere except around to his sister's? A That is all I have noticed him.

Q Did he have any children when you saw him? A I never saw them if he did.

Q You don't know where his family were, if he had any? A No, sir.

Sam Wabber, re-called, testified as follows:

Mr. Hastings: Mr. Wabber, when were you first married? A When I first married, I married just a short while after the war, I don't remember what year.

Q Before you came down here? A After I came down here.

Q Well, about how many years after you came down here? A It wasn't a year I guess after I came here.

Q Well, you know what time of the year you were married? A I was married along in the winter.

Q Was that the same winter you came, or the winter of '67? A It was along about, it thrown in '67, it was after Christmas.

Q You mean in January of '67 or the last part of '67? A It was long after Christmas, I don't remember the date.

Q What was your wife named? A My wife at that time was Rinda Martin.

Q When did you commence keeping house? A I went in my house when first came there.

Q You and your wife keeping house separate and apart? A I was keeping house when I was single, I built me a little house, and was living in there.

Q What time in the year did you and your wife move into that house? A We moved right in the house after we were married.

Q And you don't remember when that was, what time of the year? A Along after Christmas; I was already in the house.

H. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original transcript.

(Signed) H. D. Green.

Subscribed and sworn to before me this November 16, 1901.

(Signed) W. C. Starr,
Notary Public.

(SEAL)

I, A. E. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the foregoing copy and that the same is a true and complete copy of a certified copy of the original transcript.

A. E. Cheever

Sworn to and subscribed before me this 11th day of August, 1902.

B. C. Jones
Notary Public.

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d 1901.

In the matter of the application of Elizabeth Maigs for enrollment as a Cherokee Freedman; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Elizabeth Maigs.
Q How old are you? A I dont know my age.
Q About how old are you? A I was four years old when we came here with the old settlers.
Q Was that when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 71 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Coowescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then. A (No response).
Q Have you a husband? A No sir he is dead.
Q Then you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Maigs? A Ever since I was nothing but a girl.
Q Wers you married to a man named Maigs? A Peter Maigs.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Reuben Daniel.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Are any of your family on that roll that you know of? A Yes sir, Alice Sanders is on it, she is a daughter of mine, Alice is.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows.

Page 176, No. 2052, Alice Sanders, Coowescoowee district.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you ever get Cherokee scrip money? A Yes sir.

The Morris-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 100 No. 2512, Elize Maigs, Coowescoowee district.

- Q Did you ever go by the name of Daniel? A Yes sir that was my owners.

The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 182, No., 40, Elizabeth Daniel.
NOTE: Wife of Peter Meigs.

Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:
Page 131, No. 2748, Elizabeth Meigs, Ocoowassee district.

- Q Where were you during the Civil war, did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.
Q When did you come back? A In the winter of '66.
Q What time in the winter? A Well it was in the winter.
Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.
Q When did he bring you down? A In the winter after he went from here on Big Creek.
Q He came ahead of you then? A Yes sir.
Q What time did he leave Kansas? A I cannot tell you when he first came.
Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '66.
Q Did he leave Kansas in the winter? A Yes sir.
Q Was he down here when Christmas came? A Yes sir.
Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.
Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.
Q How long after Christmas before you and he started down here together? A Directly after.
Q He spent Christmas that year in the Cherokee Nation by himself?
A Yes sir my husband did.
Q What members of your family came down with you and your husband?
A These children.
Q Did you bring your child Alice Sanders with you? A Yes sir.
Q All the children? A Yes sir.
Q Can you explain why you are not on the roll of 1880? A No sir.
Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. V. Hastings, Cherokee Representative:

- Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.
Q Where were you living in Kansas then? A Fort Scott.
Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all came here.
Q Was it as much as a couple or three weeks? A Yes sir I guess so.
Q And then you started down here? A Yes sir.
Q Was it in the spring of the year when you reached here? A No sir in the winter.
Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there werent no buds noy nothing on the trees, it was winter I tells you.
Q You all came in wagons did you? A Yes sir.
Q Who came with your husband down here when he first came? A Old man Mike Sanders.
Q Who else? A Kruben Sanders.
Q Who else? A Daniel Sanders.

Q Any one else that you remember? A There was little Sam Webber and old man Sam Webber.

Q Any other Webber's? A Aaron Webber.

Q Did any one else come down? A I dont remember any one else now.

Q Were you there when they started down? A No all come together I am a telling you.

Q But I mean when your husband come on in advance of you. Who came with him then? Did these parties that you have named come with your husband when he first come down? A Yes sir.

Q You were at Fort Scott then? A Yes sir.

Q And they all started together? A Yes sir.

Q These that you have named are all the you can think of at the present time? A Yes sir.

Q Did they come in wagons or on horse-back that time? A They come in wagons when they first come.

Q And after Christmas you all come down did you? A Yes sir.

Q Did you come in wagons then? A Yes sir.

Q Did you come by a little place called Chetopa? A Yes sir.

Q Where did you come to in the Cherokee Nation? A I come right where I am living yet when I come to the Cherokee Nation.

Q And you are living there yet? A Yes sir, that old house was built in '66.

Q What house? A That one we is living in.

Q And you are living at the same old place? A Yes sir, in the same old house.

Q On what creek is that? A Big Creek.

Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.

Q You were the advance family or crowd that came to Big Creek were you? A Yes sir, we was the advance guard.

Q Did you see any one from Chetopa along the road through the Nation to Big Creek when you came there? A No sir.

Q Did these people who first come down with you husband return with him and then come down again when your family all came after Christmas? A Yes sir.

Q You all came back together? A Yes sir.

Q Now Auntie, did any additional people--any other families come down with you? A I dont know who all come down, I am just a telling you what I know.

Q There was Daniel Sanders, and Heuber Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all came with you? A Yes sir.

Q Did Aaron Webber come? A Yes sir.

Q And your family? A Yes sir.

Q Are there any that I missed? A That is all that I gave you.

Q Is that all that come? A Aaron Wright come with us.

Q Who else? A (No response).

Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.

Q You come to the place that you are living at now did you? A Yes, sir and has lived there ever since.

Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.

Q What? A Lemie Riley was there on Verdigris, but not where we was living.

Q How far from where you settled? A I dont know how far.

Q Was it as much as 4 or 5 miles? A As much as two miles if you guess at it right.

Q Were they the closest residences to you at that time? A Yes sir.

Q Were there any Delaware Indians there then you come there? A No sir I never saw none.

- Q Any Orages? A No sir, never saw none
Q You didn't see any body on Big Creek, neither white or black, except those that came with you? A That is all.
Q And you have been there ever since? A Yes sir, ever since we moved there.
Q You say your husband Peter Meigs built a house there? A There a log house there and he bought the house and we moved to it.
Q Who built the house if you know? A Henry Harold.
Q Was he a colored man? A Yes sir.
Q Is he living? A I dont know if he is or not.
Q Some 3 or 4 years after you came down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship?
A Yes sir.
Q They didn't admit him then did they? A I dont know sir.
Q You know he was disputed? A I dont know nothing about it, I never paid any attention to any such things as them then.

By the Commission:

- Q Were you ever admitted by the Cherokee or United States court for Commission? A I dont understand what you say.
Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir my man enrolled us before he died.
Q I mean in court? A That is what I am a talking you.
Q You know what a court is dont you? A Yes sir
Q What court do you know? A Erns Clifton court.
Q Any other court that you know of? A I know of the Wallace court.
Q Any other? A No sir.
Q Did he ever have anything done about his case by the Cherokee Council? A I dont know what was done, my man went there every year or two but I dont know what was done there.
Q How long did it take you and those people to come from Kansas to the Cherokee Nation? A I dont know how long we were on the road.
Q Have you any witnesses with you that you want to introduce?
A Yes sir.

RUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant.
(Examined by the Commission).

- Q What is your name? A Ruben Sanders.
Q How old are you? A I suppose I am about 50.
Q What is your post office? A Centerville.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.
Q Who did you belong to? A James Sanders.
Q Were you taken to Kansas during the war? A Yes sir.
Q You have a wife named Alice have you? A Yes sir.
Q How long have you and she been married? A About 30 years perhaps more.

The 1830 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:

Page 178, No. 2667, Reuben Sanders, Coopersnowas district.

- Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.
Q What court? A The Chambers court.
Q Is that the only one? A Yes sir that is the only one; I was admitted by the Chambers Court.

- Q Where was it sitting? A At Tahlequah.
Q In what year was that? A I cannot tell what year it was.
Q Your citizenship had been disputed had it? A Yes sir.
Q When was your right to citizenship first disputed? A It was during the time that Thompson Oochelita was chief.
Q Was that before the 1880 roll was made? A Yes sir.
Q Did the court decide in your favor? A Yes sir.
Q Was there any dispute made then about your being put on the 1880 roll? A No sir.
Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A No sir.
Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
Q Where did they take your name? A I was in Gooseneck Bend, at the time.
Q Do you know the applicant Elizabeth Heigs? A Yes sir.
Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

- Q Peter Heigs' citizenship was disputed the same time yours was? A Yes sir.
Q Did he go before the court at the same time? A No sir, I think not.
Q His wife's citizenship was also disputed? A I judge so.
Q Did she go down before that court? A Not to my knowledge.
Q Did he go down to Tahlequah to the court before that time? A Yes sir I think he went down to the Bob Daniels court, think he went with my father.
Q Was Bob Daniels Chief Justice of that court? A Yes sir.
Q Just a few years after the war? A Yes sir.
Q In '71 wasn't it? A Yes sir.
Q Was any action taken in that court? A I don't know.
Q You were not there yourself? A No sir.
Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I don't exactly know how old I was.
Q You were not married then? A No sir.
Q How long long after you got back before you married?
A Not very long after I got back.
Q Did you marry on your way down here? A No sir.
Q How long had you been here before you married? A I have been married twice.
Q How long had you been here before you married the first time? A A bit very long.
Q As much as a year? A May be so.
Q Is that your best judgment? A My best judgment is perhaps that it was that long.
Q When were you married to your present wife? A Upwards of 30 years, or so.
Q How long did you live with your first wife? A Not very long, she died.
Q A year? A Perhaps it was, maybe a little longer.
Q When you married your present wife? A Yes sir.
Q When you came to the Cherokee Nation how did you come the first time? A In 1845.
Q The first time? A Yes sir.
Q Who came with you? A Several were on horse-back; it is beyond my knowledge how many there were.
Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the winter.
Q Did you come in August? A Yes sir.
Q Who were with you then? A Some of this family, Peter Heigs and his place, the heads of these families.

- Q Who else came with you? A My brother Dan and the Whitmires.
Q Which ones? A Several.
Q Which ones? A Rose and Dennis, and the Webbers.
Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thomas, and Abe Hair, and I dont know who else, I dont know who all come.
Q Who came when you came in October? A I dont know who all come then, some of that same crowd and some more come in October.
Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
Q What was his first name? A Old man Caesar Smith.
Q You came in both of the detachments yourself? A No sir.
Q Which one did you come in? A I come in August.
Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
Q On Big Creek? A Yes sir.
Q Where Mrs Meigs lives? A Yes sir.
Q And you returned in October, how long did you stay in October.
Q We all didn't return in October, we didn't all go back, some staid in August, some staid and some come back; some of us brought our things with us and some come to look out homes, we all come with the intention of making our homes here.
Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.
Q What time in the winter? A Long in January.
Q You mean in '67.
Q No in the winter of '66.
Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of '66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

- Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

- Q When you moved here permanently, tell all that you possible can remember of the ones with you in the January or February following?
A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simeon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
Q I dont mean only of that family, were there other families were there not? A Old man Billie Pomeroy.
Q Who else? A He had several children.
Q The heads of families I mean? A James Sanders; I dont recollect them all; I dont know as I can call the names of all of them.
Q Were any of the Webbers along? A Yes sir.
Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I had forgotten them I dont think I can remember any of the others.

By the Commission:

- Q Did old man Sam Webber come? A Yes sir.
Q Did his son Sam come? A Yes sir.

By V. E. ... :

- Q Dont you remember any one else? A Rachel Webber.
Q Do you think of any one else? A No sir.
Q You know that it was a mooted question before the Kerns Clifton Commission as to who came at this time and as to when you come? A. I havent been interested as to anyone except for myself.
Q You know that there is a question about who came dont you? A Yes sir I guess I do.
Q You say you came to Big Creek? A Yes sir.
Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I dont know that they called it Chetopa then, there was a house or so there.
Q Did you cross the river there? A What river.
Q Neosho? A No sir.
Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.
Q You came through what is Chetopa and came on west through the prairie? A We may have.
Q You were in Wagons? A Yes sir.
Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.
Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.
Q Then the houses were not built before you moved there with your families? A Yes sir some were, there were logs on some up 8 or 10 logs high.
Q Then there were none really completed until you moved there with your families? A No sir.
Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.
Q Do you know Jim Martin? A Yes sir.
Q How far does he live from you now? A 4, 5 or 6 miles.
Q Was he living there when you people moved there? A No sir.
Q He had a brother names William Martin? A Yes sir.
Q Was he living out there then? A No sir.
Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.
Q Was his name Dick Carter? A I think it was.
Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.
Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.
Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

- Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?
A Yes sir.
Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.
Q You didn't bring your families with you then? A Only part of them and some things that we had.
Q Part came with their families and part came to prepare for their families? A Yes sir.

-3-

Q What men were with you on that first trip? A This family, the Heigs family, not all of this man's boys, but the old man Heigs, Peter Heigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Heigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Heigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Heigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them come in October.

Q Where was Peter Heigs in October? A He come with us at each trip.

Q Did he go back to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October? A Yes sir.

Q Did Peter Heigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Heigs had been here? A Yes sir.

Q Where was Peter Heigs in Christmas of '55, do you know? A No sir I dont exactly know where he was in Christmas of '55.

Q When Peter Heigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You staid here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Heigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he come with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

By Com'r Breckinridge,-

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make ~~fact~~ further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

#####

Chas. von Weise, being 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 29th of May, 1901 at
Chelsea, I. T.

T. B. Needles,

Commissioner.

SUPPLEMENTAL:

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Vinita, I. T., May 22, 1901.

In the matter of the application of Elizabeth Heigs for enrollment as a Cherokee Freedman;
REUBEN SANDERS, having been before sworn by Commissioner Breckinridge, testified as follows:

- Q Give your name? A Reuben Sanders.
Q How old are you? A I am only about 50 past.
Q You gave testimony just now in the case of Elizabeth Heigs?
A Yes sir.
Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867 when we made the last move, about the first of the month; it was the following August in 1866; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.
Q How do you find out now it was January instead of February?
A It was just after Christmas that we was on the road coming down.
Q How long after Christmas? A Perhaps a week after Christmas; my reason for stating this is this, along Christmas- a few days before Christmas there was a man got killed named Mackey, and there was a gentleman killed him, a colored man killed the man named Mackey, and we started then right shortly after that killing was, and one party followed us, thinking he was with us, in our crowd, that was just the following- a few days after Christmas, a week, or after Christmas.

Examined by Cherokee Representative, V. W. Hastings:

- Q How old are you? A Well I just don't know my age exactly, I suppose that I am about 50 years old; something in that line.
Q Where did you say that killing took place? A In Kansas.
Q Fort Scott? A Yes sir.
Q And the man that was accused of the killing was named what? A Named Mackey.
Q What was his first name? A No.
Q You never saw the man who was killed, you get his first name? A Yes sir, I do.
Q Did you ever learn afterwards whether or not that man was colored, is your name? A It seems to me like I learned afterwards that he was colored. No I know nothing about that part of it.
Q You know what county Fort Scott is in? A No sir.
Q Was called your attention to this exact error? A I thought so myself, I called my own attention to it; I was studying over it, I do.
Q You know now it was only a few days after Christmas? A Yes sir, a few days after Christmas.

Com'r Breckinridge: This statement will be filed as supplemental in the Elizabeth Heigs case, to be considered in connection with the former statement of the witness, and the other evidence relating to the date in question.

W. 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.

W. D. Green

Subscribed and sworn to before me this May 23, 1901.

D. W. Breckinridge,

Commissioner.

File with Cherokee Freedmen 5-391, Elizabeth Meigs

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Elizabeth Meigs et al. for
enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

L. T. Brown, agent for the applicant;
J. S. Davenport, of counsel for Cherokee Nation.

L. T. Brown: I would like to have the record show that
sometime next week the applicant intends to introduce as wit-
nesses in this case, Aaron Wright, Reuben Sanders, Dan Sanders,
and Sam Walker, for the purpose of showing that all the appli-
cants in this case returned to the Cherokee Nation during the
time prescribed by the Eleventh Article of the Treaty of 1866.
Commissioner Needles: Hasn't that already been shown?

L. T. Brown: And that they have had a continuous resi-
dence in this country since that year.

Commissioner: Well, that is all right.

ROBERT MEIGS, being duly sworn by Commissioner Needles, tes-
tified as follows.

Mr. DAVENPORT: What is your name? A Robert Meigs.

Q Where do you live? A I live five miles southwest of Tahlequah.

Q What is your postoffice? A Park Hill is my postoffice.

Q How old are you? A I am 56 my next birthday.

Q How long have you lived in the Cherokee Nation? A I have lived
here all my life except a little while time of the war, from '64 to
'65.

Q Did your people own any slaves before the war? A Yes sir.

Q Do you know whether they owned a woman by the name of Elizabeth?
A No sir.

Q Do you know whether or not they owned her mother, or anybody of
the family? A Elizabeth, no, sir.

Q Well, did you know Peter Meigs? A Yes sir.

Q Do you know what his wife's name was when the war broke out?
A Betsy they called her.

Q Well, was she living, Betsy, at the time the war broke out?
A Yes sir.

Q Well, did you ever know her by any other name than Betsy?
A Bettie.

Q There was Peter Meigs and his family at the breaking out of the
war? A Well Peter was with us at home at the breaking out, but he
and his wife was up there somewhere near the Dutch Mills on the
Arkansas line.

Q Well I wish you would look at that woman there and see if she is
the same you know as Betsy or Bettie or whatever you know her by
(indicating applicant)? A Yes, I think that is the one, I have
never seen her but once.

Q That is since the war? A I just saw her once in my life and
that was time of the war, after the war.

Q Did you ever see Peter Meigs and his family after the war? A Yes
sir, saw Uncle Peter.

Q What year was that? A Sometime after '71.

Q What were the circumstances as to your seeing him or meeting him?

Q Why he had to come down to Council to see about fixing up his
claim, and he came down to visit my brother John, we were right
together, and I went up there to see him.

Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing where he and his wife were present in regard to his right or when he returned? A Yes sir.

Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him, and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A He said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a home in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '66.

Mr. Davenport: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late, is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave but one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, D-396, D-398, D-401, D-402, D-401, D-407, and D-775, and the sub-references.

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 7th of November, 1901.

T. B. Needles,

Commissioner.

File with Cherokee Freedman D-391, Elizabeth Heigs.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Heigs et al. for
enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. B. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, tes-
tified as follows:

By L. T. Brown: State your name? A Daniel Sanders.

Q What is your age? A About 59.

Q What is your postoffice address? A Centralia.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A I think it does.

Q You know Elizabeth Heigs and George Heigs? A Yes, sir.

Q What relation is George Heigs to Elizabeth Heigs? A Her son.

Q Did you know Peter Heigs during his life time? A Yes, sir.

Q Do you know whether Peter Heigs, Elizabeth Heigs, and George Heigs
were out of the Cherokee Nation during the war? A Yes, sir.

Q When did they return to the Cherokee Nation? A They came in '65.

Q With whom did they return? A They came with me and my father
and the Webbers.

Q Have they had a continuous residence in the Cherokee Nation ever
since? A Yes, sir.

Mr. Bell: Then did you come to the Cherokee Nation yourself after the
war? A In '66.

Q What time of the year? A First of December.

Q That was the first time? A Yes, sir.

Q When did you make your second trip? A Along in first part of
January.

Q That was January, 1867? A Yes, sir.

Q Now which one of these trips was it that Peter and his family
came with you? A They came both times.

Q Came both times? A Yes, sir, the old man came the first time and
then the last time the family came.

Q Peter came with you alone the first time? A Yes, sir.

Q Then the second time he brought his family? A Yes, sir.

Q What did his family consist of? A Mary, George, Alice, Harry, Simon,
and Perry.

Q Then was his children? A Then was his children.

Q Well he had his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of
the record in the case at bar and part of the record in D-394, D-396,
D-398, D-401, D-402, D-404, D-407, D-775.

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 9th of November, 1901.
I. B. Needles, Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and the same is a true and complete copy of the original.

Ray Palmer

Subscribed and sworn to before me this the 8th day of August, 1902.

J. A. Renter
Notary Public.

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
SAMUEL BECK as a Cherokee freedman; introduced on part of the
Cherokee Nation:

Appearances:

L. T. Brown, Vinita, I. T., Agent for Applicant;
J. S. Davenport, Cherokee representative.

L. B. BELL, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A L. B. Bell.
Q Where do you live, Mr. Bell? A Vinita, Indian Territory.
Q How long have you lived in and near Vinita? A Oh, since '67,
including most of '67.
Q Was there any railroad running in or through Vinita when you
first moved into that community? A No, sir.
Q When did the railroad first come through that country, Mr. Bell?
A In 1871.
Q You know this applicant, Sam Beck? A No, I don't know him.
Q Don't know anything about him? A No, sir.
Q Was you living in that country before the railroad started from
Kansas through the Indian Territory; that is, the K. K. & T.?
A Well, I will tell you what I know about the railroad; The rail-
road come through the country in 1870, and on the application of
the Cherokee Nation, a complaint to the Secretary of the Interior,
they stopped building and during the session after 1870 of the
National Council of the Cherokee Nation, they passed an Act there,
it is dated the 14th of December, 1870, authorizing the furnishing
of cross-ties to the railroad, and agreeing that the railroad could
go through. The secretary hadn't determined which had the right-of-
way. They had begun it in 1870 and the K. K. & T. got the right-of-
way, and then they authorized the selling of cross-ties, and I went
to Chetopa and made a contract with the Company for cross-ties
enough to build from the Kansas line to Pryor Creek and sublet it.
Mr. Martin was one I sublet to, that was in 1870 that contract
was made, I don't recollect the exact date. Well, just a few days
following that we began getting cross-ties and then worked on down
to the Creek Nation. That was the first railroad built in the
country and first cross-ties was out on the railroad in this
country.
Q You don't know anything about the wife of Beck or anything about
them? A No, I don't.

C. D. MARSHAM, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A C. D. Marsham.
Q Where do you live? A At Tahlequah.
Q How long have you lived in the Cherokee Nation?
A I was born and raised here; never was out except during the war.

Q Where did you live before moving to Tahlequah? A Lived on Grand river east of Chetopa about ten miles.

Q Do you know Samuel Beck, the applicant in this case, or his family? A No, sir.

Q Where were you living along the latter part of the sixties or early part of the seventies? A On the Grand river.

Q Do you know about the year the M. K. & T. railroad built from Chetopa, Kansas, down through the Territory? A It must have been the latter part of '71 or '8.

Q Had you any connection with it any way that makes you remember it? A Yes, sir, I had a contract on the road, beginning at Bryant's lake, down this way.

Q And that was in what years it built down there? A The ties was put in there in the spring, latter part; it was in the spring of '71.

BY ATTORNEY BROWN:

Q You don't know the applicant, Mr. Markham? A No, sir, I don't.

Q You don't know to whom he belonged before the war or when he returned to the Cherokee Nation? A No, sir.

Commission: This testimony will also be filed in and made a part of the record in Cherokee freedman case No. D.391.

---oooOOooo---

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 February 27, 1902.

(signed) T. B. Needles,
Commissioner.

...

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I correctly copied the original of this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

A. R. Cheever
Notary Public.

CHARLES F. FREEMAN
D. 291

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

Muskogee, Indian Territory, August 1, 1906

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

Dear Sir:

You are hereby advised that Martha Virgel, Muskogee, Indian Territory, has this day been advised that before a decision will be rendered in the matter of the application for the enrollment of her child, Lucile Vann, as a Cherokee freedman, she will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes, at nine o'clock A. M. on Thursday, August 16, and introduce such testimony as she desires relative to the paternity of said child. The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

Commissioner

L N B

F. D. 981

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. 1901

Given under my hand this
day of A. D. 1901

Marsha 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 1901.

Attorney for applicant.

UNITED STATES OF AMERICA
INDIAN TERRITORY.
NORTHERN DISTRICT

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me

this

Notary Public

SEP 21 1901

NOTICE!

IN THE MATTER OF the application of David Hayes
for enrollment as Cherokee Freedmen:
Case No. F. D. 281

To David Hayes or Mellette S. Smith his Attys.

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Winta Indian Territory, on Oct. 9th 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L. B. Bell

J. W. Hastings
J. S. Davenport
Attorneys for the Cherokee Nation.

Cher. Fr. D. 900

Cher. Fr. D. 982

File with Cherokee Freedman D- 982, *Magnum City*

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 27, 1901.

In the matter of the application of Winnie Mackey for the enrollment of herself and one child as Cherokee Freedman.

Winnie Mackey, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Winnie Mackey.
Q How old are you? A I don't know how old I am.
Q How old are you? A I don't know my age.
Q About how old? A I am fifty something.
Q What is your postoffice? A My postoffice is Wagoner now.
Q In the Creek Nation? A Yes, sir.
Q Where do you live? A Cooweescoowee.
Q You apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child.
Q What is the child's name? A Andrew.
Q How old is Andrew? A Andrew is about 18.
Q Andrew Mackey? A No, sir, Andrew Moore.
Q Have you any witnesses? A Yes, sir.
Q Who are they? A John Baldrige, Ester Grimmett and Polly Nivens.
Q Is your name on any of the rolls of the Cherokee Nation? A It ought to be.
Q Yes, but is it? A Yes, it is on the Clifton roll.
Q Your name isn't on the roll of 1880? A It ought to be.
Q Well is it? A I don't know whether it is or not.
Q What was your father's name? A Kowert Davis.
Q Is he living? A No, sir, he is dead.
Q What was your mother's name? A ~~Kakant~~ Margaret Davis.
Q Is she living? A No, sir, she is dead.
Q How many times have you been married? A I have been married but once, I lived with a man once, I wasn't married to him.
Q What was his name? A Stewart.
Q Is he living? A No, sir, he is dead too.
Q What was his first name? A His first name was Meellie.
Q What was the next man you lived with? A Roswell Mackey.
Q Is he living? A Yes, sir.
Q Are you living with him? A No, sir, I am in Wagoner and he is in Braggs.
Q This Andrew Moore, is he your child? A Yes, sir.
Q You were not married to the father of that child? A No, sir.
Q Now what name are you on the roll by? A I have got five children: I am just telling you the ones I am enrolling on.
Q You don't ask to enroll anybody but Andrew Moore? A No, sir, the rest is of age.
Q What name are you on the Kern-Clifton roll by? A Moore.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Jack Moore.
Q Was he a Cherokee citizen? A Yes, sir.
Q Where were you born? A I was born in the Cherokee Nation.
Q Were you taken out of the Cherokee Nation during the Civil war?
A Yes, sir.
Q Where to? A Jack Moore taken us down to Texas.
Q Jack Moore took you himself? A Yes, sir.
Q When was that; that while the war was going on? A Yes, sir, I don't know the numbers now, I can't tell one year from another.
Q You know the war was going on, you know about that? A Yes, sir.

Q How long did you stay in Texas? A I can't tell that neither.

Q When did you come back to the Cherokee Nation? A Well I came in here they said it was '66; not that I know of.

Q They told you it was '66? A Yes, sir.

Q Where did you come to? A Came to Port Gibson.

Q That is the first place you recollect after you came from Texas, of being in Gibson? A Yes, sir.

Q Were you married then? A No, sir.

Q Have you lived in the Cherokee Nation ever since? A Well, I have been out since that working around and about in places in the states.

Q K you? A No, sir, never been to Kansas.

Q Arkansas? A Yes, sir.

Q Where were you married? A Where was I married, I was married in BRIDGE.

Q Cherokee Nation? A Yes, sir.

Q When were you married? A Married about five or six years ago.

Q That was the first time you were lawfully married? A Yes, sir, I lived with a man and had children but I wasn't married to him.

Q You lived with Stewart? A Yes, sir.

Q Where were you when you lived with Stewart? A Part of the time I was in the Cherokee Nation and part of the time I was in Fort Smith.

Q How many children did you have by Stewart? A All I got I got by him.

Q Please give me the names of them? A Joe.

Q Joe Stewart? A No, all of them goes by Moore.

Q Joe Moore? A Yes, sir.

Q How old is Joe? A I don't know, he is twenty something.

Q Where was he born? A Joe was born down at Uncle Billy Edwards.

Q Arkansas? A No, sir, Cherokee Nation.

Q What is the next one named? A Bob.

Q Where was Bob born? A He was born there too.

Q What is the next one? A Amelia.

Q Where was she born? A Down on Elk Creek.

Q Was that in Arkansas or the Cherokee Nation? A If it wasn't in the Cherokee Nation, it was close by, close by Checotah.

Q It might have been in the Creek Nation? A It might have been, I don't know.

Q What is the next one named? A Maggie.

Q Where was Maggie born? A She was born at Edwards.

Q That in the Cherokee Nation? A Yes, sir.

Q Same place Amelia was born? A No, sir.

Q What is the next one named? A Andrew.

Q Born in the Cherokee Nation? A Yes, sir.

Q All your children then were born in the Cherokee Nation, were they, except Amelia might have been born in the Creek Nation down there close to the line? A Yes, sir.

Q You have been living in the Cherokee Nation ever since you took up with Stewart? A No, sir, I went in the states some.

Q Well, what state? A Worked around in Arkansas, in Fort Smith.

Q Were you married when you were over there? A No, sir.

Q You work in any other state besides Arkansas? A No, sir.

Q Work anywhere else in Arkansas besides Fort Smith? A To Van Hook.

Q Right along the line there? A Yes, sir.

Q Sometimes in the Cherokee Nation and some times over in Arkansas?

A Yes, sir.

Q Is that as far as you have ever been out of the Cherokee Nation?

A No, sir.

Q How much further out did you go? A I went just about three

days before Christmas, I went in Kansas City, this last Christmas.

Q How long did you stay there? A Stayed there a little over a month.

Q Work there? A No, sir, I wasn't working.

Q Visiting up there? A Yes, sir.

Q And then come back? A Yes, sir.

Q That the only time you ever were in Kansas? A Yes, sir never was there in my life before.

Q How long were you in Oklahoma? A Never was there, don't know anything about Oklahoma.

Mr. J. S. Lavenport, Cherokee attorney: Do you know to what point you went when you left the territory during the war? A Well when I left the territory I went down in Texas.

Q At whose place did you go to? A They hired me out when I went down there.

Q Don't you remember any one's name where you went? A They hired me to one man, I can't think of his name now to save my life, I am old and I can't remember things.

Q Who did you belong to now did you say? A I said I belonged to Jack Moore.

Q Well now where did Jack Moore live? A He lived down in Sequoyah district.

Q What kind of a house did he have? A He had a log house, hewed log house.

Q Who were your neighbors there, can you think of their names?

A There was a man lived close to us named Youngblood.

Q Anybody else you remember? A No, sir, I don't remember, I don't remember his given name.

Q Well you remember anything about John Gunter? A Well he might have been somewhere up there, I don't know, I forget.

Q You know what year you came back? A No, sir.

Q How you lived on Elk Creek how long? A On Elk Creek, how long I lived on Elk Creek?

Q Yes? A I don't know, I lived there, I can't tell how long, I was just from one place to another.

Q When you came back to Elk Creek was there any railroad near there? A Any railroad there or not?

Q How long was it until you saw the railroad built near there?

A Well, I don't know, I will not tell it for the truth how long it was, because I can't tell you, I can't remember things like a young person.

Mr. F. W. Hastings, Cherokee attorney: I want to now where Jack Moore, y. if J. S. Lavenport, lived in Sequoyah District, what part of the district, on what Creek.

Q What part, what Creek? I don't know: it was a branch we lived close by a branch.

Q Well, what was the name of that branch? A I forget the name of the place.

Q Jack Moore have a family? A Yes, sir.

Q What was his wife's name? A Nancy.

Q Was Jack a Cherokee himself? A Yes.

Q Was his wife a Cherokee? A Well I don't know that.

Q Did he have any children? A Well I believe, yes there was two boys.

Q What were their names? A One was named Bill I think.

Q What was the other one named? A I can't think of the other one's name to save my life.

Q Was Bill or the other one the elder: which was the elder of the two? A That is more than I can tell, I don't know which was the elder.

Q Were they good size boys at the opening of the war? A Yes.

Q About grown? A They were good sized, I don't know how old

they were-

Q Were you living in the hills or in the prairie? A I was living kinder in the hills like.

Q What was your nearest town at that time? A I never went to town none, I don't know which was the nearest.

Q You never heard of any town? A I didn't say I never heard of any town.

Q Did you? A I don't know whether I did or not.

Q Was there any stores around there or anything around there? A I never went to any stores.

Q Do you know who had one? A No, sir, I don't know about the store part.

Q And this man Moore had a double log house did he, a hewed log house? A He had a log house, yes, sir.

Q Was it a double log house? A Yes, sir, I believe it was.

Q You have mentioned Mr. Youngblood, I want to know some of the others of your neighbors at that time? A I can't tell them, it has been so long and my head has been so confused I can't tell them.

Q You don't know any rivers or streams around there? A There was one river not so powerfully far.

Q Do you know in what direction it was? A It was this way (indicating.)

Q Was it north or south or east or west of your place, the river? A Like here was the house and that would be the river, what would you call it?

Q I am asking you? A I can't tell you, I am showing you.

Q What sort of a farm did he have, big farm or little one?

A Wasn't a very big farm.

Q Have any more slaves besides you? A Yes, sir.

Q What was their names? A Had an old man named Tom.

Q Tom what? A Named Tom.

Q Have any other names? A That is all the name he went by then.

Q That the only one he had? A Had one named Nancy.

Q Do you know of any other neighbors of Moore's except Youngblood?

A No, I can't think of none right now.

Q Do you know of any town? A No, sir.

Q You can't think of any stores? A I told you where the river was.

Q How far from your place? A That, the river; I don't know how

many miles it was out there.

Q Was it a short distance or a long one? A It was a tolerably

long distance, not so very far.

Q -all, was it 20 miles? A No, sir, not quite 15.

Q Ten? A I don't know how far, I am not going to tell you how far

the river was when I don't know.

Q I am trying to get you to tell the facts about it: I want a sufficient description of the place you lived before the war, we are disputing your ownership and I am trying to get you to testify as near as you can where you lived at? A Well, I lived in Sycamore.

Q Now I want to know what part of Sycamore district, if I can find out: want to know whether it was north or south, in what part of the district, east or west, or how close spring or some facility so we can locate you? A Well I can't tell it, I don't know; you say east or west you want to know?

Q That part of the district, tell that in your own way? A He lived out in that way (indicating) and I can't describe it exactly.

Q Did you ever see any of these witnesses of yours before the war?

A Yes, sir.

Q Who did you ever see? A I can't tell.

Q How did you ever see them? A They have lived all around there.

Q Were they then at your place before the war? A No, sir, none

of them at the place where I lived, John Baldridge, I had met him at a dance once.

Q Before the war? A Yes, sir.

Q At whose house? A At his aunt's house.

Q What was her name? A Her name, I forget her name, he can tell you.

Q How far was that from where you lived? A It was a good ways.

Q Twenty miles? A I don't know whether it was 20 miles or not.

Q How old do you say you are now? A I say I am fifty something, I never did know my age, that is what I said.

Q Who did you come back to the Nation with after the war? A Why I came back here in the Cherokee Nation with the Mayes and Sanders and Mackays.

Q You came to Fort Gibson first? A Yes, sir.

Q Was your mother with you? A No, sir.

Q Where did you take up with this man Stewart? A I found him down in the Choctaw Nation.

Q Was that before you came up there? A No, it was afterwards.

Q Then you went back to the Choctaw Nation after you came up here? A I went back a little while and stayed there.

Q Who went back with you? A Who went back with me; I forget now who did go back with me.

Q You met him down there then? A Yes.

Q Near what place? A Why we went to an old man's house by the name of John.

Q And you commenced living with him there, did you? A Well I took him.

Q And he came up with you then? A Well we came back again.

Q How long did you live with him there before you came back again?

A Stayed down there a good little bit.

Q Eight or ten years? A No.

Q Five years? A Didn't stay that long.

Q About how long? A About two I reckon, however it might have been longer than that, I don't know just exactly how long.

Q Your oldest child was born down there was he? A No, he was born in the Cherokee Nation to Uncle Peter Edwards.

Q Where is that Edwards place that these children you say were born?

A It is over close to Fort Smith.

Q How far from Fort Smith? A Well, not far.

Q About how far? A Well, it is about three miles I reckon.

Q What direction from Fort Smith? A Back that way, they always called back that way north, it is about north.

Q Edwards a white man? A No, sir.

Q Colored man? A He was an Indian, mixed with negro.

Q What side of the river did he live on, do you know? A He lived on this side, on the north side of the river, just some side his place was.

Q He farmed down there, did he? A No, he never had a farm, he was a doctor.

Q What sort of a house did he live in? A A little log house.

Q Did he have a family? A He had ... a wife.

Q Didn't then? A No, sir.

Q Any children? A No, sir, no children.

Q Who were your neighbors around Edwards? A Why the closest neighbor we had there was an old lady by the name of Phoebe.

Q Phoebe what? A I don't know what her other name was, Phoebe Walker I think her name was.

Q You lived down there with six or eight children were born?

A No, I never had that many children.

Q Well, all but one? A Yes.

Q And that is the only neighbor you know? A No, I would go away and come back there.

Q What did you go down there for a living? A I don't know.

cooking.

- Q Who did you work for? A Anybody that wanted me.
Q Have somebody you worked for? A When I was out at Uncle Edwards I didn't do any work.
Q Didn't work for anybody in the Nation at all? A Not there I didn't.
Q Never had any house there of your own? A No, sir.
Q How far was Edwards from where you were born? A From where I was born; I don't know.
Q Were you ever back to the old home place since the war?
A No I haven't been back there.

Taking of testimony continued by stenographer Chas. von Weise.

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.

Signed, Bruce G. Jones.

Sworn to and subscribed before me this the 10th of July, 1901.

Signed, T. B. Needles,
Commissioner.

Continued from Stenographer Bruce G. Jones.
Nowata, I.T., June 27th, 1901.

POLLIE NEVINS called and sworn as a witness for the applicant:-

By Com'r T. B. Needles-

- Q What is your name? A Pollie Nevins.
Q What is your age? A 56.
Q What is your postoffice address? A Fort Gibson.
Q Are you a recognized Cherokee freedman? A Yes sir.
Q Do you know the applicant Winnie Mackey? A Yes sir.
Q How long have you known her? A Just the year, the first year peace was made.
Q Was she a slave during the war and before the war? A She was with her owners when I went to hire her.
Q Where was she then? A At Fort Gibson.
Q You went to hire her you say? A Yes sir for Mrs. Bowers where was working at the hotel.
Q Who did you hire her from? A The Moores, they was her owners.
Q What year was that that you hired her? A The first year that peace was made - peace was made in the summer and that was in the fall.
Q You don't know whether it was '66 or not? A That was in '66 wasn't it.
Q How long have you known her since? A I have not used her in a long time. She staid there a month with me at the hotel and then we let her go, she was not much good around there and Mrs. Bowers let her go.
Q Where did she go then? A I don't know, she was not a very good worker and I told Mrs. Bowers that she did not suit and let her go.
Q Well don't you know where she went then? A She hired out in town there.
Q When did you next see her after that? A I never used her any more for a good while.
Q Until now? A Up here? A Yes sir I used her at Krantz when she married Uncle Howell Mackey.
Q You don't know where she lived before the war? A No sir.
By Hastings - (Cherokee representative)
Q Who were these people from whom you hired her? A Moores.
Q What were their first names? A I don't know.
Q Was there a man and wife there, I mean a Mr. and Mrs. Moore?
A Yes sir

Q Didn't you find out the first name of either of them? A No, sir, Mrs. Bowers wanted some one to help with the kitchen and asked me to look out for someone among the refugees that was coming around there and I went down into the camp where these people were and hired this one

Q Was the Mrs. Bowers you speak of, Joe Bower's wife? A Yes sir.

Q You never saw this woman Winnie Mackey before that? A No sir.

Q How old was she then? A 15 or 16 years old.

Q Was she married then? A No sir.

Q Not living with a man at that time? A No sir.

Q Had no children then? A No sir.

Q Was her mother there? A I don't know, I just went there and said I wanted to hire some one to work at the hotel and that there was three dollars a week for a good worker and she said she was a good worker and wanted to hire out and I took her, but she wasn't much good around there and Mrs. Bowers let her go.

By the Commission:

Q Were the Moores Indians? A Yes sir.

By Hastings:

Q What became of them? A I don't know, they all scattered out.

Q Did you witness for this woman before the Kern-Clifton Commission?

A No sir.

Q What are you doing up here? A What are you doing up here yourself?

Q That is my business, you are a witness and I want you to tell me what you are doing up here? A I come up here to look after my kin folks friends and acquaintances just as far as I know and no further. I am doing what is right and am telling the truth just as I know it.

EASTER WILLIAMS, called and sworn as a witness for applicant.

By Commission:

Q What is your name? A Easter Grismett or Williams.

Q How old are you? A About in the 30's.

Q What is your postoffice address? A Ruby.

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Do you know this applicant? A Yes sir.

Q How long have you known her? A It has been so long, I met her in Fort Gibson when she was a young girl and then she never had any children.

Q Did you see her in '66? A I didn't see her until I seed her at Gibson and then I never seed her any more until I seed her at this enrollment.

Q You never saw her any between those times? A No sir.

Q Who did she belong to before the war? A She said she belonged to the Moores.

By Hastings:

Q Was the war still going on when you first saw this girl? A Yes sir.

Q With whom was she living there? A She was working out.

Q Who for? A I don't know just who she said she was working out for.

Q You didn't see her owners yourself? A No sir.

Q You saw her after she was freed did you? A Yes sir, about that time.

Q You don't know what year it was? A I don't know the year, but it was the time the war was going on, just about time of peace.

Q Where did you next see her? A I seed her at Gibson at the enrollment - I remember now I seed her then.

Q Was that 2 or 3 months ago? A You know there has been several enrollments at Gibson? A No sir it was at the Kern Clifton court.

JOHN BALDRIDGE, called and sworn as a witness for the applicant.

By the Commission:

Q What is your name? A John Baldridge.

Q How old are you? A I was born in 1850, born and bred there.

Q When did you first see her? A I got well acquainted with her in '66.

Q Was she a slave? A B3 said she was.

Q Do you know her to have been a slave? A I say, so said, I dont know myself.

Q Was she taken out of the Cherokee Nation during the war? A I dont know.

Q Where did you first see her after the war? A In Fort Gibson in '66 and then I have seen her off and on in Sequoyah district 2 or 3 times.

Q Was she married when you first saw her? A No sir.

Q Who was she with? A Some Cherokees.

Q Do you know their names? A Some of the Mayfields.

Q Are you satisfied this is the same woman you saw there? A Yes sir.

Q You didn't know her father and mother? A No sir.

Q Where does she live now? A In Coowescoowee district near Leaspath.

Q Is she married now? A Yes sir, she was married to Roswell Mackey.

Q Do you know her children? A I know Bob and Joe and Maggy and one girl I disremember.

Q Was she ever married before she married Roswell Mackey? A I dont know.

Q Is Roswell Mackey the father of these children? A I dont know.

Q Do you know Roswell Mackey? A Yes sir.

Q Were they living together as husband and wife when you knew them both? A Yes sir.

Q You was in Fort Gibson in '66? A Yes sir from '65 and was discharged as a soldier right there.

Q Was you a United States soldier or a Rebel? A I was with the Union I was fighting them other fellows.

By Hastings-

Q And they made it pretty hot for you too didn't they? A Yes sir sometimes.

Q You have been on a visit to Detroit Michigan haven't you? A Yes sir.

Q You were with the United States that time too? A (No response)

Q What did they give you that trip for up there? A That is my business and it is your business to tend to these freedmens court and to ask things that is right.

Q Well that is what I am doing, now you were sent to the penitentiary up there? A I wont answer nothing that is not lawful, you has not got the constitution to ask that.

Q You refuse to answer that do you? A Yes sir, I will answer anything that you had a right to ask, but you has not got the constitution to ask that.

Q When did you come back from Detroit? A I am here aint I?

Q Well how long have you been here? A All my days.

Q Well you say you saw this applicant at Fort Gibson in '66? A Yes sir.

Q What was she doing there? A Just working at the hotel where Follie Nevins was staying.

Q What time of the year was that? A Long in the spring.

Q You never saw her owners? A No sir.

Q Was she living with her mother then? A I never seed her mother.

Q A whose place in Sequoyah did you see this woman? A At Mayfields.

Q Which one? A They used to live on the road going to Fort Smith.

Q When did you next see her? A Off and on ever since.

Q When did you next see her? A I cant give the day, week and year.

Q You never knew her to keep house in the Cherokee Nation did you? A Yes sir.

What A ...
... five years ago.
... first time you saw him of her keeping house in
... A ...

... not found on the ... rolls.

... roll ... the name of the applicant
found therein as follows:

- Page 125 No. 2312, ... District.
- Page 125 No. 2313, ... District.

By ...

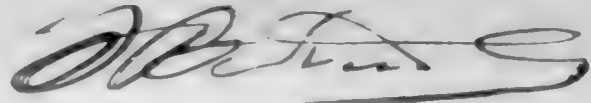
... Mackey ... and a son
named Andrew Moore: they are not identified on the authenti-
cated roll of 1880 or the census roll of 1888; they are iden-
tified on the ... roll, the applicant being there
found as ... and her ... as Andrew Moore: she avers
that she was a slave of one Jack Moore and went to Texas and
returned in 1888; she avers that she has three older children;
she also avers that she is now married to one Mackey; she will
be listed for enrollment as a ... on a doubtful
card and the Commission will notify her by mail of its final
decision in her case.

Chas. von Weise, being sworn states that as stenographer to
the Commission to the Five Civilized Tribes he reported in full all
the proceedings in the above cases and that the foregoing is a
full, true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.
Subscribed and sworn to before me this the 11th of July, 1901.
Signed, T. B. Needles,
Commissioner.

Bruce C. Jones, being duly sworn, says that as stenographer to
the Commission to the Five Civilized Tribes he copied the foregoing,
and that the same is a true and correct copy from the original.

Bruce C. Jones
Sworn to, and subscribed before me this the 31st of August, 1901.



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 1st, 1901.

In the matter of the application of Maggie Doty for enrollment
as a Cherokee Freedman.

Maggie Doty, being duly sworn and examined by Commissioner
Needles, testified as follows:

- Q What is your name? A Maggie Doty.
Q How old are you? A 20 years old.
Q What is your postoffice address? A Wagoner.
Q What district do you live in? A Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A None but myself.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Garfield Doty.
Q Is he a citizen? A No, sir.
Q Any children? A No, sir.
Q What is your father's name? A Stewart Hooley.
Q What was your mother's name? A Winnie Mackey.
Q You claim your citizenship through your mother? A Yes, sir.
Q Where were you born? A Sequoyah district.
Q Cherokee Nation? A Yes, sir.
Q You lived in the Cherokee Nation all your life? A No, sir, not
all my life.
Q Where have you lived? A I lived some in Fort Smith with my
mother.
Q When your mother lived in Fort Smith you were living with her?
A Yes, sir.
Q Did you come to the Cherokee Nation when your mother came?
A Yes, sir.
Q Been living here since that? A Yes, sir.
Q Where were you married? A I was married in Lenapah.
Q Cherokee Nation? A Yes, sir.
Q Been living with your husband since you married him? A Yes, sir.
Q Your name on any of the rolls of the Cherokee Nation, do you
know? A Yes, sir.
Q What roll? A 1896 roll.
Q Did you draw what is known as the Kern-Clifton money, the strip
money? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined
and the parents of applicant not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the
applicant not identified thereon.
Q Your name was Moore at that time? A Yes, sir.
The Kern-Clifton roll examined and the applicant identified
thereon, page 183, No. 3314, Illinois district, as Maggie Moore.
Mr. J.S. Davenport, Cherokee attorney: Do I understand you to say
you live in Wagoner? A Yes, sir.
Q You live in the town or do you live in the country? A In the
town.
Q Then you don't live in Sequoyah district? A My home is in
Lenapah, I have been there but a month or two in Wagoner.
Q Where is your husband living? A He is in Wagoner.
Q You live with him? A Yes, sir.
Q You lived with your mother at Van Buren? A Yes, sir.
Q You moved to Lenapah about what year? A I don't know.
Q About how many years ago? A I don't know that, if I knew I
would tell you.
Q Can you remember when you moved to Lenapah? A I remember when
I moved there, but I don't remember what year.
Q Well your mother was living in Van Buren, Arkansas, with her
family, in '83? A I don't know, I was quite small.

Maggie Doty -8.

- Q How old are you now? A I am 20.
Q You can remember as far back as '93 where you were living? A I can't remember.
Q Now how long have you been living in Wagoner you say? A I have been there about three months.
Q Moved from Lenapah down there? A Yes, sir.
Q Ever live in Kansas? A I never lived in Kansas, I have visited in Kansas, I never did live there.
Commissioner: What does your husband follow? A Why he is a farmer.
Q You don't live on a farm now do you? A No, sir, when we were at Lenapah we lived on a farm.
Q But you are living now at Wagoner? A Yes, sir.
Q What does your husband do? A He is just working out by the day.

Commissioner: Maggie Doty applies for the enrollment of herself. She cannot be identified upon the authenticated roll of 1880 or the census roll of 1890. She is only identified upon the Kern-Clifton roll as Maggie Moore. She makes the statement that she is the child of Winnie Mackey, and Winnie Mackey was listed for enrollment on D card 889, and the testimony taken in the matter of the application of Winnie Mackey will be made part of the record in the case at bar, and a copy thereof will be filed herewith. She avers that she is now married to one Garfield Doty, a non citizen, and makes satisfactory proof as to marital residence, or in other words, proof that her residence is the same as that of her mother. Said Maggie Doty, nee Moore, will now be listed for enrollment as a Cherokee Freedman on a doubtful card, and she will be notified by mail of the action of the Commission at her postoffice address.

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 15th of July, 1901.

J. H. [Signature]

Commissioner.

File with case of Maggie Doty, C.F.-D.#862.

Supl.C.F.-D.#899.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 24, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
WINNIE MACKAY as a Cherokee Freedman, introduced on the part of
Cherokee Nation:

APPEARANCES:

Mr. L. B. Bell, of Counsel for Cherokee Nation.

Proof of service made and applicant fails to appear,
either by attorney or in person.

JOHN KEATON, being duly sworn by Commissioner Needles,
testified as follows on part of Cherokee Nation:

MR. BELL: Give me your name? A John Keaton.

- Q Your age? A 66.
- Q Your post office? A Alma, Arkansas.
- Q Well, Mr. Keaton, this is a case of Winnie Mackey she calls her-
self, called Winnie Moore or Steward, claiming to be a Cherokee
Freedman, are you acquainted with her? A Yes, sir.
- Q Where did you first know her? A In South Carolina.
- Q When was that? A That was before the war, Civil War.
- Q What was her name there? A Her name was Winnie.
- Q How did you become acquainted with her? A Well, sir, the man
that owned me was jailer at that time and I was staying there and
she was put in jail there, a small girl.
- Q How long did you stay in South Carolina after you saw her there?
A I was small and so was she and I stayed until I was 12 years
and free, until I come to Arkansas.
- Q When did you go to Arkansas? A I have been here 12 years I
think it is I have been here now.
- Q Where did you stop? A I come to Van Buren, Arkansas.
- Q Have you seen this Winnie Mackey since you come to Arkansas?
A Yes, sir.
- Q Where did you see her first? A Van Buren.
- Q What was she doing there? A She was living there.
- Q Did she have a family there? A Yes, sir.
- Q Husband? A Yes, sir.
- Q What was his name? A Steward Moore.
- Q How long did you know Winnie Moore there? A I
known them several years.
- Q What become of her husband? A He went to Afrita.
- Q About what? A It has been about six years ago, there was a
great crowd and he went with the crowd.
- Q Was he living there before he started? A Yes, sir. She was
there, he just worked about, sometimes up there and sometime down
about Alma.
- Q How long did she stay in Van Buren, do you know, after he left
there? A I could not say positive just how long she stayed after
he left, I lived down below, Alma.
- Q You missed her from there soon after he left? A Yes, sir, and
I haven't seen her since he left there.
- Q Do you know when she left South Carolina? A No, sir, I don't
recollect exactly, she come before I did from there.
- Q Did you learn from her whether she left there before the war or
after? A After the war.
- Q Was she in Van Buren when you got there? A Yes, sir.
- Q How long had she been there, you don't know how long?
A No, sir, I could not say how long.
- Q How long had she been there before the war? A I don't know.

him in South Carolina and married.

Q When you first come here ten or 12 years ago, did she have them children that she claims to have? A Yes, sir.

Q Do you know anything about any of them; that is, where they were born? A They was born in South Carolina.

CON'S BROTHERS: You say you knew this woman, Winnie Mackey, in South Carolina? A Yes, sir.

Q When was that? A It was before the war.

Q Was she a slave there? A Yes, sir.

Q Who did she belong to? A I could not tell you she she belonged to.

Q How old was she when you knew her there? A I could not tell.

Q Well, about how old? A She was, I guess about ten or 12 years or maybe older.

Q You knew her in South Carolina before the war? A Yes, sir.

Q That was ten or 12 years old then? A Yes, sir.

Q But you don't know who belonged to? A No, sir, I do not know who she belonged to.

Q When did you come to the Cherokee nation; where do you live now?

A I live in Arkansas.

Q When did you come from South Carolina to Arkansas?

A I have been here 12 years, in Arkansas.

Q You left South Carolina and come to Arkansas 12 years ago?

A Yes, sir.

Q Was Winnie Mackey in South Carolina then? A No, sir, she left before I did.

Q About how long before that? A I don't know.

Q Do you know whether she left there before the war or not?

A She was there then, she was freed there.

Q Who did she belong to? A I told you I didn't recollect her owners, I could not tell you that.

Q Did you ever know a man by the name of Jack Moore? A No, sir.

Q Never knew a man, Jack Moore? A No, sir.

Q Did you ever know anything about this applicant being in the State of Texas, this Winnie? A No, sir.

Q Do you know that the Winnie Mackey you saw in South Carolina is the same Winnie Mackey that applies to be enrolled here as a Cherokee Freedman? A Yes, sir.

Q How do you know it? A It is, if it is Steward Moore's husband, if that is the one I know her.

Q How long after you left South Carolina did you see her, Winnie Mackey? A Well, I didn't know her by that name; she wasn't no Mackey when I knowed her.

Q What was she when you knew her? A She was Winnie Moore, Steward Moore's wife.

Q Where, South Carolina? A Yes, sir.

Q Was she Steward Moore's wife when you saw her and knew her in South Carolina? A Yes, sir.

Q He was married to her? A Yes, sir.

Q This Winnie was married to a man by the name of Steward Moore in South Carolina? A Yes, sir.

Q And had children there? A Yes, sir.

Q How many children? A There was two girls and three boys, if I make no mistake.

Q Do you know their names? A Yes, sir, I think so.

Q Please give their names? A Job and a Bob and a Melia and Mag.

Q Now, was this Winnie's children you know in South Carolina?

A Yes, sir.

Q And I ask you there was Winnie Moore? A Yes, sir.

Q She was a good woman and had children? A Yes, sir.

Q Now you came from South Carolina to Arkansas? A Yes, sir.

neighborhood a number of years after the war.
Q. About how many years in your judgment? A. I could not be positive about the number of years, I don't recollect, and if I was to say-

Q. Do you know that she has lived there as much as five years after the war? A. Yes, sir, I guess more.

Q. Well, were these children you have mentioned here born there? A. Yes, sir.

Q. CO. R. NEEDLES: You lived there five or ten years after the war did you? A. Yes, sir.

ALBERT LATTIMER, being sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation:

Q. MR. NEEDLES: Give your name? A. Albert Lattimer.

Q. Age? A. Well, I am about 56.

Q. Post office? A. Alma, Arkansas.

Q. Mr. Lattimer, this is a case of one Winnie Mackey, by that name now, that claims to be a Cherokee freedman making application here with a lot of children, children named Moore she calls them; she is the wife of one Steward Moore, or Moore Steward; I don't know which? A. Steward Moore, I guess.

Q. Are you acquainted with her? A. Well, I have seen her of course since I came to this State.

Q. Where did you come from to Arkansas? A. From South Carolina.

Q. How long ago? A. I came here in '57.

Q. Are you acquainted with her in the State of South Carolina? A. No, sir, I wasn't.

Q. Where did you first see this Winnie Moore or Mackey? A. Well, I saw her at Van Buren.

Q. Van Buren, Arkansas? A. Yes, sir.

Q. About when? A. Well, it has been ten years ago, about.

Q. About ten years ago? A. Yes, sir.

Q. What was she doing there? A. Well, she was just staying there in the town at that time; I could not tell you what her occupation was, she was just staying there at that time.

Q. What about her husband? A. Yes, sir, he was at her house one time.

Q. Was he keeping house there? A. Yes, sir.

Q. Did she have any family? A. Yes, sir, she had some children with her.

Q. Have any husband? A. Yes, sir, her husband was there.

Q. What was her husband's name? A. Steward Moore was his name.

Q. Was he a freedman? A. Yes, sir.

Q. Do you know what became of Steward Moore? A. Went to Africa.

Q. About how long ago? A. Well, you may say, I believe he left here in '95, as well as I can remember; I think it was in '95.

Q. How long did you know that woman in Van Buren? A. Well, I think I knowed her there; well I never seen her in there but about twice you see I came from the old country and stopped there a few days and I left there and went to Birk, Arkansas, that is below Van Buren, and I saw her some few times while staying around Van Buren.

Q. Some few times after you left Van Buren? A. Yes, sir.

Q. Well, did you ever see her there about the time her husband left, I see her there after that.

Q. Are she still there with her family with her husband gone? A. Yes, sir.

Q. Did you ever have any talk with her about where she come from to Arkansas? A. No, sir, I have not, no, sir.

Q. It is said she come from the same part of South Carolina she did.

Q. No, sir, we was there I suppose in different counties.

neighborhood a number of years after the war.

Q About how many years in your judgment? A I could not be positive about the number of years, I don't recollect, and if I was to say-

Q Do you know that she has lived there as much as five years after the war? A Yes, sir, I guess more.

Q Well, were these children you have mentioned here born there?

A Yes, sir.

GOVERNOR: You lived there five or ten years after the war did you? A Yes, sir.

ALBERT LATTIMER, being sworn by Commissioner Needles, testified as follows in part of the Cherokee Nation:

MR. BELL: Give your name? A Albert Lattimer.

Q Age? A Well, I am about 56.

Q Post office? A Alma, Arkansas.

Q Mr. Lattimer, this is a case of one Winnie Mackey, by that name now, that claims to be a Cherokee Freedman making application here with a lot of children, children named Moore she calls them; she is the wife of one Steward Moore, or Moore Steward; I don't know which? A Steward Moore, I guess.

Q Are you acquainted with her? A Well, I have seen her of course since I come to this State.

Q Where did you come from to Arkansas? A From South Carolina.

Q How long ago? A I came here in '87.

Q Are you acquainted with her in the State of South Carolina?

A No, sir, I wasn't.

Q Where did you first see this Winnie Moore or Mackey?

A Well, I saw her at Van Buren.

Q Van Buren, Arkansas? A Yes, sir.

Q About when? A Well, it has been ten years ago, about.

Q About ten years ago? A Yes, sir.

Q What was she doing there? A Well, she was just staying there in the town at that time; I could not tell you what her occupation was, she was just staying there at that time.

Q What about her husband? A Yes, sir, he was at her house one time.

Q She was keeping house there? A Yes, sir.

Q Did she have any family? A Yes, sir, she had some children with her.

Q Have any husband? A Yes, sir, her husband was there.

Q What was her husband's name? A Steward Moore was his name.

Q Was he a freedman? A Yes, sir.

Q Do you know what became of Steward Moore? A Went to Africa.

Q About how long ago? A Well, you may say, I believe he left here in '95, as well as I can remember; I think it was in '95.

Q How long did you know that woman in Van Buren? A Well, I think I knowed her there; well I never seen her in there but about twice you see I came from the old country and stopped there a few days and I left there and went to Dora, Arkansas, that is below Van Buren, and I saw her some few times while staying around Van Buren.

Q How far time after you left Van Buren? A Yes, sir.

Q Well, did you ever see her there about the time her husband left?

A I saw her there after that.

Q She was still there with her family with her husband gone?

A Yes, sir.

Q Did you ever have any talk with her about where she came from to Arkansas? A No, sir, I have not; no, sir.

Q You didn't come from the same part of South Carolina she did?

A No, sir, we was there I suppose in different counties.

MR. HASTINGS: Did you ever talk to her about South Carolina at all? A No, sir, of course I never knew her back there at all.

COM'R NEEDLES: All you know about this is you saw her there at Van Buren? A Yes, sir.

Q And her children? A Yes, sir.

Q You don't know whether she was ever a slave or not?

A No, sir, I don't know.

Q Don't know who she belonged to if she was a slave? A No, sir.

Q You never got acquainted with them until you came to Van Buren?

A No, sir.

LAURA LATTIMER, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee nation:

MR. BELL: Your name? A Laura Lattimer.

Q Age? A 48.

Q Your post office? A Alma.

Q Mrs. Lattimer we have got a case up here of Fannie Mackey, or Winnie Moore, or Winnie Steward, who claims to be a Cherokee Freedman and having been living in the Cherokee nation; do you know any woman of that name? A Yes, sir, Fannie Moore, the woman's name is Winnie Moore.

Q How long have you known her? A Well, it has been about eight or ten years I guess; I know the first I seen of her she was in Van Buren.

Q When did you first see her and where? A In Van Buren.

Q In Van Buren about eight or ten years ago? A Yes, sir.

Q What was she doing there? A She was living there.

Q Have any family? A Yes, sir.

Q What was her family? A Melia and Maggie and Joe and Bob and there is another one I didn't get acquainted with him at all, I have seen the other one.

Q Did she have a husband? A Well, at that time she had a husband, but wasn't living together exactly at that time.

Q What was his name? A Steward Moore.

Q Was she keeping house there? A Yes, sir.

Q How long did you know her after that? A After that he went off to Africa and I never seen her; she come to my house about a year, first seen her to my house on a visit and I never seen her any more, and after he went off I heard she went off; afterwards I heard she was in the Nation.

Q You saw her after her husband went to Africa? A No, sir.

Q You say she come to your house after you lived at Van Buren?

A Yes, sir.

Q Where were you living? A At Dix's Arkansas.

Q How far is that below Van Buren? A Ten miles below Van Buren.

Q You are the wife of this Albert Lattimer? A Yes, sir.

Q Did you and he come from South Carolina together?

A Yes, sir, we was married and he come in the fall before us and I come in the January following.

Q You joined him then at Van Buren, or where? A He was married in South Carolina.

Q He come out here ahead of you and got a place? A Yes, sir.

A And you come on afterwards and joined him at Van Buren?

A No, sir, at Dix's Station, we and my family.

COM'R NEEDLES: Do you know whether this woman was married after Moore went to Africa? A I heard it.

Q How long did she live in Van Buren there after Moore went to Africa? A No, sir, I know she went to some other place.

Q Did you know Steward Moore? A Yes, sir.

Q Was he a colored man? A Yes, sir.

Q Do you know a man by the name of Jack Moore? A No, sir.

Q Do you know whether Fannie Moore was a slave or not?

A No, sir, I don't know at all.

Supl. C. F. D. #899. ---6.

Q. HASTINGS: Did you ever have any talk with her about where she came from? A. I never knew her until I came to the Bureau. I have heard she came from the old country.
Q. You never talked to her about her being from South Carolina? A. No, sir.

This testimony will be filed in the following cases:
D. #97, Robert Moore; D. #98, Amelia Brown; D. #99, etc.
D. #100, Joseph Moore.

J. C. Rossan, being first duly sworn, states that as stenographer to the Commission to the more 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. Rossan

Subscribed and sworn to before us this October 5th, 1907.

[Signature]

Commissioner.

Cher. Fr. D. 983

Cher. Fr. D. 983

24983

File with Cherokee Freedman D-~~443~~ *Y. Moore*

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 27, 1901.

In the matter of the application of Winnie Mackey for the enrollment of herself and one child as Cherokee Freedman.

Winnie Mackey, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Winnie Mackey.
Q How old are you? A I don't know how old I am.
Q How old are you? A I don't know my age.
Q About how old? A I am fifty something.
Q What is your postoffice? A My postoffice is Wagoner now.
Q In the Creek Nation? A Yes, sir.
Q Where do you live? A Cooweescoowee.
Q You apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child.
Q What is the child's name? A Andrew.
Q How old is Andrew? A Andrew is about 18.
Q Andrew Mackey? A No, sir, Andre Moore.
Q Have you any witnesses? A Yes, sir.
Q Who are they? A John Baldrige, Ester Grinnett and Polly Nivers.
Q Is your name on any of the rolls of the Cherokee Nation? A It ought to be.
Q Yet, but is it? A Yes, it is on the Clifton roll.
Q Your name isn't on the roll of 1880? A It ought to be.
Q Well is it? A I don't know whether it is or not.
Q What was your father's name? A Robert Davis.
Q Is he living? A No, sir, he is dead.
Q What was your mother's name? A Reheax Margaret Davis.
Q Is she living? A No, sir, she is dead.
Q How many times have you been married? A I have been married but once, I lived with a man once, I wasn't married to him.
Q What was his name? A Stewart.
Q Is he living? A No, sir, he is dead too.
Q What was his first name? A His first name was Meelie.
Q What was the next man you lived with? A Roswell Mackey.
Q Is he living? A Yes, sir.
Q Are you living with him? A No, sir, I am in Wagoner and he is in Braggs.
Q This Andrew Moore, is he your child? A Yes, sir.
Q You were not married to the father of that child? A No, sir.
Q For what name are you on the roll by? A I have got five children; I am just telling you the ones I am enrolling on.
Q You don't ask to enroll anybody but Andrew Moore? A No, sir, the rest is of age.
Q What name are you on the Kern-Clifton roll by? A Moore.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Jack Moore.
Q Was he a Cherokee citizen? A Yes, sir.
Q Where were you born? A I was born in the Cherokee Nation.
Q Were you taken out of the Cherokee Nation during the Civil war?
A Yes, sir.
Q Where to? A Jack Moore taken us down to Texas.
Q Jack Moore took you himself? A Yes, sir.
Q What was that; that while the war was going on? A Yes, sir, I can't know the numbers now, I can't tell one year from another.
Q You know the war was going on, you know about that? A Yes, sir.

- Q How long did you stay in Texas? A I can't tell that neither.
- Q Then did you come back to the Cherokee Nation? A Well I came in here they said it was '68; not that I know of.
- Q They told you it was '68? A Yes, sir.
- Q Where did you come to? A Came to Port Gibson.
- Q That is the first place you recollect after you come from Texas, or being in Illinois? A Yes, sir.
- Q Were you married then? A No, sir.
- Q Have you lived in the Cherokee Nation ever since? A Well, I have been out since that working around and about in places in the states.
- Q Kansas? A No, sir, never been to Kansas.
- Q Arkansas? A Yes, sir.
- Q Where were you married? A Where was I married, I was married in Illinois.
- Q Cherokee Nation? A Yes, sir.
- Q When were you married? A Married about five or six years ago.
- Q That was the first time you were lawfully married? A Yes, sir, I lived with a man and had children but I wasn't married to him.
- Q You lived with Stewart? A Yes, sir.
- Q Where were you when you lived with Stewart? A Part of the time I was in the Cherokee Nation and part of the time I was in Fort Smith.
- Q How many children did you have by Stewart? A All I got I got by him.
- Q Please give me the names of them? A Joe.
- Q Joe Moore? A No, all of them goes by Moore.
- Q How old is Joe? A I don't know, he is twenty something.
- Q Where was he born? A Joe was born down at Uncle Billy Edwards.
- Q Arkansas? A No, sir, Cherokee Nation.
- Q What is the next one named? A Bob.
- Q Where was Bob born? A He was born there too.
- Q What is the next one? A Analia.
- Q Where was she born? A Born on Elk Creek.
- Q Was that in Arkansas or the Cherokee Nation? A If it wasn't in the Cherokee Nation, it was close by, close by Checotah.
- Q It might have been in the Creek Nation? A It might have been, I don't know.
- Q What is the next one named? A Maggie.
- Q Where was Maggie born? A She was born at Edwards.
- Q That is the Cherokee Nation? A Yes, sir.
- Q How place Analia was born? A No, sir.
- Q What is the next one named? A Andrew.
- Q Born in the Cherokee Nation? A Yes, sir.
- Q All your children then were born in the Cherokee Nation, were they, except Analia might have been born in the Creek Nation down there close to the line? A Yes, sir.
- Q You have been living in the Cherokee Nation ever since you took up with Stewart? A No, sir, I went in the states some.
- Q Well, what state? A Worked around in Arkansas, in Fort Smith.
- Q Was you married when you were over there? A No, sir.
- Q You work in any other state besides Arkansas? A No, sir.
- Q Work anywhere else in Arkansas besides Fort Smith? A To Van Buren.
- Q Right along the line there? A Yes, sir.
- Q Sometimes in the Cherokee Nation and some times over in Arkansas? A Yes, sir.
- Q Is that as far as you have ever been out of the Cherokee Nation? A No, sir.
- Q How much farther out did you go? A I went just about three

days before Christmas, I went to Kansas City, this last Christmas.

Q How long did you stay there? A Stayed there a little over a month.

Q Were you there? A No, sir, I wasn't working.

Q Living up there? A Yes, sir.

Q And then come back? A Yes, sir.

Q That the only time you ever went in Kansas? A Yes, sir never was there in my life before.

Q How long were you in Oklahoma? A Never was there, don't know anything about Oklahoma.

Mr. J. S. Deavenport, Cherokee attorney: Do you know to what point you went when you left the Territory during the war? A Went when I left the territory I went down in Texas.

Q At whose place did you go to? A They hired me out when I went down there.

Q Don't you remember any one's name where you went? A They hired me to one man, I can't think of his name now to save my life, I am old and I can't remember things.

Q Who did you belong to now did you say? A I said I belonged to Jack Moore.

Q Well now where did Jack Moore live? A He lived down in Sequoyah district.

Q What kind of a house did he have? A He had a log house, hewed log house.

Q Who were your neighbors there, can you think of their names?

A There was a man lived close to me named Youngblood.

Q Anybody else you remember? A No, sir, I don't remember, I don't remember his given name.

Q Well you remember anything about John Genter? A Well he might have been somewhere up there, I don't know, I forget.

Q You know what year you come back? A No, sir.

Q How you lived on Elk Creek how long? A On Elk Creek, how long I live on Elk Creek?

Q Yes? A I don't know, I lived there, I can't tell how long, I was just from one place to another.

Q When you come back to Elk Creek was there any railroad near there? A Any railroad there or not?

Q How long was it until you saw the railroad built near there?

A Well, I don't know, I will not tell it for the truth how long it was, because I can't tell you, I can't remember things like a young person.

Mr. F. W. Hastings, Cherokee attorney: I want to know where Jack Moore, your owner, lived in Sequoyah District, what part of the district, on what creek.

Q What part, what creek? I don't know; it was a branch he lived close by a branch.

Q Well, what was the name of that branch? A I forget the name of the place.

Q Jack Moore have a family? A Yes, sir.

Q What was his wife's name? A Fanny.

Q Was Jack a Cherokee Indian? A Yes.

Q Was his wife a Cherokee? A Well I don't know that.

Q Did he have any children? A Well I believe, yes there was two boys.

Q What were their names? A One was named Bill I think.

Q What was the other one named? A I can't think of the other one's name to save my life.

Q Was Bill or the other one the older; which was the older of the two? A That is more than I can tell, I don't know which was the older.

Q Were they good nice boys at the opening of the war? A Yes.

Q About grown? A They were good sized, I don't know how old

they were.
Q Were you living in the hills or in the prairie? A I was living kinder in the hills like.

Q What was your nearest town at that time? A I never went to town none, I don't know which was the nearest.

Q You never heard of any town? A I didn't see I never heard of any town.

Q Did you? A I don't know whether I did or not.

Q Was there any stores around there or anything around there? A I never went to any stores.

Q Do you know who had one? A No, sir, I don't know about the store part.

Q And this man Moore had a double log house did he, a hewed log house? A He had a log house, yes, sir.

Q Was it a double log house? A Yes, sir, I believe it was.

Q You have mentioned Mr. Youngblood, I want to know some of the others of your neighbors at that time? A I can't tell them, it has been so long and my head has been so confused I can't tell them.

Q You don't know any rivers or streams around there? A There was one river not so powerfully far.

Q Do you know in what direction it was? A It was this way (indicating.)

Q Was it north or south or east or west of your place, the river?

A Like here was the house and that would be the river, what would you call it?

Q I am asking you? A I can't tell you, I am showing you.

Q What sort of a farm did he have, big farm or little one?

A Them's a very big farm.

Q Have any more slaves besides you? A Yes, sir.

Q What was their names? A Had an old man named Tom.

Q Tom what? A Named Tom.

Q Have any other slaves? A That is all the name he went by then.

Q That the only one he had? A Had one named Nancy.

Q Do you know of any other neighbors of Moore's except Youngblood?

A No, I can't think of none right now.

Q Do you know of any town? A No, sir.

Q You can't think of any town? A I told you where the river was.

Q How far from your place? A What, the river; I don't know how many miles it was out there.

Q Was it a short distance or a long one? A It was a tolerably long distance, not so very far.

Q Well, was it 15 miles? A No, sir, not quite 15.

Q Ten? A I can't know how far, I am not going to tell you how far the river was when I don't know.

Q I am trying to get you to tell the facts about it: I want a sufficient description of the place you lived before the war, we are disputing your ownership and I am trying to get you to testify as near as you can where you lived at? A Well, I lived in Sagoyah.

Q Now I want to know what part of Sagoyah district, if I can find out; was it near where it was north or south, in what part of the district, what the water, or near some spring or some family so we can locate you? A Well I can't tell it, I don't know; you say east or west, you say in what.

Q What part of the district, tell that in your own way? A He lived out in that way (indicating) and I can't describe it exactly.

Q Did you ever see any of those witnesses of yours before the war?

A Yes, sir.

Q Who did you see first? A I seen all of them.

Q How long ago?

A They have lived all ground there.

Q Were they both at your place before the war? A No sir, none

of them at the place where I lived, John Baldrige, I had met him at a dance once.

Q Before the war? A Yes, sir.

Q At whose house? A At his aunt's house.

Q What was her name? A Her name, I forgot her name, he can tell you.

Q How far was that from where you lived? A It was a good ways.

Q Thirty miles? A I don't know whether it was 20 miles or not.

Q How old do you say you are now? A I say I am fifty something. I never did know my age, that is what I said.

Q Who did you come back to the Nation with after the war? A Why I come back here in the Cherokee Nation with the Hayes and Sanders and Mackays.

Q You came to Fort Gibson first? A Yes, sir.

Q Was your mother with you? A No, sir.

Q Where did you take up with this man Stewart? A I found him down in the Choctaw Nation.

Q Was that before you came up there? A No, it was afterwards.

Q Then you went back to the Choctaw Nation after you came up here? A I went back a little while and stayed there.

Q Who went back with you? A Who went back with me; I forget now who did go back with me.

Q You met him down there then? A Yes.

Q Near what place? A Why we went to an old man's house by the name of John.

Q And you commenced living with him there, did you? A Well I took him.

Q And he came up with you then? A Well we came back again.

Q How long did you live with him there before you came back again? A Stayed down there a good little bit.

Q Eight or ten years? A No.

Q Five years? A Didn't stay that long.

Q About how long? A About two I reckon, however it might have been longer than that, I don't know just exactly how long.

Q Your oldest child was born down there was he? A No, he was born in the Cherokee Nation to Uncle Peter Edwards.

Q Where is that Edwards place that these children you say were born? A It is over close to Fort Smith.

Q How far from Fort Smith? A Well, not far.

Q About how far? A Well, it is about three miles I reckon.

Q What direction from Fort Smith? A Back that way, they always called back that way north, it is about north.

Q Edwards a white man? A No, sir.

Q Colored man? A He was an Indian, mixed with negro.

Q What side of the river did he live on, do you know? A He lived on this side, on the north side of the river, just some side his place was.

Q He farmed down there, did he? A No, he never had a farm, he was a doctor.

Q What sort of a house did he live in? A A little log house.

Q Did he have a family? A He had had a wife.

Q Didn't then? A No, sir.

Q Any children? A No, sir, no children.

Q Who were your neighbors around Edwards? A Why the closest neighbor we had there was an old lady by the name of Phoebe.

Q Phoebe what? A I don't know what her other name was, Phoebe Walker I think her name was.

Q You lived down there till six or eight children were born? A No, I never had that many children.

Q Well, all but one? A Yes.

Q And that is the only neighbor you know? A No, I would go away and come back there.

Q What did you go down there for a little while ago?

cooking.
 Q Who did you work for? A Anybody that wanted me.
 Q Name somebody you worked for? A When I was out at Uncle Edwards I didn't do any work.
 Q Didn't work for anybody in the Nation at all? A Not there I didn't.
 Q Never had any house there of your own? A No, sir.
 Q How far was Edwards from where you were born? A From where I was born; I don't know.
 Q Were you ever back to the old home place since the war?
 A No I haven't been back there.

Taking of testimony continued by stenographer Chas. von Weise.

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 10th of July, 1901.
 Signed, T. B. Needles,
 Commissioner.

Continued from Stenographer Bruce C. Jones.
 Nowata, I.T., June 27th, 1901.

POLLIE NEVINS called and sworn as a witness for the applicant:-

By Com'r T. B. Needles-
 Q What is your name? A Pollie Nevins.
 Q What is your age? A 56.
 Q What is your postoffice address? A Fort Gibson.
 Q Are you a recognized Cherokee freedman? A Yes sir.
 Q Do you know the applicant Fannie Mackey? A Yes sir.
 Q How long have you known her? A Just the year, the first year peace was made.
 Q Was she a slave during the war and before the war? A She was with her owners when I went to hire her.
 Q Where was she then? A At Fort Gibson.
 Q You went to hire her you say? A Yes sir for Mrs. Bowers where was working at the hotel.
 Q Who did you hire her from? A The Moores, they was her owners.
 Q What year was that that you hired her? A The first year that peace was made - peace was made in the summer and that was in the fall.
 Q You dont know whether it was '66 or not? A That was in '66 wasn't it.
 Q How long have you known her since? A I have not seed her in a long time. She staid there a month with me at the hotel and then we let her go, she was not much good around there and Mrs. Bowers let her go.
 Q Where did she go then? A I dont know, she was not a very good worker and I told Mrs. Bowers that she did not suit and het let her go.
 Q Well dont you know where she went then? A She hired out in town there.
 Q When did you next see her after that? A I never seed her any more for a good while.
 Q Until now? A Up here? A Yes sir I seed her at Braggs when she married Uncle Russell Mackey.
 Q You dont know where she lived before the war? A No sir.
 By Hastings - (Cherokee representative)
 Q Who were these people from whom you hired her? A Moores.
 Q What were their first names? A I dont know.
 Q Was there a man and wife there, I mean a Mr. and Mrs. Moore?
 A Yes sir

Q. Won't you find out the first name of either of them? A. No, sir, Mrs. Bowers wanted some one to help with the kitchen and asked me to look out for someone among the refugees that was coming around there and I went down into the camp where those people were and hired this one and I went down into the camp where those people were and hired this one.

Q. Was the Mrs. Bowers you speak of, Joe Bower's wife? A. Yes sir.

Q. You never saw this woman Winnie Mackey before that? A. No sir.

Q. How long was she then? A. 15 or 16 years old.

Q. Was she married then? A. No sir.

Q. Was she living with a man at that time? A. No sir.

Q. Had no children then? A. No sir.

Q. Was her mother there? A. I don't know, I just went there and said I wanted to hire some one to work at the hotel and that there was three dollars a week for a good worker and she said she was a good worker and wanted to hire out and I took her, but she wasn't much good around there and Mrs. Bowers let her go.

By the Commission:
Q. Were the Moores Indians? A. Yes sir.

By Hastings:
Q. What became of them? A. I don't know, they all scattered out.
Q. Did you witness for this woman before the Kern-Clifton Commission?
A. No sir.

Q. What are you doing up here? A. What are you doing up here yourself?

Q. That is my business, you are a witness and I want you to tell me what you are doing up here? A. I come up here to look after my kin folks - friends and acquaintances just as far as I know and no farther, I am doing what is right and am telling the truth just as I know it.

EASTER WILLIAMS, called and sworn as a witness for applicant-

By Commission-

Q. What is your name? A. Easter Williams or Williams.

Q. How old are you? A. About in the 50's.

Q. What is your postoffice address? A. Ruby.

Q. Are you a recognized Cherokee freedman? A. Yes sir.

Q. Do you know this applicant? A. Yes sir.

Q. How long have you known her? A. It has been so long, I met her in Fort Gibson when she was a young girl and then she never had any children.

Q. Did you see her in 1867? A. I didn't see her until I seed her at Gibson and then I never seed her any more until I seed her at this enrollment.

Q. You never saw her six between those times? A. No sir.

Q. Who did she belong to before the war? A. She said she belonged to the Moores.

By Hastings-

Q. Was the war still going on when you first saw this girl? A. Yes sir.

Q. With whom was she living there? A. She was working out.

Q. Who for? A. I don't know just who she said she was working out for.

Q. You didn't see her owners yourself? A. No sir.

Q. You saw her after she was freed did you? A. Yes sir, about that time.

Q. You don't know what year it was? A. I don't know the year, but it was the time the war was going on, just about time of peace.

Q. Where did you next see her? A. I seed her at Gibson at the enrollment - I remember now I seed her then.

Q. Was that 2 or 3 months ago? A. You know there has been several enrollments at Gibson? A. No sir it was at the Kern Clifton court.

JOHN BALDRIDGE, called and sworn as a witness for the applicant-

By the Commission.

Q. What is your name? A. John Baldrige.

Q. How old are you? A. I was born in 1830, born and bred then.

Q born and bred in the same year? A Yes sir.

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Is your name on the roll of 1880? A No sir these fellows knock-
ed me off, only on election times they say I am all right.

Q When they want you to vote for them? A Yes sir.

Q Do you know the applicant here? A Yes sir.

Q When did you first know her? A I got well acquainted with her
in '66.

Q Was she a slave? A So said she was.

Q Do you know her to have been a slave? A I say, so said, I dont
know myself.

Q Was she taken out of the Cherokee Nation during the war? A I dont
know.

Q Where did you first see her after the war? A In Fort Gibson in '63
and then I have seen her off and on in Sequoyah district 2 or 3 times.

Q Was she married when you first saw her? A No sir.

Q Who was she with? A Some Cherokees.

Q Do you know their names? A Some of the Mayfields.

Q Are you satisfied this is the same woman you saw there? A Yes sir

Q You didn't know her father and mother? A No sir.

Q Where does she live now? A In Cooweescoowee district near Lezaphah

Q Is she married now? A Yes sir, she was married to Roswell Mackey

Q Do you know her children? A I know Bob and Joe and Maggy and
one girl I disremember.

Q Was she ever married before she married Roswell Mackey? A I dont
know.

Q Is Roswell Mackey the father of these children? A I dont know.

Q Do you know Roswell Mackey? A Yes sir.

Q Were they living together as husband and wife when you knew
them both? A Yes sir.

Q You was in Fort Gibson in '63? A Yes sir from '63 and was
discharged as a soldier right there

Q Was you a United States soldier or a Rebel? A I was with the
Union I was fighting them other fellows.

E. Hastings

Q And they made it pretty hot for you too didn't they? A Yes
sir so others.

Q You have been on a visit to Detroit Michigan haven't you? A Yes sir.

Q You were with the United States that time too? A (No response)

Q What did they give you that trip was for up there? A That is my
business and it is your business to tend to these freedmens court
and to ask things that is right.

Q Well that is what I am doing, now you were sent to the peniten-
tiary up there? A I want answer nothing that is not lawful, you has
not got the constitution to ask that.

Q You refuse to answer that do you? A Yes sir, I will answer
anything that you had a right to ask, but you has not got the con-
stitution to ask that.

Q When did you come back from Detroit? A I am here aint I?

Q Well how long have you been here? A All my days.

Q Well you say you saw this applicant at Fort Gibson in '66? A Yes
sir.

Q What was she doing there? A Just working at the hotel where
Pollie Nevins was staying.

Q What time of the year was that? A Long in the spring.

Q You never saw her owners? A No sir.

Q Was she living with her mother then? A I never used her mother.

Q At whose place in Sequoyah did you see this woman? A At Mayfields

Q Which one? A They used to live on the road going to Fort Smith.

Q When did you next see her? A Off and on ever since.

Q When did you next see her? A I cant give the day, week and year.

Q You never knew her to keep house in the Cherokee Nation did you?
A Yes sir.

Where? A Lenoah and ...
How long ago was that? A More than five years ago.
Was that the first time you saw ... of her keeping house in
the Cherokee Nation? A Yes sir.

Applicant not found on the 1880 and 1890 rolls.

Exam Clifton roll examined and the name of the applicant
found thereon as follows-

Page 133 No. 3312, Emma Moore, ... District.
Page 133 No. 3315, Andrew Moore, ... District.

By Mr. Keebler-

Emma Moore swears for herself and a son
named Andrew Moore. They are not identified on the authentic-
ated roll of 1880 or the census roll of 1890. They are iden-
tified on the Exam Clifton roll, the applicant being there
listed as Emma Moore and her son as Andrew Moore. She swears
that she was a slave of one Jack Moore and went to Texas and
returned in 1866; she swears that she has grand older children;
she also swears that she is now married to one Keeley; she will
be listed for enrollment as a Cherokee freedman on a doubtful
card and the Commission will notify her by mail of its final
decision in her case.

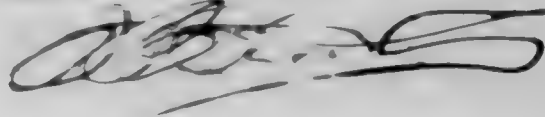
Chas. von Weise, being sworn states that as stenographer to
the Commission to the Five Civilized Tribes he reported in full all
the proceedings in the above case and that the foregoing is a
true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 11th of July, 1911.

Signed, Chas. von Weise.
Signed, I. B. Keebler,
Commissioner.

Bruce C. Jones, being duly sworn, says that as stenographer to
the Commission to the Five Civilized Tribes he copied the foregoing,
and that the same is a true and correct copy from the original.

Sworn to and subscribed before me this the 11th of August, 1911.



Commissioner.

Department of the Interior
Commission to the Five Civilized Tribes,
Hearings, I.P., July 1, 1901.

In the matter of the application of Joseph Moore for the enrollment of himself and one child as Cherokee Freedmen
Joseph Moore, being duly sworn and examined by Commissioner
Henderson, testified as follows:

- Q What is your name? A Joseph Moore.
Q How old are you? A 38.
Q What is your postoffice address? A Wall Wagner what I am at home.
Q What district do you live in when you are at home? A I am where the old lady is, in Wagner.
Q Live in Wagner? A Somehow in district, or something or
anyway I guess.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A One child, Minnie Moore.
Q Is your name on the roll of 1867? A It is on the Wallace roll.
Q How old is your child? A 8 years old.
Q What is your mother's name? A Virginia Moore.
Q Are you married? A I have been.
Q Living with your wife? A No, sir.
Q Parted from her? A Yes, sir.
Q You and her not living together? A No, sir.
Q What is her name? A Minnie.
Q Minnie what before you married her? A Minnie Hickers before I married her.
Q Have you any proof of your marriage? A Well none other than Mr. Hickers, the child wasn't on the roll the last payment.
Q Is this child for whom you apply the child of Minnie Hickers?
A Yes, sir.
Q Were you ever married before you married her? A No, sir.
Q Was she ever married before you married her? A No, sir.
Q Who married you? A A preacher by the name of Frank Berry.
Q Where is he? A He is some place in Kansas, but I got a license and married her.
Q Where did you get the license? A Crawford County, Van Buren, Arkansas.
Q Where you living in Arkansas? A Yes, sir.
Q Where was Minnie born? A She was born there.
Q Where? A In Van Buren.
Q Where were you born? A I was born near the line in the Territory not far from Fort Smith, Arkansas.
Q Where do you live? A At Wagner when I am at home, I work on the railroad all the time.
Q How long have you been living at Wagner? A Well, none --
I don't know, I didn't ask about that. A Well I considered it my home wherever she is at.
Q Well tell the facts and we will see about the line between
the Territory and the State. How long have you been living at Wagner? A I
been living there for about three years I guess.
Q What part of Wagner do you live at? A The west part or south
or west?
Q I mean what part of the town? A I live in the west part of
the town.
Q How far from the bridge a Taylor street? A Well, east by the
as far as the school building there.
Q How far is it from the school building to the center of a school?
I don't know, I can estimate it, you can see how far it is.

Joseph Moore - 3.

Q Well I am not testifying. You say your mother has been living there? A Yes, sir.

Q She has been living there about three years? A No, sir, well I don't know whether it has been that long.

Q How long since you moved away from Van Buren? A I can't tell how long it has been, must have been about, well I don't know, must have been eight or nine years since I was there.

Q You moved away from there the same time your mother did? A I was away from there, yes, sir; no, she came away first, I have worked there since that.

Q You have been there a year or two since that? A No, sir, not over a year or six months at a time.

Q Do you know what year your mother moved away? A No, sir.

Q You never lived in the Cherokee Nation from the time you were born until the last year or two, if at all? A Why yes, I have.

Q Where did you ever live in the Cherokee Nation? A All up and down the road, I worked up and down the road, I never had any stationary home.

Q You had a family all that time, now where has that family lived in the Cherokee Nation? A I lived with this woman when I married her.

Q You married her in Van Buren? A Yes, sir.

Q Where have you and she had a home in the Cherokee Nation? A I never had a home in the Cherokee Nation I tell you, I always considered my home in the Cherokee Nation.

Commissioner: Where was this child born? A In Van Buren.

Q You say you lived with your wife about six months? A Yes, sir.

Q How long did you live with her before the child was born, or was the child born before you lived with her? A It was.

Q You were not married to her when the child was born? A No, sir.

Q How long after the child was born were you married? A About month I guess or two months.

Q Where is the child? A It is with her, it is with its mother.

Q Where does its mother live? A In Van Buren.

Q The child never has lived in the Cherokee Nation I suppose?

A Yes, sir.

Q Did your wife ever live in the Cherokee Nation? A No, sir.

Q Then where did the child live in the Cherokee Nation? A With my mother.

Mr. Davenport: What kind of railroad work do you do? A Section hand.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.

The 1896 census roll of Cherokee Freedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined, and the application, Joseph Moore, identified thereon, page 183, No. 5518, Illinois district.

Commissioner: You never drew strip money for this child? A No, sir.

Commissioner: Joseph Moore applied for the enrollment of himself and his child, Marie, 8 years of age. He avers that he was born near the Cherokee and Arkansas line, that he is the child of Winnie Mackey, who is listed for enrollment on Cherokee Card D-888, and claims his citizenship through his mother. A copy of the testimony of the said Winnie Mackey, his mother, who is enrolled on D card 888, will be made part of the record in the case at bar, and the same will be filed herewith. He is only identified upon the Kern-Clifton roll, but cannot be identified upon any other roll in the possession of this commission. His child, Marie, is not identified upon any roll. He avers that he was married to one

Joseph Moore - 3.

Minnie Dickens, in the state of Arkansas, and that the said child for whom he applies was born ~~after~~ before his marriage; a few months after the child was born he avers he was married to its mother. He makes no satisfactory proof as to his marriage. It will be necessary for him to file with this Commission a certified copy of the records from the county in Arkansas in which he was married. As to his residence, reference is made to the testimony. The said Joseph Moore and his child Mamie will now be listed for enrollment as Cherokee Freedmen on a doubtful card. It will be necessary for him also to file with this Commission satisfactory proof of the birth of said child. He avers that the said child is in the custody of its mother in the State of Arkansas.

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 July, 1901.



Notary Public

Sept. 27, 1901.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
PORT GIBSON, I.T., SEPTEMBER 24, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
WINNIE MACKAY as a Cherokee Freedman, introduced on the part of
Cherokee Nation:

APPEARANCES:

Mr. L. B. Bell, of Counsel for Cherokee Nation.

Friar of service made and applicant fails to appear,
either by attorney or in person.

JOHN KEETON, being duly sworn by Commissioner Needles,
testified as follows on part of Cherokee Nation:

MR. BELL: Give me your name? A John Keeton.

Q Your age? A 66.

Q Your post office? A Alma, Arkansas.

Q Well, Mr. Keeton, this is a case of Winnie Mackay she calls her-
self, called Winnie Moore or Steward, claiming to be a Cherokee
Freedman, are you acquainted with her? A Yes, sir.

Q Where did you first know her? A In South Carolina.

Q What was that? A That was before the war, Civil War.

Q What was her name there? A Her name was Winnie.

Q How did you become acquainted with her? A Well, sir, the man
that owned me was jailer at that time and I was staying there and
she was put in jail there, a small girl.

Q How long did you stay in South Carolina after you saw her there?

A I was small and so was she and I stayed until I was a grown
and free until I come to Arkansas.

Q When did you go to Arkansas? A I have been here 12 years I
think it is I have been here now.

Q Where did you stop? A I come to Van Buren, Arkansas.

Q Have you seen this Winnie Mackay since you come to Arkansas?

A Yes, sir.

Q Where did you see her first? A Van Buren.

Q What was she doing there? A She was living there.

Q Did she have a family there? A Yes, sir.

Q Husband? A Yes, sir.

Q What was his name? A Steward Moore.

Q How long did you know Steward Moore there? A I

knowed him several years.

Q What kind of man was he? A He went to Africa.

Q About what time? A It was about six years ago, there was a
great crowd and he was with the crowd.

Q Was he leaving early before he started? A Yes, sir. She was
there, he just worked about, sometimes up there and sometimes down

about Alma.

Q How long did he stay in Van Buren, so you know, after he left
there? A I could not say positive just how long she staid after

he left. I think it was about a year.

Q You saw her there, how long after he left? A Yes, sir, and
I knowed her there.

Q Did you see her in South Carolina? A No, sir, I didn't
remember where I did from there.

Q Did you see her there before she left there before the war or
after?

Q How did you get there? A Yes, sir.

Q How long did you stay there? A Yes, sir, I may not know.

Q How long did you stay there? A Yes, sir.

Q How long did you stay there? A Yes, sir.

Q How long did you stay there? A Yes, sir.

Q How long did you stay there? A Yes, sir.

Q How long did you stay there? A Yes, sir.

him in South Carolina and married.

Q When you first came here ten or 12 years ago, did she have them children that she claims to have? A Yes, sir.
Q Do you know anything about any of them; that is, where they were born? A They was born in South Carolina.

Q CO. E. HARRIS: You say you know this woman, Winnie Mackey, in South Carolina? A Yes, sir.

Q When was that? A It was before the war.

Q Was she a slave there? A Yes, sir.

Q Who did she belong to? A I could not tell you who she belonged to.

Q How old was she when you knew her there? A I could not tell.

Q Well, about how old? A She was, I guess about ten or 12 years or maybe older.

Q You knew her in South Carolina before the war? A Yes, sir.

Q What was ten or 12 years old then? A Yes, sir.

Q But you don't know who belonged to? A No, sir, I do not know who she belonged to.

Q When did you come to the Cherokee nation; where do you live now? A I live in Arkansas.

Q When did you come from South Carolina to Arkansas? A I have been here 12 years, in Arkansas.

Q You left South Carolina and came to Arkansas 12 years ago? A Yes, sir.

Q Was Winnie Mackey in South Carolina then? A No, sir, she left before I did.

Q About how long before that? A I don't know.

Q Do you know whether she left there before the war or not? A She was there then, she was freed there.

Q Who did she belong to? A I told you I didn't recollect her owners, I could not tell you that.

Q Did you ever know a man by the name of Jack Moore? A No, sir.

Q Never knew a man, Jack Moore? A No, sir.

Q Did you ever know anything about this applicant being in the State of Texas, this Winnie? A No, sir.

Q Do you know that the Winnie Mackey you saw in South Carolina is the same Winnie Mackey that applies to be enrolled here as a Cherokee Freedman? A Yes, sir.

Q How do you know it? A It is, if it be Steward Moore's husband, if that is the one I knew her.

Q For how long after you left South Carolina did you see her, Winnie Mackey? A Well, I didn't know her by that name; she wasn't no Mackey when I knowed her.

Q What was she then you knew her? A She was Winnie Moore, Steward Moore's wife.

Q Where, South Carolina? A Yes, sir.

Q Was she Steward Moore's wife when you saw her and knowed her in South Carolina? A Yes, sir.

Q He was married to her? A Yes, sir.

Q This Winnie was married to a man by the name of Steward Moore in South Carolina? A Yes, sir.

Q And had children there? A Yes, sir.

Q How many children? A There was two girls and three boys, if I make no mistake.

Q Do you know their names? A Yes, sir, I think so.

Q Please give their names? A Joe and a Bob and a Willie and a Leg.

Q Now, that was Winnie's children you knew in South Carolina? A Yes, sir.

Q Are her name there in South Carolina? A Yes, sir.

Q She was a grown woman and had children? A Yes, sir.

Q Now you came from South Carolina to Arkansas? A Yes, sir.

- Q You left Winnie there? A No.
- Q The case first? A Yes, sir.
- Q Then when did you see her after you come from South Carolina. When did you first see Winnie? A It was her at Van Buren the first place I seen her after I come here.
- Q How long was it from the time you saw her last in South Carolina until you saw her in Arkansas, at Van Buren? A I could not recollect.
- Q Well, about how long? A I would not be positive about that.
- Q Well, you ought to know about how long; you know how long you lived in South Carolina and how long you lived in Arkansas, approximate it is near as you can? A I had been out here I think about two years before I seen her, as near as I can get at it.
- Q And how long had she been gone from South Carolina before you left South Carolina? A That's that I don't recollect now; not, sir, she stopped, I think.
- Q But I know you saw her in South Carolina and she left before you did? A Yes, sir.
- Q No, how long was it from the time you saw her in South Carolina the last time until you left South Carolina? A Several years, because she didn't live in the settlement.
- Q And then you were here two years before you saw her? A Yes, sir.
- Q Now, when you saw her did you recognize her as the same woman you saw in South Carolina? A Yes, sir, I talked with her.
- Q Did she any more children than she had when you saw her last? A No, sir.
- Q Same number of children? A Yes, sir.
- Q Were her children living with her when you saw her at Van Buren? A Yes, sir.
- Q Married? A Yes, sir.
- Q Was her husband with her? A Yes, sir.
- Q The same husband she had in South Carolina? A Yes, sir.
- Q Where were both there? A Yes, sir.
- Q His name was Steward Moore? A No, sir.
- Q You didn't know Jack Moore you said? A No, sir.
- Q No, when you saw her at Van Buren was that after the war or before? A After the war.
- Q Do you know where she was during the war? A She was in South Carolina.
- Q During the war? A Yes, sir.
- Q Were you there? A Yes, sir, I was freed there.
- Q You saw her during the war? A Yes, sir.
- Q She was freed there? A Yes, sir.
- Q You didn't know her owner's name? A No, sir, I could not be positive about her owners.
- Q Did you know a man by the name of Mackey? A No, sir.
- Q Do you know how Winnie come to be named Mackey? A No, sir.
- Q You don't know when that Winnie Mackey is the same person you knew in South Carolina as Winnie Moore? A As I said a while ago I never knew her by that name.
- Q You never knew a Winnie called Mackey there? A No, sir.
- Q Did you ever know Winnie Mackey anywhere? A No, sir.
- MR. HASTINGS, of Counsel for Cherokee Nation:
- Q There was this Winnie married? A She was married in South Carolina.
- Q Was that before or after the war? A She was married before the war.
- Q Did you know her there after the war? A Yes, sir.
- Q For a number of years after the war? A Yes, sir, good while; she lived in another settlement of the country there, of course I didn't live right just door neighbor to her. She lived there in the

neighborhood a number of years after the war.

Q About how many years in your judgment? A I could not be positive about the number of years, I don't recollect, and if I was to say-

Q Do you know that she has lived there as much as five years after the war? A Yes, sir, I guess more.

Q Well, were these children you have mentioned here born there?

A Yes, sir.

CO. 'R NEEDLES: You lived there five or ten years after the war did you? A Yes, sir.

ALBERT LATTIMER, being sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation:

MR. BELL: Give your name? A Albert Lattimer.

Q Age? A Well, I am about 58.

Q Post office? A Alma, Arkansas.

Q Mr. Lattimer, this is a case of one Winnie Mackey, by that name now, that claims to be a Cherokee Freedman making application here with a lot of children, children named Moore she calls them; she is the wife of one Steward Moore, or Moore Steward; I don't know which? A Steward Moore, I guess.

Q Are you acquainted with her? A Well, I have seen her of course since I come to this State.

Q Where did you come from to Arkansas? A From South Carolina.

Q How long ago? A I come here in '87.

Q Are you acquainted with her in the State of South Carolina?

A No, sir, I wasn't.

Q Where did you first see this Winnie Moore or Mackey?

A Well, I saw her at Van Buren.

Q Van Buren, Arkansas? A Yes, sir.

Q About when? A Well, it has been ten years ago, about.

Q About ten years ago? A Yes, sir.

Q What was she doing there? A Well, she was just staying there in the town at that time; I could not tell you what her occupation was, she was just staying there at that time.

Q What about her husband? A Yes, sir, he was at her house one time.

Q She was keeping house there? A Yes, sir.

Q Did she have any family? A Yes, sir, she had some children with her.

Q Have any husband? A Yes, sir, her husband was there.

Q What was her husband's name? A Steward Moore was his name.

Q Was he a freedman? A Yes, sir.

Q Do you know what became of Steward Moore? A Went to Africa.

Q About how long ago? A Well, you may say, I believe he left here in '95, as well as I can remember; I think it was in '95.

Q How long did you know that he was in Van Buren? A Well, I think I knowed her there; well I never sees her in there but about twice you see I come from the old country and stopped there a few days and left there and went to Bira, Arkansas, that is below Van Buren, and I saw her some few times while staying around Van Buren.

Q Some few times after you left Van Buren? A Yes, sir.

Q Well, did you ever see her there about the time her husband left?

A I saw her there after that.

Q She was still there with her family with her husband gone?

A Yes, sir.

Q Did you ever have any talk with her about where she come from to Arkansas? A No, sir, I have not; no, sir.

Q You didn't come from the same part of South Carolina she did?

A No, sir, we was there I suppose in different counties.

MR. HASTINGS: Did you ever talk to her about South Carolina at all? A No, sir, of course; I never knew her back there at all.

COM'R NEEDLES: All you know about this is you saw her there at Van Buren? A Yes, sir.

Q And her children? A Yes, sir.

Q You don't know whether she was ever a slave or not?

A No, sir, I don't know.

Q Don't know who she belonged to if she was a slave? A No, sir.

Q You never got acquainted with them until you came to Van Buren?

A No, sir.

LAURA LATTIMER, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee nation:

MR. BELL: Your name? A Laura Lattimer.

Q Age? A 48.

Q Your post office? A Alma.

Q Mr. Lattimer we have got a case up here of Winnie Mackey, or Winnie Moore, or Winnie Steward, who claims to be a Cherokee Freedman and having been living in the Cherokee nation; do you know any woman of that name? A Yes, sir, Winnie Moore, the woman's name is Winnie Moore.

Q How long have you known her? A Well, it has been about eight or ten years I guess; I know the first I seen of her she was in Van Buren.

Q When did you first see her and where? A In Van Buren.

Q In Van Buren about eight or ten years ago? A Yes, sir.

Q What was she doing there? A She was living there.

Q Have any family? A Yes, sir.

Q What was her family? A Melia and Maggie and Joe and Bob and there is another one I didn't get acquainted with him at all; I have seen the other one.

Q Did she have a husband? A Well, at that time she had a husband, but wasn't living together exactly at that time.

Q What was his name? A Steward Moore.

Q Was she keeping house there? A Yes, sir.

Q How long did you know her after that? A After that he went off to Africa and I never seen her; she come to my house about a year, first seen her to my house on a visit and I never seen her any more, and after he went off I heard she went off; afterwards I heard she was in the Nation.

Q You saw her after her husband went to Africa? A No, sir.

Q You say she come to your house after you lived at Van Buren? A Yes, sir.

Q Where were you living? A At Dira Ar Kansas.

Q How far is that below Van Buren? A Ten miles below Van Buren.

Q You are the wife of this Albert Lattimer? A Yes, sir.

Q Did you and he come from South Carolina together?

A Yes, sir, we was married and he come in the fall before me and I come in the January following.

Q You joined him then at Van Buren, or where? A We was married in South Carolina.

Q He come out here ahead of you and got a place? A Yes, sir.

Q And you come on afterwards and joined him at Van Buren?

A No, sir, at Dira Station, he and my family.

COM'R NEEDLES: Do you know whether this woman was married after Moore went to Africa? A I heard it.

Q How long did she live in Van Buren there after Moore went to Africa? A No, sir, I know she went to somewhere.

Q Did you know Steward Moore? A Yes, sir.

Q Was he a colored man? A Yes, sir.

Q Do you know a man by the name of Jack Moore? A No, sir.

Q Do you know whether Winnie Moore was a slave or not?

A No, sir, I don't know at all.

Q. Did you ever have any talk with her about
where she came from? A. I never knew her until I came to Van
Duren. I have heard she came from the old country.
Q. You never talked to her about her being from South Carolina?

The testimony will be filed in the following cases:
D. 1977, Robert Moore; D. 1978, Amelia Brown; D. 1982, Maggie
D. 1984, Joseph Moore.

J. C. Rogers, being first duly sworn, states that as stenographer
rather 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.

J. C. Rogers

Subscribed and sworn to before me this October 21st, 1901.

[Signature]

Commissioner.

NOTYORKE
IN
2023

NOTYORKE
IN
2023

Cher. Fr. D. 984

Cher. Fr. D. 984

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, considering the applications of:

Franke Wichalson, et al., ----- Cherokee Freedmen D-9P4

NOTICE FOR REVIEW OF DECISION.

Come now the above named persons who have been denied enrollment as Cherokee Freedmen, by their attorneys, Blue & Bulger and McGowan & Scrven, and now the Honorable Secretary of the Interior to open their respective cases above named; to review the decisions of the Commission to the Five Civilized Tribes denying said applications; to reverse said decisions, and to enroll each of the said applicants as a Cherokee Freedman, for the following reasons:

The decision of said commission in the matter of each application was and is contrary to law.

The evidence adduced by said applicants in support of their applications show:

1. That each of said applicants was a slave of a Cherokee citizen at the time of the commencement of the war of the rebellion and was liberated by voluntary act of his Cherokee owner or by law, or is the descendant of such slave.
2. That each of said applicants, if born, was a resident in good faith in the Cherokee Nation prior to June 26, 1893.
3. That said applications were made prior to September 1, 1903.
4. That at the date of said application, the said applicants had not abjured or forfeited their Cherokee citizenship by moving out of the Cherokee Nation with their effects to some other state or nation and by becoming a citizen thereof.

ISSUED IN OFFICE August 11, 1903.

WHEREFORE, said applicants, by their attorneys, respectfully request that they be enrolled as Cherokee Freedmen.

Blue and Bulger

Attorneys for Applicants.

Service of the above notice accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this _____ day of _____, 1903.

WILL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1st, 1901.

In the matter of the application of Fannie Nicholson for the enrollment of herself and four children as Cherokee Freedmen.

Appearances:

L. T. Brown, for applicant;
S. S. Davenport, of counsel for Cherokee Nation.

Fannie Nicholson, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Fannie Nicholson.
Q How old are you? A I am about 21 or 22 as near as I can remember.
Q What is your postoffice? A Lawyah.
Q What district do you live in? A Coconawhatchee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Descendant of a Cherokee Freedman, yes, sir.
Q Who do you want to enroll besides yourself? A A myself and two children.
Q What are the names of your two children? A Bessie Nicholson.
Q How old is Bessie? A Lets see, it is Justina Nicholson and Mabel.
Q How old is she? A She was born in '96.
Q What is the name of the next child? A Mabel Nicholson.
Q How old is Mabel? A She is 2 years old.
Q These children both named Nicholson? A Yes, sir, Nicholson.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Lec Nicholson.
Q Is he a citizen? A Yes, sir.
Q Were you ever married before? A No, sir.
Q Was Lec Nicholson ever married before? A No, sir, not as I know of.
Q Are you married to him now? A Yes, sir.
Q What was your father's name? A I don't know.
Q What was your mother's name? A I don't know sir.
Q What name did you go by before you were married? A Fannie Best.
L. T. Brown: Where were you born? A I was born in Fort Gibson.
Q LIVED IN the Cherokee Nation all your life? A Yes, sir.
Q Your two children were born in the Cherokee Nation? A Yes, sir.
Q You say you don't know your mother's or your father's name? A No sir, my mother died when I was quite young, they told me I was about two years old.
Q By whom were you raised? A By a woman named Lucy Jones.
Q Is your name on any of the rolls, do you know? A Yes, sir.
Q Did you draw what is known as the strip money? A Yes, sir.
Q Your name on the roll of 1880? A No, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified therein.
The 1888 census roll of Cherokee Freedmen examined and the applicant not identified therein.
The Kern-Clifton roll examined and the applicant, Fannie Nicholson, identified therein, page 199, No. 3719, Coconawhatchee district.
Q Did you draw for either one of these children? A No, sir, I drew for three more, the eldest ones.
Q You think don't apply for the other children that are there the only children you have got? A They have been enrolled.
Q Who would have enrolled them; have they been enrolled by this Commission this time? A No, sir, not this time, before.
Q Don't you want to enroll them now? A No, I can't wait to enroll them but once.

Fannie Nicholson - 2

Q Well you have been enrolled before, haven't you? A Yes, sir.
Q Are all your children living with you? A Yes, sir.
Q Well, what are their names? A Ethel Nicholson the eldest one.
Q How old is Ethel? A She is 18.
Q Well, the next one? A Bessie Nicholson.
Q How old is Bessie? A She is 7.
Q The next one? A I told you the other two.
Q You just got four? A No, sir, I have another one, I have
five in all.
Q What is the other one's name? A Edna.
Q How old is Edna? A She is 2.
Q All of them named Nicholson? A Yes, sir, all Nicholson.
Q Were they all born after you married Lee Nicholson? A Yes, sir.
Q Are you living with Lee now? A Yes, sir.
Q Is Edna dead? A Yes, sir.
Q Any of the others dead? A No, sir.
Q You have got four living, have you? A Yes, sir.
Q All living with you at this time, are they? A Yes, sir.
Q They all brothers and sisters, are they? A All sisters.

The Kern-clifton roll examined and the applicants identified thereon as follows:

Ethel Nicholson on page 150, No. 5711, 6000-60000 district.

Bessie Nicholson on page 150, No. 5711, 6000-60000 district.

Mr. Davenport: When was the first time you ever saw Polly Nivens?
A I ~~seen her~~, I don't know just how old, but ever since I have been
big enough to recollect anything.

Polly Nivens, being duly sworn by Commissioner Needles, testified as follows:

L. T. Brown: State your name? A Polly Nivens.
Q Your age? A 56.
Q Your residence? A Fort Gibson.
Q You a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Does your name appear upon the authenticated roll of 1909?
A Yes, sir.
Q You know the applicant, Fannie Nicholson? A Yes, sir, known her all her life.
Q Know her mother? A Yes, sir, I wasn't much acquainted with her mother.
Q What was her mother's name? A I have forgot her mother's name.
Q You know her father? A No, sir, I didn't know her father at all.
Q Do you know to whom her mother belonged at the beginning of the war? A Yes, sir.
Q Who was that? A Old Mrs. Martha Beas.
Q Was her owner a citizen of the Cherokee Nation? A Yes, sir, citizens of the Cherokee Nation.
Q At the beginning of the war? A Yes, sir, brought her mother back right close to my mother's mother's.
Q Did you see her mother after the war? A No, sir, her mother died.
Q Died when? A It was just a little over a year, my mother grieved for that girl when she was born.
Q Was that during the war or after the war when she died? A It was just when peace was made, her mother was confined close to my mother.
Q Where was her mother living at that time? A Right on the hill from old town, where all them Cherokees lived, right there side the road.
Q How long after the close of the war was that? A Just in the fall after peace was made, Mrs. Beas came back with her family, brought this girl's mother on back with her

Fannie Nicholson - 3.

Q What because of this applicant after her mother's death at the close of the war? A Why there was an old lady took her, stayed with her.

Q She been here all her life? A Yes, sir, backwards and forwards, has been in Gibson in here all her life, up until she married Mr. Nicholson, but I wasn't at the wedding.

Q Where has she been, in what Nation? A In the Cherokee Nation, down in Sequoyah.

Q Then of your own personal knowledge she has lived in the Cherokee Nation since her birth up until this day? A Yes, sir, I don't know where she is living here; I knowed her ~~mother~~ all her life too.

Q Her mother died in the same year after the war closed? A Yes, sir, her mother died just when she was a young baby, my mother waited on her when she was born.

Commissioner: Do you know her mother was a slave? A Yes, sir, belonged to old Mrs. Bean.

Q Can you recollect what her name was, her mother? A I have forgot her mother's name, I know her mother's name but I done clean forgot it, the way I got acquainted with her, my mother waited on her mother when she was born, and I would go by and carry her something to eat as I would go to work.

Q That was when this girl's mother was born? A When this girl was born.

Q Your mother waited on this girl's mother when this girl was born? A Yes, sir, that is right.

Q Where was this girl's mother living at the time your mother waited on her? A At old Big Mary's, an old colored woman on the side of the road.

Q Was that during the war? A No, sir, just after peace was made; her mother never did go out.

Q She never; she was here at the close of the war? A Yes, sir she died here.

Mr. Davenport: What Bean was it she belonged to? A John Bean and Mark Bean.

Q That is the first woman's name on earth you ever forgot?

A Yes sir is; no it is not the first, I have forgot a heap.

Q You didn't know this girl's mother before the breaking out of the war? A No, sir, I didn't know then before the breaking out of the war, no sir.

Q You don't know her name now? A Yes, sir.

Q And you don't know of your own knowledge that her mother belonged to the Beans? A Yes, sir, because one transported her back.

Q Who did? A Old lady Bean.

Q What was her name? A I just called her Mrs. Bean, I never did ask her her name.

Q The Beans didn't come back to Fort Gibson to live? A They come and stayed a while, they didn't live, and this girl's mother she came with them, belonged to them because the old the old lady was her mistress.

Q She didn't belong to her when you saw her at Fort Gibson? A This girl's mother did, before this girl was born.

Q The Beans come back from Kansas the south and went through Fort Gibson? A I don't know whether they came from the south or not, come back from somewhere and brought this girl's mother with them.

Q They had her along with them? A Yes, sir, and she was along with them, they stopped in Fort Gibson a short while, and camped there a short while.

Q And this girl's mother was there while they were there? A Yes, sir, this girl's mother was with them.

Q The girl's mother wasn't in Fort Gibson until the Beans come back going home? A Yes, sir.

Fannie Nicholson - 4.

Q And she turned up at that place about that time? A Yes, sir.
Q And this girl was born there? A Yes, sir.
Q This girl is about 50 years of age? A I don't think she is that old, I can't tell you exactly, I haven't any idea.
Q The war was over anyway when they came back there? A Yes, sir.
By L. T. Brown: Was this girl born in the same year that her mother died? A Yes, sir.
Mr. Davenport: You know what year that was? A No, sir. I don't know exactly what year, but it was the same year, the first year peace was made,
Q The same year the Burns came back there? A Yes, sir. The same year and they returned to there.

Harner Brown, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Harner Brown.
Q Your age? A 55.
Q Your residence? A Townsboro, Ga.
Q What is your postoffice address? A Lenoir.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Recognized by the Cherokee authorities? A Yes, sir.
Q You know the applicant, Fannie Nicholson? A Yes, sir.
Q How long have you known her? A About 23 or 24 years I guess.
Q Do you know her mother? A No, sir.
Q Her father? A No, sir.
Q You say you have known the applicant 23 or 24 years? A Yes, sir.
Q Where has she lived all that time? A When I know her she lived down here close to Fort Smith, I was going to Fort Smith, I stopped over night with her.
Q In Sequoyah district? A Yes, sir.
Q In the Cherokee Nation? A Yes, sir.
Mr. Davenport: You never knew anything about her until about 24 years ago, you say? A No, sir.

Commissioner: Fannie Nicholson applies for the enrollment of herself. She cannot be identified upon the authenticated roll of 1860 or the census roll of 1886, but she is identified upon the Kern-Clifton roll. She also applies for the enrollment of four children, Ethel and Beattie, whose names are identified upon the Kern-Clifton roll, and two younger children, Jostenie and Mabel, whose names do not appear upon said rolls. She does not recollect the names of her father and mother. Satisfactory proof has been made as to her residence. Reference is made to the testimony as to her citizenship. She and her four children will now be listed for enrollment as Cherokee Freedmen on a doubtful card. It will be necessary for her to make satisfactory proof of birth as to her two younger children.

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 18th of July, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washgton, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
FANNIE NICHOLSON, ET AL., as Cherokee Freedmen, introduced on part
of the Cherokee Nation:

Applicants:

Malhotra & Smith, Vinita, I. T., Attorneys for Appli-
cants;

Mr. W.W. Hastings, Cherokee Representative;

MARK BEAN, being duly sworn, testified as follows on part
of the Cherokee Nation:

MR. HASTINGS:

- Q What is your name? A Mark Bean.
Q How old are you? A 59.
Q What is your post office? A Evansville, Arkansas.
Q Are you a Cherokee citizen by blood? A Cherokee citizen by
blood.
Q What was your mother's name? A Ruth Bean.
Q Did you have a brother by the name of John? A Yes, sir.
Q Where did you go during the war? A We were soldiers, my mother
refused into Texas.
Q Where did you come from when the war was over? A Texas.
Q How, how did you come back from Texas? A We came back from
Texas by way of Red river, from the mouth of Boggy and up through
Van Horn and from there to Evansville.
Q Did you come through Fort Gibson? A No, sir.
Q Did you come within 40 miles of Fort Gibson? A The nearest
point I was at Fort Smith something like 50 or 60 miles.
Q What was your mother's name? A Ruth Mark Bean.
Q Did your people see a colored woman by the name of Martha?
A No, sir.
Q Did you bring a colored woman back with you? A There was a
colored woman come back part of the way with us.
Q What was her name? A Julia.
Q You didn't bring any people back with you? A No, sir, except
a man by the name -
Q What was his name? A Task Hayfield.
Q You didn't come back by way of Fort Gibson? A No, sir.
Q Did your people see a colored woman by the name of Martha when
the war came up? A No, sir.
Q You don't know this applicant, Fannie Nicholson? A No, sir,
I came back with my mother and brother, John Bean.

MR. MALHOTRA:

- Q What was your mother's name, Martha Bean? A No, sir.
Q Did you know Martha Bean, a Cherokee? A No, sir, I did not.

MR. HASTINGS:

- Q You had a brother by the name of John? A Yes, sir.
Q Were there any other brothers in the country besides you and your
brother? A I don't know of any other family where there was a
Mark and John in the family. I know where there was a Mark and
John but not in the same family.

I hereby certify upon my official oath as stenographer to the
Commission to the Five Civilized Tribes that I correctly recorded
the testimony had in this case, and that the foregoing is a true and
correct transcript of my stenographic notes.

Johnston Jones

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of HENRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mallette & Smith; Cherokee Nation, by W. V. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmore, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case P D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Henry Nicholson, D 904;

By W. V. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Hill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of ~~Moses Birtaire~~, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant or the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decrees of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 30, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of
the application for the enrollment of Fannie Nicholson et al.,
as Cherokee Freedmen.

Appearances: W.W.Hastings, attorney for Cherokee Nation;

GEORGE VANN, being first duly sworn, testified as follows
on behalf of the applicants:

BY COMMISSION: What is your name? A George Vann.

Q How old are you? A 53.

Q What is your postoffice? A Lenapah.

Q What district do you live in? A Cooweescoowee.

Q In what Nation? A Cherokee Nation.

Q Do you know Fannie Nicholson, who has applied to the Commis-
sion for enrollment as a Cherokee freedman? A Yes sir.

Q Who was her father? A I don't know who her father was, I
know her mother.

Q Who was her mother? A Rhoda Bean.

Q Is she living or dead? A She is dead.

Q When did you first get acquainted with her mother?

A I first got acquainted with her mother after we come back from
Kansas to Fort Gibson, in '66.

Q Where did you first see Rhoda Bean? A Right at Ft. Gibson.

Q At what time? A It was in '66 in the fall, near about Christ-
mas times.

Q Was it before Christmas, or after? A It was before Christmas,
before we went to Tahlequah.

Q Was she right in Ft. Gibson or in the country? A Living right
in Ft. Gibson, most of the people at that time was living right
in Ft. Gibson, hardly anybody in the country.

Q Who was she living with? A I don't know, she was living in
town though, in a house of her own. She lived right close to my
uncle Irvin; that's how I come to get acquainted with her.

Q Did she have a family at that time? A One little bit of a
girl - a child you might say.

Q You don't know how long she had been living there before you
saw her? A No sir, I don't know; I just come from Kansas in '66
and saw her at that time.

Q You are sure that was just before Christmas times, '66?

A It was before Christmas.

Q How long before Christmas? A I don't know, it wasn't very
long before Christmas.

Q Was it less than a month before Christmas? A I think it was
less than a month, if I mistake not, it wasn't long.

Q How long did Rhoda Bean stay there? A I don't know; you see
I lived up on Spring Creek at that time and we come down backwards
and forwards from there to Tahlequah. I don't know how long she
lived there.

Q Did you see her more than once? A Yes sir, several times.

Q How long did you see her, about? A I would be there maybe two or three days. I did stay there about Christmas once, a week, maybe two weeks.

Q How long did she stay there then? A She was there all the time while I was there. I could see her most every day.

Q You say you saw her several times at Fort Gibson? A Yes sir, we come down to Fort Gibson, and to Tahlequah, backwards and forth.

Q When was the last time you saw her there? A The last time I saw her there was some time in Christmas week. I stayed there all that Christmas nearly, sometime s in Christmas week. The last time I stayed there, I don't know what day

Q Do you know what became of her afterwards? A I was told she died, but her girl, this child, this man's wife now, was the child everybody claimed was her child, at that time, they claimed that was the one.

Q When did you next see her in the Cherokee Nation after that?

A I never saw her any more after that ~~wat~~ Christmas. She died after that I guess, I didn't see her.

Q About how old did she appear to be at that time, Rhoda Bean?

A I don't know, she seemed to be like she was about 25 or 30 years old. Might have been older, maybe younger. I don't know. I was just a boy at that time, and never paid much attention. Never paid any attention to how old she might be. I am just guessing at that.

Q You are the same George W. Vann who was in the Horse Creek fight, are you? A Yes sir, the same man.

Q You don't know of your own knowledge where Rhoda Bean was living at the time of her death, do you? A No sir, I don't know. I don't know of my own knowledge. I would hear, but I don't know of my own knowledge at all.

Q How did you come to know that this girl you saw was Rhoda Bean -

A In talking with Polly Nivehs, and people that knew her, in talking around, just like you know me. A conversation come up, Did you know who this child is here? That's the same Rhoda lived close to Uncle Irvin's, and that is the same girl. That's how come I to know it, in talking around with people that did know, that's how come

Q Do you know whether Rhoda Bean was the slave of a Cherokee citizen at the commencement of the war? A Now, that was just this way: When Mrs. Nivehs, that's Polly Ross now, says that's the same woman that belonged to Mrs. Bean before the war. She said, that's the same woman, and this is the same little baby she had at that time. That's all I know about the ownership of it.

Q Which Mrs. Bean was that? A Lucinda Bean, they called her. They called her Mrs. Lucinda Bean.

Q Did you know that Mrs. Bean yourself? A I have seen her when I was a boy.

Q Was she a Cherokee citizen? A Cherokee citizen.

Q Do you know Mrs. Martha Bean? A I might have seen her, but I wasn't acquainted with her.

Q You don't know yourself whether Rhoda Bean belonged to Lucinda Bean or not, do you? A It was just said like I belonged to the Vanns. Talking about this woman, they says this is the same woman that belonged to Lucinda Bean, and that's her little child that's left, and the woman is dead. That's all I know about it. In talking with people that did know, and knew me. They said this is the same child. I put in the same testimony in the Kern-Clifton court as I do now, just what I know about it.

MR. HASTINGS: You are the George W. Vann that come down at the time of the Horse Creek fight? A Yes sir, Horse Creek fight.

Q You was the fellow that was colonel, or leader? A Not colonel, captain.

Q You saw Fannie Michelsen at Fort Gibson? A Her mother had her, a little bit of a baby.

Q You saw her, did you? A I saw her when she was a little bit of a chap in Fort Gibson, with her mother.

Q You knew her name was Fannie? A No, I didn't know her name was Fannie at that time. I knew her by talking with Polly Nivens, though

Q You are not certain it is the same child? A They said this is the same child, just same as you know anybody else. That's the way I knew.

Q You knew it from talking with Polly Nivens? A Yes sir.

Q Would you believe her on oath? A I couldn't say she was a liar.

Q Would you believe her on oath, answer yes or no? A Yes sir, I couldn't tell whether she was a liar.

Q You heard her testify around in a great many cases?

A You know the biggest kind of a liar can tell the truth sometimes.

Q You know that she testifies untruthfully in a good many cases, from your own knowledge? A I couldn't swear that.

Q You couldn't swear that? A No sir.

Q From what you know of her reputation testifying in these cases, from her reputation, do you think she is worthy of belief, under oath, George? A I couldn't raise my hand and swear to it, no sir.

Q You wouldn't swear to it one way or the other? A No sir, I couldn't do that.

Q You saw a woman with a little child, and from what Polly Nivens said you took this to be the same child? A Yes sir, she says like this --

Q Just say yes or no? A Yes.

Q When did you see the child next? A Now understand, I first --

Q When did you see it next, about how long after '66? A I didn't see her until in Christmas week sometime.

Q How long was it before you saw the child again? A Never saw the child until three or four years after that.

Q Where did you see it next? A As I tell you --

Q Where did you see it next? The child? A I told you I saw it four or five years after.

Q Where? A Fort Gibson.

Q Right in the same town? A Same town.

Q Where was it you saw it, what part of the town did you see it?

A You know here Uncle Irvin lives. Across the hollow, coming down towards this place, right on the road coming this way. Right across the hollow they lived, on this side of the hollow.

Q That is where you saw it? A Yes sir.

Q How long before you saw it again? A I don't know how long.

Q How old was the child when you saw it the first time?

A I don't know, it was a little bit of a thing.

Q Was it as much as two or three years old? A No sir, it wasn't that old.

Q About how old was it? A I don't know it might have been a year old, maybe 2 years, I don't know.

Q That's this same Fannie Michelson? A That's the same one was recommended to me, the same child.

Q You only know it from recommendations? A That's all I knew, just like anything else.

Q Was her father there at the time? A I never knew anyone to be called her father, just knew the mother and the child.

Q What was her mother's name? A They called her Rhoda.

Q Who did she belong to? A Bean, always claimed she belonged to Bean.

Q What Bean? A Rutha Bean.

Q Ever see her before the war? A Ever seen her Fannie's mother?

A No sir, I don't recollect of ever seeing her before. I got acquainted with her when the war was ended after '66.

Q That is the first time you had ever seen her? A Yes sir.

Q Ever testify for her before? A Yes sir.

Q Where? A On the Kern-Clifton roll.

Q You testified you saw her Christmas in '66? A The first time

I saw her was before Christmas and I stayed there during Christmas week.

Q Who was her mother living with at that time? A Living with some people; there was a crowd of them living in a row of houses when the small pox broke out; they burnt up the houses and I don't know where she went then.

Q Isn't it strange you knew her right after the war and never saw her since, and remembered her thirty years? A I remembered this fellow that came in here; I hadn't seen him for a long time but I knew he was the same man.

Q You never knew this woman before the war at all? A No sir, I never seen the old woman they said she belonged to.

Q She never went north with you? A No sir.

Q Her mother wasn't in the Horse Creek fight that you was Captain of? A No sir.

Wm. Hutchinson, 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.

Wm. Hutchinson

Sworn to and subscribed before me this 30th day of October, 1903.

Edward Merriam
Notary Public.

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

Comm. R

In the matter of the application for the enrollment of Fannie Nicholson et al., as Cherokee freedmen.

DECISION.

The record herein shows that on July 1, 1901, Fannie Nicholson appeared before the Commission at Nowata, Indian Territory, and made application for the enrollment of herself and her four minor children, Ethel, Bessie, Jestinie and Mabel Nicholson, as Cherokee freedmen. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 30, 1903; that 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 Edward Nicholson.

The evidence shows that Fannie Nicholson was born since 1860 and is the daughter of Rhoda Bean, who was not the slave of a Cherokee citizen nor a free colored person residing in the Cherokee Nation at the commencement of the rebellion. The minor applicants, Ethel, Bessie, Jestinie, Mabel and Edward Nicholson, are the children of the said Fannie Nicholson and claim the right to enrollment through their said mother. None of the applicants herein possess any rights to enrollment except such as they derive through their said ancestor, Rhoda Bean.

None of the applicants herein nor their ancestor, Rhoda Bean, are identified on the Cherokee authenticated roll of 1830.

It is, therefore, the opinion of this Commission that the application for the enrollment of Fannie Nicholson, Ethel Nicholson, Bessie Nicholson, Jestinie Nicholson, Mabel Nicholson, and Edward Nicholson as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 45), and it is so ordered.

COMMISSIONERS TO THE FIVE CIVILIZED TRIBES.

SIGNED Fame Dixey Chairman.

SIGNED T. S. Hodges Commissioner.

SIGNED C. S. Irwinridge Commissioner.

Commissioner.

Dated at Muskogee, I. T.,

this JUL 29 1904

207

COMMISSIONERS

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

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

ANSWER IN REPLY TO THE FOLLOWING

ALLISON L. AVLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 31, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There are herewith enclosed copies of supplemental
testimony taken at Vinita, in September, in the following
Cherokee freedmen doubtful cases:

- 984, Fannie Nicholson et al.,
- 673, Celia Kirkpatrick et al.,
- 790, John Wilson et al.,
- 274, Mary A. Frye,
- 1123, George Daniels,
- 814, Polly A. Canard et al.,
- 287, Jim Alberty et al.,
- 976, Josiah Mayes,
- 664, Jim Landrum Sr., et al.,
- 1012, Charlotte French,
- 758, George W. Lane et al.,
- 353, Maud Manley et al.,
- 1008, Nicholas Landrum et al.,
- 675, Eva L. Finley et al., and Cherokee straight case

No. 3159, John R. Barks et al.

Respectfully,

F. D. _____

**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, } S. S.
NORTHERN DISTRICT. }

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.

NOTICE!

IN THE MATTER OF the application of Fannie Nicholson,
for enrollment as Cherokee Freedmen:
Case No. F. D. 984.
To Fannie Nicholson or Wellethe & Smith, her Attorneys:

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, T. **T.**
Indian Territory, on March 3rd, 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Feb. 26, 1902.

L B Bell

W. W. Hastings

Attorneys for the Cherokee Nation.

Cher. Fr. D. 985

Cher. Fr. D. 985

MOTION

**For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of**

**BLUE & BULGER,
Attorneys for Applicants.**

**McGOWAN & SERVEN,
Of Counsel.**

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Thad Hill.

985'

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1866.

That applications were made for their enrollment prior to September 1, 1866.

Therefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1866.

BILL, HASTINGS & HAVENPORT,
Attorneys for Cherokee Nation.

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

McGOWAN & SERVER,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Manda Hill.

985-

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys; the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1898.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1906.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 1, 1901.

In the matter of the application of Thaddeus Hill for the enrollment of himself and one sister as Cherokee Freedman.

Appearances:

J. R. Sequichie, agent for applicants;
J. S. Davenport, of counsel for Cherokee Nation.

Thaddeus Hill, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Thaddeus Hill.
Q How old are you? A 32 or 33.
Q What is your postoffice? A Hayden.
Q What district do you live in? A Secoosocowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My younger sister.
Q How old is your sister now? A About 20 years old.
Q What is her name? A Amanda.
Q Is your name on any of the rolls of the Cherokee Nation? A I have been enrolled on the Wallace roll.
Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q What is your father's name? A Watis Hill.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Angeline Hill.
Q Your mother living? A No, sir, my mother is dead.
Mr. Sequichie: Where were you born? A I was born somewheres on Grand River
Commissioner: In the Cherokee Nation? A Yes, sir.
Mr. Sequichie: Where were you when you can first remember? A When I can first remember I was living with my uncle, Simon Lynch, on Grand River.
Q Have you ever been out of the Cherokee Nation from the time you can first remember? A No, sir.
Q Where was your sister Amanda born? A Right about the same place I was born.
Q Has she lived with you and your people continuously from that time? A Yes, sir.
Q Have you or your sister ever been out of the Cherokee Nation at any time? A No, sir, not been out to live anywhere.
Q Have you ever been out at all? A Yes, sir.
Q How long did you stay out? A Just been up to Parsons, Kansas and over to Southwest City, Mo.
Q How long did you stay there? A Just out backwards and forwards, I would go to the mill or something like that.
Q Did you apply for enrollment before the Kern and Clifton enrollment? A One of my sisters did.
Q Did you apply? A No, sir, she took us in with her.
Q Your eldest sister? A No, sir, not my eldest one, next to the eldest one.
Q What is her name? A Nettie.
Q How many of you applied with her? A Five of us.
Q Do you know what disposition was made of your application before the Kern-Clifton Commission? A No, sir.
Q You say you have always lived here continuously in the Cherokee Nation? A Yes, sir.
Mr. Davenport: Did you get any money on the Kern-Clifton roll?
A No, sir.
Commissioner: Is your sister married? A No, sir, she isn't as I
Q Is your father living? A Yes, sir.

Thaddeus Hill - 2.

- Q Is your father living? A Yes, sir.
Q Why doesn't he enroll your sister? A I don't know, he is just a state man.
Q Your mother is dead? A Yes, sir.
Mr. Davanport: When was the first time you ever saw Jim Alberty?
A I have seen him ever since I was a little bit of a fellow, growing up, off and on.
Q Been living near him? A No, sir, I don't know where he lives.
Q Where is your father living now? A I don't know just where he is living now.
Q Where was he living when you last heard of him? A He did live on Honey Creek.
Q That the last time you heard of him? A No, sir, I saw him at Chelsea at the enrollment.
Q Your mother is dead? A Yes, sir.
Q When was the first time you ever saw Jack Landrum? A Why Jack Landrum lived right close to where I do now.
Q How long have you been living on the creek near Jack Landrum?
A Why I have lived, as near as I can recollect, about eight years around there, Hayden and around.
Q Never lived in the State anywhere? A No, sir.
Commissioner: How long has your mother been dead? A I don't know, she died the time the colored folks had the small pox on the Grand River.
Q You claim your citizenship through your mother? A Yes, sir.
Q Your father was a state man? A Yes, sir.

John Landrum, being duly sworn by Commissioner Needles, testified as follows:

- Mr. Sequichie: Give me your name? A John Landrum.
Q Your age? A 59.
Q And your postoffice? A Hayden.
Q Mr. Landrum, do you know the applicant, Thaddeus Hill, and Amanda Hill? A Yes, sir.
Q Who was their mother? A Angeline Waite.
Q Was she a Freedman? A Yes, sir.
Q Who did she belong to? A Old man Stand Waite.
Q When did you know Angeline Waite? A Before the war.
Q How long before the war? A Oh several years, about 3 or 4 years.
Q Slave of Stand Waite when you knew her? A Yes, sir.
Q Did you know her at any time during the war? A Well yes, after the war was ended at Fort Scott.
Q How long did you see her up there? A I saw her once or twice.
Q Do you know whether she returned to the Cherokee Nation or not?
A Why yes, I saw her on Grand River in '67.
Q Did you see her at any time before that? A Why before that, why no sir, I didn't see her before that.
Q Whereabouts on Grand River was that? A Up there above George Landrum Alberty's at what they called the Dirtwater place.
Q Did they have a house or a farm of their own? A I don't know about that, they were in a house, I don't know if it was their own or not, I can't tell you about that part.
Q That time in '67 was it you saw them? A I think it was in, let's see, I think, why it was: I want you to give me time to study, because I want to have it right: it was in January, as near as I can remember.
Q That time did Angeline Waite die, when did she die? A I can't tell you, I can't know anything about that, just what time she died, because I didn't live in that neighborhood, I lived on Lightning Creek, I saw her there at the

Thaddeus Hill - 2.

old man's when I saw her the last time.

Q Do you know where these children have lived since that time; I mean since you first knew them? A I saw them just after his mother died, I saw him at Henry Hayden's.

Q About how long ago has that been? A I don't know about how long, I can't tell you, been a long time, he was just a boy when he came there.

Q Have you seen him off and on since that? A Yes, sir.

Q Here in the Cherokee Nation? A Yes, sir.

Q Right here in the Nation? A Yes, sir.

Q Lives here now? A Yes, sir.

Q Are you a Freedman yourself? A Yes, sir.

Q On the 1860 roll? A Yes, sir.

Commissioner: You recognized Thaddeus Hill as the child of Angelina Hill? A Yes, sir.

Mr. Davenport: How old was Thaddeus Hill when you saw his mother in January of the year, you spoke of? A I don't know how old he was, he was a little bit of a boy.

Q He was big enough to run around? A Yes, sir, a good big boy.

Q That was in January of what year? A I can't tell you anything about the year, but it was in January, I can't tell you anything about the date.

Q That was the first time you had seen his mother after the war? A After the war, yes, sir.

Q And this boy then was big enough to run around? A Yes, sir, good size; he was a young boy.

Q You were living on Big Creek then? A No, sir, living on Lightning Creek.

Q You don't know anything about this child, do you Jack? A No sir I can't tell you just exactly but they were there with their mother.

Q Was this sister there at the time you saw this man, in January?

A Why the oldest was, at least they told me she was the oldest.

Q But you know this boy, Thaddeus, was there, at the time you first saw them on Grand River, and in January, but in what year you don't know? A I can't tell you what year, that is right.

Q He was big enough to run around some? A He was a good big boy.

Q Do you know where his mother was living when the war came up?

A She was living with Waits.

Q How far did you live from Waits at the time? A Well now I can't tell you just exactly, it must have been about 12 or 13 miles, we lived in Spavins on a Creek they called Beattie's Creek, they think moved from Spavins and came here on Beattie's Creek, my master you know had a place on Beattie's Creek.

Q How long before the war broke out had it been that you had seen his mother, Angelina? A Why about a year or two, not hardly that long.

Commissioner: Let me understand you; how long after the war was it you claim you saw his mother here with this boy? A Well it was in '67 when I saw her, that was the last time I saw her.

Q That is a year after '66, was it, the year after you had come back?

A I suppose so, yes sir that is what it was.

Q And you saw Angelina with this boy? A Yes, sir.

Q How long has Angelina been dead, do you know? A I can't tell you, it has been quite a while.

Taking of testimony continued by Stenographer Geo. W. White.



Number 101 - 1

Date

Name and address

to be submitted before 10 PM on

[Handwritten signature]

[Faint handwritten text]

APPLICATION OF THADDEUS HILL et al.

Continued from Stenographer Bruce C. Jones.

Now at I. T. July, 1st, 1901.

By JIM Alberty called and sworn by Commissioner T. B. Needles as a witness for the applicant, testified as follows:

By Joe Sequichie, agent for applicant:

- Q What is your name? A. Jim Alberty.
- Q Your age? A. 70.
- Q Your post office? A. Chouteau.
- Q No the applicant? A. Yes sir.
- Q Thaddeus and Amanda Hill? A. Yes sir.
- Q Did you know their mother? A. Yes sir.
- Q What was her name? A. Angeline Wade.
- Q When did you know her? A. Away before the war.
- Q Who did she belong to? A. Stan Watie.
- Q Did you know her at any other time than just before the war? A. No sir I have known her since.
- Q Where was that? A. At George Landrum's.
- Q In the Cherokee Nation? A. Yes sir.
- Q When? A. 1866
- Q Is the mother of these applicant's dead? A. I am told so.

By the Commission:

- Q You saw the mother of this boy in 1866 did you? A. Yes sir.
- Q Was this boy with her? A. Yes sir, she had five of them
- Q Can you give the names of them? A. No sir.
- Q You are sure this boy was there with her? A. I reckon this is one of them.
- Q Well did you see this boy then? A. I reckon, it might not have been.

By Davenport-

- Q What makes you think it was in 1866? A. I know it.
- Q Was that after you were mustered out of the army? A. I wasn't mustered out at all, I just walked out myself.
- Q You run away from the army that? A. Yes sir.
- Q They made it pretty hot for you around Vicksburg didn't they? A. I am able to stand warm times.

By the Commission:

- Q Do you know that this boy Thaddeus Hill is the same one you saw there in '66? A. I think so

CHARLES MAYFIELD, called and sworn as a witness for the applicant-

By Sequichie-

- Q What's your name? A. Charles Mayfield.
- Q What's your age? A. 66
- Q What's your post office address? A. Spawinsaw, I. T. Saline district.
- Q Do you know Thaddeus and Amanda Hill? A. Yes sir.
- Q Did you know their mother? A. Yes sir
- Q What was she? A. Angeline Hill or Watie.
- Q When did you see her after the war? A. '66 or '68.
- Q Where? A. At George Landrum's.

- Q Did she have any children at that time? A. Yes sir two.
- Q Do you know if this was one of the boys or not? A. No he wasn't born then.
- Q What children did she have? A. Sadie and George.
- Q Do you know where they were born? A. No sir.
- Q When was the first time you got acquainted with this applicant here?
- Q I saw Thaddous when he was somewhere in the neighborhood of 4 or 5 weeks old
- Q Where were they living then? A. At the old Watie place.
- Q Where was that? A. In the Cherokee Nation of Cowokin or Honey creek.
- Q Have you known this applicant ever since? A. Yes sir.
- Q Have they lived in the Cherokee Nation ever since? A. Yes sir, except when this boy was in the pen? A.
- Q How long was he in the pen? A. Two years I think.

By the Commission-

- Q How long has this boy's mother been dead? A. She died somewhere about '79.
- Q Do you know Amanda, this boy's sister? A. Yes sir.
- Q Do you know them to be the children of Angeline? A. Yes sir.

By Davenport-

- Q Where have you seen this family? A. Up on Grand river, somewhere.
- Q How long ago had that been since you first saw them up on Grand river somewhere? A. Quite a while.
- Q About how long? A. About '88 or '9.
- Q How far do you live from the old Lynch place? A. Right in the section.
- Q How far did you live from them at that time? A. 5 or 6 miles.
- Q Was that the only family around in that neighborhood? A. No sir, but I dont recollect the others

By L. B. Bell, Cherokee representative-

- Q Where did George Landrum live? A. Between the lake and the river.

By the Commission of the applicant-

- Q You have always lived in the Cherokee Nation? A. Yes sir.
- Q Did you never draw any money? A. No sir, my oldest sister did.

By Davenport-

- Q You have two children? A. No sir.
- Q You dont know who your mother was before she married? A. No sir.

By Gov't Needles.-

Thaddous Hill applies for himself and his sister Amanda Hill; their names are not found on any of the rolls of the Cherokee Nation; he has no recollection of his father but recollects his mother, Angeline Hill; the testimony shows that Angeline Hill was a slave of Sam Watie and that she was in the Cherokee Nation in '67 or '8, possible even in '66. The applicant avers that he was 1 and his sister were born in the Cherokee Nation and never left it. They will now be listed and enrolled as Cherokee freedmen on a doubtful card, and when

The above statement is correct as far as it goes and is correct in all respects.

Chas. von Weitz, being sworn states that as stenographer to 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 Weitz

Subscribed and sworn to before me this the 18th of July, 1891.



Commissioner

Department of the Interior,
Commission to the Five Civilized Tribes,
Euskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Hallette & Smith; Cherokee Nation, by
W. W. Hastings:

By H. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitacre, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case P D 486, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Zarah Hayden, and if it be
deemed necessary that a copy of the said decree be filed in this
case and in the following cases, to-wit:

- Whitaker Hill; and
- Amelia Hill, D 225;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning of
the war, nor that he returned within the time specified in the
treaty of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called for in the individual case.

Conclusion:

The copies of the decrees for the applicant will be
entertained and the decree in the Court of Claims filed in the
case of Mariah Hayden will be made a part of the record by reference
in all the cases above named and in all the cases of those which come
within the provisions of the above mentioned legislation recently granted
by Judge Gill of the United States Court, of the Northern District
Indian Territory.

By H. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that approval for the applic-
ants be allowed within the time here to file any of the papers
any or all of the records of the cases already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

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

In the matter of the application for the enrollment of
Thaddeus Hill, et al., as Cherokee Freedmen, consolidating the ap-
plications of--

Thaddeus Hill, et al.,....Cherokee Freedmen D-935.
Sadie Ives, et al.,.....Cherokee Freedmen D-1026,
Nettie Lynch,.....Cherokee Freedmen D-1027.

D E C I S I O N .

The record herein shows that applications for enrollment as Cherokee freedmen were made to this commission by Thaddeus Hill for himself and his minor sister, Amanda Hill; by Sadie Ives for herself, and, among others, her minor child, Addie Ives (the other parties to this application being differently classified are not embraced in this decision), and by Nettie Lynch for herself and her minor child, Jessie Lynch. The said Jessie Lynch being differently classified is not embraced in this decision. A copy of the testimony of G. W. Clark, taken at Vinita, Indian Territory, October 21, 1901, in the case of George Daniels, et al., Cherokee Freedmen D-194, is filed herewith and made a part of the record in this case.

The evidence in this case shows that all the applicants herein are the descendants of one Angeline Hill, who was the slave of a Cherokee citizen at the commencement of the rebellion and who left the Cherokee Nation during the rebellion and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitwire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation. The evidence further shows that Thaddeus Hill, Amanda Hill, Sadie Ives and Nettie Lynch were born since 1866 and are the children of the said Angeline Hill; and that Addie Ives is the minor daughter of the said Sadie Ives, and that said applicants have no right to enrollment except as such descendants of the said Angeline Hill.

It does not appear that any of the applicants herein are identified on the 1860 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Thaddeus Hill, Amanda Hill, Sadie Ives, Addie Ives and Nettie Lynch as Cherokee freedmen 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.

- T. B. Needles, Commissioner.
- C. R. Breckinridge, Commissioner.
- W. E. Stanley, Commissioner.

Muskogee, Indian Territory,
this MAR 5 1904

11007

COMMISSIONERS
TAMM BERRY,
THOMAS B. NEEDLES,
C. B. BRACKENRIDGE,
W. S. STANLEY.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D-42 et al.

ALLISON L. AYLEWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 22, 1904.

V. V. 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 March 5, 1904, rejecting the applications for the enrollment of Thaddeus and Amanda Hill, Sadie and Addie Ives and Nettie Lynch as Cherokee freedmen.

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.

Enc. D-42.

Cher. Fr. D. 986

Cher. Fr. D. 986

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 1st, 1901.

In the matter of the application of Austin Whitwire for the enrollment of his wife JOSIE as a Cherokee freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. Austin Whitwire.
Q What is your age? A. 37.
Q What is your post office address? A. Vinita.
Q In what district do you live? A. GOWANOWAN.
Q Who do you apply for now? A. My wife.
Q What is her name? A. Josie Carter before I married her.
Q How old is she? A. 36.
Q Is she a citizen? A. Yes sir.
Q What is her fathers name? A. I dont know.
Q What is her mothers name? A. I never did see her mother.
Q Is she on any of the rolls of the Cherokee Nation? A I dont know.

Applicant's wife not found on any of the rolls of the Cherokee Nation in the possession of the Commission.

SUSIE GOODY called and sworn as a witness for the applicant—

- Q What is your name? A. Susie Goody.
Q What is your age? A. About a hundred, 90 anyway.
Q Are you a Cherokee freedman? A Yes sir.
Q Is your name on the roll of 1880? A. I dont know, I cant read or write
Q Do you know Austin Whitwire? A. Yes sir.
Q Do you know his wife? A. Yes sir.
Q What is her name? A. Josie.
Q What was her mothers name? A. Cynthia Carter.
Q Was her mother a slave? A. Yes sir.
Q Who did she belong to? A. Tom Gandy
Q Was he a Cherokee citizen? A. I believe he was.
Q Is Cynthia alive? A. No sir.
Q Did she go out of the Cherokee Nation during the war? A. I dont know
Q Did you see her in 1867? A Yes sir.
Q Did you see her in 1867? A Yes sir.
Q Did you see her in '65? A Yes sir.
Q Was she born and raised in the Cherokee Nation? A. I suppose she was
Q What was her husbands name, the father of this applicant's wife?
A George.

By Davenport—

- Q Where did Cynthia live when the war broke out? A. She lived with Tom Gandy.
Q In what part of the Cherokee Nation? A On a creek, I cant call the name of the creek.
Q Where was it? A. In the Nl is Cross Tableyash.
Q Is that all you can tell about where she lived? A. Yes sir.
Q How far was it from your place, where you lived? A. 4 or 5 miles.
Q How old is this applicant's wife? A I dont know.
Q Where was her mother living when she was born? A. Near Gandy, in the Cherokee Nation.
Q Where has she lived since that time? A. I suppose she lives on Gandy yet.
Q You dont know then where she is living now? A. I dont

By the Commission

Q You don't know if Cynthia went out of the Cherokee Nation during the war or not? A. No sir, we was scattered and I don't know.

By Reverend-

Q You don't know that she belonged to one Mrs. [unclear]'s father? A. I don't know, we hadn't time to know all of that.

By the Court:-

Q Did you go out of the Cherokee Nation during the war? A. Yes sir.
Q Where to? A. Fort Scott, Kansas.
Q Was Cynthia up there? A. I never seen her.
Q When did you come back here? A. In '96
Q How long after you come back before you saw Cynthia? A. Saw her some time and her husband moved up on the creek west of me.
Q How long after you come back here was that? A. A right smart while.
Q Several years? A. Yes sir.

AME HAIR called and sworn as a witness for the applicant:-

Q What is your name? A. Ame Hair.
Q What is your age? A. 77.
Q What is your post office address? A. [unclear].
Q Do you know the applicant? A. Yes sir.
Q Do you know his wife? A. Yes sir.
Q What is her name? A. I don't remember her name.
Q Did you know her mother? A. Yes sir.
Q What was her name? A. Bester Barber.
Q Was she a slave? A. Yes sir.
Q Who did she belong to? A. Sammie Sandy.
Q Did she go out of the Cherokee Nation during the war? A. Yes sir.
Q Where to? A. Fort Scott, Kansas.
Q When did she come back? A. In the fall of '96.
Q How do you know that? A. I saw her after she come back.
Q Where did you see her? A. Saw her on Snow creek.
Q Did you know her until she died? A. Yes sir.
Q How long has she been dead? A. Quite a while.
Q And so this girl's mother was Barber? A. Barber was this girl's mother, this applicant's wife's mother.
Q Had she any other sisters? A. Yes sir.
Q What were their names? A. Sallie, and [unclear].
Q Was one named Cynthia? A. Yes sir.
Q Was she older or younger? A. My own was older, she was her grand-mother.
Q You mean Cynthia was Barber's grandmother? A. No, Cynthia was Barber's mother, and the grandmother of this applicant's wife.
Q So Barber was his wife's mother? A. Yes sir.
Q How old is this applicant's wife? A. Something like 41 or 2.
Q Did you go to Fort Scott yourself? A. Yes sir.
Q Did you come back with this girl's mother? A. Yes sir.
Q How long had you been back here before you saw this girl's mother?
Q Some two or three years.
Q When did you come back? A. In '96.

By the Court:-

Q Is your wife living now? A. Yes sir.
Q Is she with you? A. Yes sir.

By Com'r Needles-

Austin Whitwire applies for his wife, Jennie; her name is not found on any of the rolls of the Cherokee Nation now in the possession of the Cherokee Nation. Proof is presented to the effect that she was the daughter of Spunkie or Hunter Carter and that the said mother was a slave of a Cherokee citizen; that she went out during the war and returned possibly in 1866; satisfactory proof of residence made as to the applicant's wife, and she will be listed for enrollment as a Cherokee freedman on a doubtful card, and when the final decision is arrived at by the Commission she will be notified by mail.

+ + + + +

Chas. von Weise, being sworn states that as stenographer to 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, and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 19th of July, 1901.



Commissioner.

To be filed in C. F.--D. 986, Jessie Whitmire.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 7th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of SANDY ROSS as a Cherokee Freedman, introduced on behalf of the Cherokee Nation.

APPEARANCES:

Mr. L. B. Bell, of counsel for Cherokee Nation.

Now comes the Cherokee Nation by its attorney and states that they have made every effort to get service on the said Sandy Ross, that he cannot be found in the Indian Territory.

J. E. THORP, being duly sworn by Commissioner Needles, testified as follows, on part of the Cherokee Nation:

MR. BELL: Your name? A J. E. Thorp.

Q Age? A 84.

Q Postoffice? A Iola, Kansas.

Q Well, Mr. Thorp, this is a case of the application of Sandy Ross or Sandy Ellis, claiming to be a Cherokee Freedman and applying for citizenship under the treaty of '66; are you acquainted with Sandy Ross? A Yes, sir.

Q Where did you get acquainted with him? A In Iola.

Q Kansas? A Iola, Kansas.

Q About when? A Oh, about '66 or '67, somewhere right along there, shortly after I was mustered out, I don't know how long.

Q How long have you known him? A Known him ever since.

Q Where is his place of residence? A It is in the northeast part of town now; he did at one time live on a tract of land in the south part of town, five acre-tract I believe it was, he lost it by mortgage and got a piece of property up in town.

COM'R NEEDLES: What place and state? A Iola, Kansas.

MR. BELL: Does he live there now? A Yes, sir.

Q How long since you seen him? A I think a week probably.

Q And he has been at either one of these two places you mention since you first known him directly after the war? A Yes, sir, well he lived up in town first and married this Haytime widow and lived on the tract of land and was about to lose it and got a little house up in town and moved up there.

Q Now, he goes here by the name of Sandy Ross, that was his application; what name did you know him by? A He was frequently called Sandy Ellis and sometimes called Ross.

Q He is sometimes called Ross and sometimes Sandy Ellis? A Yes, sir.

COM'R NEEDLES: How old is this Sandy Ross you know? A I would take him to be somewhere in the neighborhood of 75.

Q What is your occupation? A I have been a barber for the last 30 years.

Q Do you know where Sandy Ross went from when he went to Kansas? A He was, he always claimed and his brothers agreed with it too, claimed he came from the Cherokee Nation.

Q Well, do you know of your own knowledge that he has lived there from the time you knew him up to the present time? A Particular so, sir.

Q And is living there now? A Yes, sir.

Q Do you know whether you got acquainted with him in 1866 or after 1866? A Oh, about 1866 or '67.

Q He has a family has he? A He did have, and has now again by reason of his second marriage.

Q Did you know his first wife's name? A No, sir.

-2-

Q What is his present wife's name? A Her name was Smith.
 Q Her given name? A I did know, but don't know it now, she used to wash for my wife, both as Miss Smith and Mrs. Ellis.
 Q Do you know why he was called Ellis? A No, sir.
 Q Do you know whether he has ever exercised the right of suffrage in Kansas? A I think he has when I was sitting on the board myself.
 Q You have seen him vote? A Oh yes.
 Q You don't know anything about his antecedents? A No, sir.
 Q You never knew him living out of the state of Kansas since?
 A No, sir, I have never had any knowledge of his having any residence anywheres else at all.

R. J. MORRIS, being duly sworn by Commissioner Needles, testified as follows, on the part of Cherokee Nation.

MR. BELL: Give your name? A R. J. Morris; 56 years old, my postoffice address is Iola, Kansas.

Q How long have you lived in Iola? A I have lived in the vicinity of Iola since '56.

Q That is Iola, Kansas? A Yes, sir, Iola, Kansas, lived in three miles of the town.

Q Are you acquainted with a colored man by the name of Sandy Ross, or Sandy Ellis? A I am acquainted with a man by the name of Sandy Ellis.

Q You don't know him as Sandy Ross? A No, all I know is he claims to be a brother of the Ross boys, Peter and Cal, he goes by the name of Sandy Ellis there.

Q How old a man is he? A I think he is 70 or 75, he is getting along in years pretty well.

Q When did you first become acquainted with him? A Well, it has been a number of years, I don't just exactly remember, probably '66 or '67; somewheres along there; away back.

Q Where did you meet him first got acquainted with him? A Iola.

Q Where has he made his home since? A He has made his home in Iola.

Q You say he claims to be a brother of Calvin Ross? A Yes, sir, and Pete.

Q Did he ever own property there as you know of? A He owns property there now, or claims to own it.

Q Does he live there now? A Yes, sir.

Q That is his home now? A Yes, sir.

Q How long since you seen him there? A I seen him during the week, last week.

COM'R NEEDLES: What business is Sandy Ross in? A Well, sir, I don't know what he does for a living.

Q Do you know whether he was ever a preacher or not?

A Why, I think he was.

Q You first became acquainted with him about '63? A Somewheres along in there, '65.

Q Sandy Ross claims if he came back to the Cherokee Nation that he came in 1866; now do you know positively that he did not?

A I do not know, I didn't miss him.

Q Do you know his wife? A Yes, sir, I know her.

Q Do you know what her name was? A Her name was Smith, she was a widow when he married her. I don't know her given name.

Q Did you know his first wife? A No, sir.

Q I understand you to say that he has resided in the state of Kansas continuously from the time you knew him up to the present time?

A Yes, sir, as far as I know, I have never missed him away from there.

Q Do you know whether he was in the army or not? A I think he was; well I know he was, he draws a pension.

Q Has he any children? A I think he has two, a girl and a boy.

Q You don't know whether he ever made a crop since 1863 in the Cherokee Nation, since you know him? A No, sir, not as I know of.
Q You don't know who he belonged to before the war? A I do not.
Q What is your occupation? A Well, I have been a farmer most of my time.

MR. HILL: Now old is these two children you speak of?
A Well, they are about grown, I think the boy is probably 21 and the girl is about 18.
Q Are they the children of this present wife? A I think so, I would not be positive, I think they are.
Q Could not state as a fact? A No, sir, I think they are the children of his last wife.
Q Did this last wife of his claim to be a Cherokee Freedman?
A Well, now, sir, I could not answer that.

COM'ER HILL: Were these children you mention born in Kansas?
A Born right there in Iola, at least they were raised there, small children.

M. C. ROBINSON, being duly sworn by Commissioner Needles, testified as follows, on part of Cherokee Nation:

MR. HILL: What is your name? A M. C. Robinson.
Q Age and post office? A 50; Iola, Kansas.
Q How long have you lived in Iola? A Since the spring of '70.
Q You have lived there continuously? A Yes, sir.
Q Do you know anything about a colored man by the name of Sandy Ross, or Sandy Ellis? A Sandy Ellis, I never knew him as Sandy Ross.
Q How old is he? A He is man of pretty good age, he is not far from 70; he is getting a little feeble.
Q Does he reside in Iola? A Yes, sir.
Q At present? A At present.
Q When did you become acquainted with him? A It has been somewhere about 25 years.
Q Where did he live when you first got acquainted with him?
A When I got acquainted with him when he married Mrs. Smith, she was washing for my wife.
Q That was the time you got acquainted with her? A Yes, sir, that is, she was washing for us at that time, or just before that.
Q Well, has he lived in Iola continuously since that time?
A Well, they lived on the farm that five acres several years for the last several years they have been living in town.
Q How far is that country place they have been living on?
A About two miles and a half.
Q That was in the same county in Kansas? A Yes, sir, same county, same township.
Q Do you know anything about his children? A Yes, sir, I am well acquainted with the children; that is I was some acquainted with the girls; she graduated at our school last spring, high school.
Q Was there any other besides the girl? A Yes, sir, there was a boy that is my understanding.
Q Are these children of this latter marriage? A Yes, sir, that is my understanding.
Q That is, this Mrs. Smith he married is their mother?
A Yes, sir.
Q They were born there and raised there? A They were born there and raised there, went to our school right along.
MR. HILL: What is your occupation? A Wagon maker.
Q Do you know that Sandy Ellis is the Sandy Ross that applies here?
A No, sir, I never knew that.
Q Do you know his wife's name? A Yes, sir, his wife's name is Smith; that is, his last wife; I was not acquainted with his first wife.
Q Do you know her first name? A No, sir.
Q The colored woman? A Yes, sir.

Q You didn't know his wife's wife? A No, sir.
Q Do you know whether he has ever voted up there? A I do not, no, sir.

MR. BELL: Is there more than one Sandy Ellis living in Iola?
A Not that I know of.

Q This man Sandy Ellis you speak of is 70 or 75 years old?
A Yes, sir, I know that he was in the army.

Q Do you know of his having any brothers there? A No, sir, I never heard of them; that is, if he had.

COM' R NEEDLES: What are the names of his children, do you know them? A Well, sir, I don't remember, I wrote both of their names in the school, but I don't remember now.

S. P. GRAY, being duly sworn by Commissioner Needles, testified as follows, on part of Cherokee Nation:

MR. BELL: Give your name? A S. P. Gray.

Q Age? A 37.

Q Post office? A Iola, Kansas.

Q Well, I would ask you, Mr. Gray, if you were acquainted with one Sandy Ellis, a colored man in Iola, Kansas? A Yes, sir.

Q When did you become acquainted with him? A About 32 years ago, this fall next month.

Q Where was he living then? A He was living near Iola.

Q Near Iola, Kansas? A Yes, sir, at the bottom we called it there below town.

Q Now, have you known him continuously from that time to this?
A Yes, sir.

Q Where has he lived all that time? A He has lived down there by that little farm that belonged to this woman he married, Mrs. Smith, five acres they called it a farm, until within the last—I don't know—12 or 13 years, and then they moved to town and they lived there since, probably 15 years maybe more possibly.

Q How old a man is this Sandy Boss that you know? A Well, he is not far from my age; he claims to be that he is a year younger than me, but I don't know; he is pretty well stove up, broke down.

Q Has he any children there? A Well, they have a girl; I don't know whether he had another children or not; his wife had two boys, about thirty years old I reckon.

Q What is his present wife? A By her first husband.

Q They are not his children? A No.

Q Do you know what name they go by? A Smith.

Q And you knew him and this Mrs. Smith having a child, a girl?

A That is all I know anything about; I never was at their house in my life, but I know where they live.

Q What was the business of this man, did he have any?

A Oh, just churing around that anybody had anything to do that was light.

Q Did he have any brothers there? A Yes, sir, he had two, well he had three, one of them is dead, Jack; Cal and Pete, they were not Ellis they were Bosses.

COM' R NEEDLES: Their names was what? A Yes, sir.
Q Claimed to be his brothers? A Yes, sir.

MR. BELL: Well, did you ever hear this man, Sandy Ellis, called Sandy Boss at any time? A No, sir.

COM' R NEEDLES: What is your occupation? A Well, now it is kinda general roundabout; then I was in the butcher business for years there.

Q Now, do you know the names of Sandy Ellis' brothers?

A All I know is what they told me; they told me, I asked Cal, I heard him introduce him as a brother and I asked him after they got through talking; Cal was working for me how it came that he introduced him as his brother and his name was Ellis; he said his last master's name was Ellis and he goes by that name, but he says that is my own brother.

Q This was named Ross talking to you? A Yes, sir, that was probably 18 years ago.
Q Well, when did you first get acquainted with Sandy Ellis you say?
A Oh, it was about 22 years next month.
Q You don't know where he was in the year 1885 then? A No, sir, I don't.
Q He has been living though as you say in Iola, Kansas, since that time? A From the time I knew him.
Q Yes? A Yes, sir.
Q And married there? A Yes, sir.
Q You say his children are not by his present wife, or are they by a former wife? A Why, I don't know, but I think they are by this present wife, that is my judgment.
Q Have you seen him lately, last few months? A Yes, I saw him a week ago tomorrow.
Q Did you ever hear him say anything about going down here and getting his rights? A Yes, he used to talk about it and said he ought to come now and asked when I was coming and I said I was coming the next day and he said I can't come down.

Com'r Needles: This testimony will be filed in B. 2000.

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 October 18th, 1901.

(Signed) T. E. Needles,

Commissioner.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and that the same is a true and complete copy of the original transcript.

Arthur G. Croninger

Subscribed and sworn to before me this 4th day of December, 1901.

W. D. McLean
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JUNE 28, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JOSIE WHITMIRE as a Cherokee freedman.

It appears that on June 3, 1904, Austin Whitmire, husband of the applicant, and the attorney for the Cherokee Nation, were notified by letter that an opportunity would be given each of them to appear before the commission at its offices in Muskogee, Indian Territory, on June 18, 1904, and then and there introduce further testimony touching the points mentioned in said letter. By agreement of the parties concerned this case was continued until this June 28, 1904, when the following testimony was introduced on behalf of applicant.

APPEARANCES:

Applicant by her husband, Austin Whitmire.
Cherokee Nation by its attorney, James S. Davenport.

AUSTIN WHITMIRE, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A Austin Whitmire.
Q How old are you? A As near as I can come at it, 29 years old.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q It appears that on July 1, 1901, you also applied for the enrollment of your wife Josie Whitmire as a Cherokee freedman, is she living now? A Yes, sir.
Q Living with you? A Yes, sir.
Q How old is she? A She is about 35.
Q When did you first get acquainted with her? A I got acquainted with her in 1892.
Q Where was she living then? A In Canadian District.
Q Cherokee Nation? A Yes, sir.
Q Since that time has she continued to live in the Cherokee Nation? A Yes, sir.

By Mr. Davenport:

- Q Who was your wife before she married? A She was a Carter.
Q You don't know anything about the ownership or the return of your wife, do you, Austin? A No, sir.

JOHN, OR JACK, LANDRUM, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A John, or Jack, Landrum.
Q How old are you? A About 64, I guess.
Q What is your postoffice address? A Hylton.
Q Are you a Cherokee freedman? A Yes, sir.
Q Do you know Austin Whitmire? A Yes, sir.
Q Do you know his wife, Josie? A No, sir.
Q You don't know anything about her? A No, sir, nothing at all.
Q Did you ever know her father and mother? A I knowed relations; they claimed relation; Wels Carter and Hese Carter.
Q Do you know who Austin's wife was before he married her? A No, sir, I don't know a thing about them only the names; she says she is relation to them names; I told him I didn't think I could do him any good; I know Hese and Wels is all I know.
Q Do you know Cynthia Carter? A No, sir; I have heard of her; don't know her personally.

Q Do you know L. C. Davis? A No, sir.

(No cross-examination).

JAMES VANN, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A James Vann.
Q How old are you? A About 47 years old.
Q What is your postoffice address? A Choteau, Indian Territory.
Q Are you a Cherokee freedman? A Yes, sir.
Q Do you know Austin Whitmire? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What is her name? A Josie.
Q How long have you known Josie? A About thirty years.
Q All of her life? A Yes, sir, ever since she was about six years old.
Q Did you know her father and mother? A Yes, sir.
Q What was the name of her father? A Mack C. Davis.
Q Was he a Cherokee freedman? A Yes, sir.
Q Is he living? A I don't know whether he is or not.
Q Do you know who he belonged to before the war? A No, sir.
Q What was the name of Josie's mother? A Easter.
Q Easter what? A Carter.
Q Is she living? A No, sir.
Q Was she a Cherokee freedman? A Yes, sir.
Q Do you know who she belonged to before the war? A I don't know whether it was Dick or John Carter.
Q You don't know anything about that? A No, sir.
Q You didn't know her before the war? A No, sir.
Q Where was this Josie living when you first knew her when she was about six years old? A On Cedar Creek.
Q In the Cherokee nation? A Yes, sir.
Q Where has she continued to live since that time, if you know?
A From that she lived over on Bird Creek; her mother married over there; married a cousin of mine.
Q Have you known her ever since she was six years old? A Yes, sir.
Q Know where she has lived all that time? A Not exactly.
Q Do you know whether or not she has lived outside of the Cherokee Nation? A I never knew of her living outside of the Cherokee Nation; never saw her outside of the Cherokee Nation in my life.
Q Do you know where she was living when she married Austin Whitmire?
A Not exactly; I know where she was the last time I saw her before she married.
Q Where? A Vinita.
Q Was she living there? A Yes, sir.
Q You have never known her to live outside of the Cherokee Nation?
A No, sir.

By Mr. Davenport:

- Q Jim, where was Easter Carter living when you knew her? A When I first knew her she was at Fort Gibson.
Q Was that before or after the war? A After the war.
Q Where did she live after that time, before Austin and Josie were married? A She lived out on Bird Creek.
Q Did she ever live in Vinita with Easter Carter? A Yes, sir.
Q Had quite a family, didn't she? A No, sir, never had but two that I know of.
Q Is she living now? A No, sir, she is dead.
Q At the time of her death where was the family living? A Out on Bird Creek.

Q You don't know anything about to whom Master belonged before the war? A No, sir.
Q You don't know anything about when she returned? A Yes, sir, I know what year I first saw her.
Q When was that? A In 1871.
Q She is not on any of the roll of the Cherokee freedmen, was she?
A I don't know.
Q Joals was born after the war, wasn't she? A Yes, sir.
Q All you know is she has been living in the Cherokee Nation since you knew her? A Yes, sir.
Q And you don't know when her parents returned if they went away?
A No, sir.
Q The record dispenses the fact that they went to port Scott?
A Yes, sir.

o-o-o-o-o-o-o-o

H. M. Vance, being first duly sworn, states that as stenographer 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.

Subscribed and sworn to before me this the 20th day of July, 1904.

Charles H. Sawyer

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JULY 25, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JOSIE WHITMIRE as a Cherokee freedman.

This case is taken up on this day by agreement of the parties concerned.

APPEARANCES:

Applicant appears in person.
Cherokee Nation by its attorney, L. B. Bell.

By the JOSIE WHITMIRE, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A Josie Whitmire.
Q How old are you? A I don't know how old I am.
Q How old do you think you are? A I don't know.
Q You are not 75 are you? A No, sir.
Q Are you 50? A I guess I am about 20 some odd, maybe 30.
Q What is your postoffice address? A We live at Tahlequah now.
Q Are you the wife of Austin Whitmire? A Yes, sir.
Q He has applied for your enrollment as a Cherokee freedman, has he? A Yes, sir.
Q Where were you living when you could first remember? A My mother lived at Redland when I could first remember.
Q Redland, Cherokee Nation, Indian Territory? A Yes, sir.
Q What was your mother's name? A Easter Carter.
Q What was your father's name? A Mack Davis.
Q Since you could first remember have you ever lived outside of the Cherokee Nation? A No, sir, I haven't lived out more than just going out to trade; sometimes we would go to Coffeyville to trade and back the same day.
Q How long is the longest time you have been out of the Nation at any one time? A Just one day we would go up and trade at Coffeyville and come back.
Q Were you ever married before you married Austin Whitmire? A No, sir.
Q Are your parents both dead? A Yes, sir.
Q How long have they been dead? A I don't know how long my father has been dead; my mother has been dead, I couldn't tell to tell the truth.
Q Does your name appear upon any of the Cherokee tribal rolls? A I guess it did, but my mother was enrolled when I was small.
Q Did you draw the farm-lift money? A No, my mother was dead; it seemed like they wanted to beat me out of it, and I didn't get no money.
Q You didn't get the strip money? A No, sir, she has drawn their money; she is dead now.
Q What district have you always lived in in the Cherokee Nation? A Lived in Canadian a good long while and then lived in Cooweescoowee and stayed up there until I married.
Q How old were you when you went to Cooweescoowee? A I don't know; I was grown.
Q Before you were married what name did you go by, Davis or Carter? A Sometimes Carter and sometimes Davis.

- Q Did you live with your mother all the time? A Part of the time, but she died.
- Q Did she go by the name of Carter? A Yes, sir.
- Q Did you ever have any brothers or sisters? A Only one sister.
- Q What was her name? A Lizzie.
- Q Lizzie what? A Carter.
- Q Did she always live with your mother and yourself? A Sometimes she did.
- Q Was she elder or younger than you? A Younger than me.
- Q Is she dead now? A No, sir, she wasn't two weeks ago.
- Q What is her name now? A Lizzie Sanders.
- Q Has she applied for enrollment as a Cherokee freedman? A NoYes, sir.
- Q Do you know whether your father and mother both were Cherokee freedmen, did you ever hear anything about that? A Yes, sir, what I always heard them called, Cherokee freedmen.
- Q Since you can remember, then, you have never been enrolled on the Cherokee rolls? A No more than what I heard old people say is all I know about it.
- Q What name does your sister go by? A Lizzie Sanders.
- Q You don't know of any other name your sister could have been enrolled under besides Sanders? A I don't know whether she enrolled by Lizzie Carter---she married a Jess Fulson, and her next married name was Lizzie Sanders, but everybody calls her Lizzie Sanders; she aint married any more.
- Q Was she ever called Eliza? A They called her Lizzie all the time.

By Mr. Bell:

- Q Where were you born? A Born in Canadian district.
- Q Whereabouts? A Somewhere close to Webbers falls is what they said; my mother lived there when I was small.
- Q You don't know anything about the ownership of your mother and father, do you? A No, sir, I don't know what the names were.
- Q Did you ever know? A I didn't get here sfx early enough to know.
- Q That's what I want to know, if you know anything about their ownership? A No, sir.
- Q Did you ever live in Kansas? A No, sir, I never was there, except to go there and trade and come back.
- Q Where do you live? A Been living close to Claremore, but live at Tahlequah now.
- Q How old do you think you are? A I don't know, 20 or 30, I couldn't tell.
- Q How long has your mother been dead? A I don't know just how long, about 10 or 12 years, I reckon.
- Q You can recollect it, can you? A Yes, sir.
- Q Is your father alive? A No, sir.
- Q How long has he been dead? A I couldn't tell.
- Q You don't recollect him at all, do you? A I have seen him, but I don't remember.

By the Commission:

- Q Did your father and your mother live together? A They say they did.
- Q Since you can remember? A They said I was small when they lived together, but I don't remember more than what I heard others talking about it.
- Q Do you know of your own knowledge whether either your father or your mother was ever recognized by the Cherokees as a citizen of that Nation? A That is what I always heard.
- Q Do you know that, yourself, that they were ever enrolled or ever drew any money as Cherokee freedmen? A Yes, sir, my mother; I don't know nothing about my father.

- Q On what roll was your mother enrolled? A They said on the 1800 roll; I can't tell more than what I heard people say.
- Q Under what name? A Master Carter is all I know.
- Q Do you know what district she lived in at that time? A She lived in Sequoyah and then came back up here and lived in Cooweescoowee.
- Q You think she lived in Sequoyah in 1800? A I don't know when it was she lived there.
- Q That is just what you have heard people say, you don't know it? A No, sir.
- Q Since you can remember have you or she ever been enrolled on any of the Cherokee tribal rolls? A I know when she went to have us enrolled, but I don't know what year it was.
- Q About how old were you? A I don't know.
- Q Do you know what roll that was called? A Children didn't pay no attention to these things.
- Q You were quite a child? A Yes, sir, I just heard the old people talking about it.
- Q Since you have been large enough to remember these matters distinctly, have you ever, yourself, been enrolled by the tribal authorities? A Yes, sir, once; I want to enroll, but that is what is giving me trouble now.
- Q Did they enroll you? A Yes, sir, they enrolled me up at Nowata.
- Q When? A I don't know when they had the last enrollment.
- Q You mean the Dawes Commission? A Yes, sir.
- Q I mean did you ever go before any of the tribal authorities and have them to enroll you? A No, sir, my uncle always seed after that for me.
- Q What is your uncle's name? A George.
- Q George what? A George Carter.
- Q Is he living? A No, sir, he is dead.
- Q How long has he been dead? A I couldn't hardly tell.
- Q About how long? A He died since I have been married.

Commission: All the Cherokee tribal rolls in possession of the Commission examined and neither the applicant nor her father nor her mother can be identified thereon.

o-o-o-o-o-o-o-o

H. M. Vance, being first duly sworn, states that as stenographer 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 16th day of August, 1904.

Charles H. Sawyer

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, March 7, 1906.

In the matter of the application for the enrollment of
Josie Whitmire as a Cherokee Freedman.

APPEARANCES:

COMMISSION.

Cherokee Nation, by its attorneys, Bell, Hastings &
Davenport.

Applicant represented by Grant Foreman.

Senie Brewer, being duly sworn, testified as follows:

COMMISSION:

- Q. What is your name? A. Senie Brewer.
Q. How old are you? A. I reckon I am about 55 or 56.
Q. Are you an applicant before this Commission? A. Yes sir.
Q. Are you a Cherokee Freedman? A. Yes sir.

MR. FOREMAN:

- Q. What is your post office address? A. Muskogee.
Q. Do you know Josie Whitmire? A. Yes sir.
Q. How long have you known her? A. Ever since she was a
little child.
Q. How long since you first knew her? A. I knew her when she
was first in Fort Gibson.
Q. How old was she then? A. She was small--not over 3 or 4
years old.
Q. Was that before or after the war? A. After the war.
Q. How long after? A. Along after the war --the first year
after the war.
Q. Have you seen her frequently since then? A. Yes sir.
Q. Who was Josie's mother? A. Raster Carter.
Q. Do you know where Raster Carter lived at the beginning of the
war? A. Yes sir, she lived between the two rivers, Illi-
nois and Barren Fork.
Q. Was Raster a slave? A. Yes sir.
Q. Whose slave was she? A. Susie Candy's.
Q. Who was Susie Candy? A. She was a Cherokee.
Q. You say that Raster was raised by Susie Candy? A. Yes sir,
a Cherokee Indian.
Q. Did Raster go away during the war? A. Not as I know of, I
went away, and when I went I left them all there.
Q. Left them there? A. Right between the Illinois River and
Barren Fork.

- Q. Then when you came back where did you see her first? A. Right in Fort Gibson.
- Q. Do you know how long they remained in Fort Gibson after the war? A. Yes sir, they were there a good while, and I left again. They were there the year we drew rations, and that was the year of '66.
- Q. Where did they move from there? A. I don't know, they moved away up in the Cherokee Nation, and I do remember that they lived on a place called Caney.
- Q. Did they ever move away from the Cherokee Nation? A. Out of the Nation?
- Q. Yes? A. Not as far as I know of. When I come back they was here in the Nation, and the last time I seed her mother was up here in the Cherokee Nation.
- Q. Do you know where Josie Whitmire is now? A. She is down here in this town.
- Q. Is she the wife of Austin Whitmire? A. Yes sir.

MR. DAVENPORT:

- Q. You say you are on the roll of Cherokee Freedmen? A. Yes sir.
- Q. What roll are you on? A. On the '80 roll.
- Q. Where were you living when the war broke out? A. Up there at Tahlequah.
- Q. With whom were you living? A. Living with Judge Carter.
- Q. How far did Easter Carter live from you when the war broke out? A. 6 miles.
- Q. Who did she belong to when the war broke out? A. Susie Candy.
- Q. Was she married? A. Yes sir, she was the wife of Tom Candy.
- Q. What was her name before she married Candy? A. I think it was Rogers.
- Q. How old was Easter Carter when the war broke out? A. She was a young woman.
- Q. Do you know where she went during the war? A. No sir, for I left her here when I went away to the Choctaw Nation.
- Q. Easter Carter went to Kansas during the war, didn't she? A. I don't know.
- Q. When you returned to the Cherokee Nation after the war did you see Easter Carter? A. Yes sir.
- Q. When was that? A. That was when I first come in here. I was here in the year of '65.
- Q. Who did you come back with? A. With my owner, David Carter.
- Q. The father of John Carter? A. Yes sir, he was my young master.
- Q. You came back to the Cherokee Nation at the same time John Carter came from the south? A. Yes sir.
- Q. And they came back when? A. I was back here in '65.
- Q. Don't you remember that Judge Carter and John and all of them came back in 1867? A. I don't know. I can't remember the dates, but I come when they come.
- Q. How long after that was it till you saw Easter Carter? A. Not long. They were taking in washing up there for the soldiers.
- Q. Was she married? A. Yes sir, she had a little girl.
- Q. What was the girl's name? A. Josie.
- Q. Did she have any other children besides Josie? A. Yes sir she had another one.
- Q. Do you mean that you never saw Easter Carter in the Cherokee Nation until after Josie was born? A. I saw her then, and she had these children.

- Q. In 1901 Josie was 26 years old, which would make her 30 years old, now? A. I think she is older than that, for she is older than that girl of mine, and she is 36 years old.
- Q. Josie was a child when you saw Master Carter in the Cherokee Nation first after the war? A. I met up with her in the year we got the rations. I don't know, but they said it was '66.
- Q. Serie, where did you ever know of Easter keeping house in the Cherokee Nation? A. Down about the soldiers' quarters.
- Q. Do you know where she went after you came back to the Cherokee Nation? A. No sir, I don't know.
- Q. Were you ever at her home in Vinita or on Big Creek? A. Yes sir, I was there.
- Q. She had a house full of girls? A. No sir, she just had two-- Lizzie and this girl, Josie.
- Q. Did you ever know the Easter Carter that lived in Vinita in '93 or '94? A. No sir, I never was up there.
- Q. What kind of a woman was Easter Carter--- in size, I mean? A. She was tall.
- Q. She is not living now? A. No, she is dead.
- Q. What is her youngest girl's name? A. Lizzie.
- Q. And there are only two children? A. Yes sir.
- Q. When was it that you were at her house up on Big Creek? A. She came to where we were camped.
- Q. When was then? A. At the Strip Payment in 1896 or '97.
- Q. Where was the payment being made? A. At Hayden.
- Q. That was the first time you had seen Easter since the time you had seen her at Fort Gibson? A. Yes sir.
- Q. When Josie was a baby? A. Yes sir, that was the first time.

COMMISSION:

- Q. What is Lizzie's name now? A. I don't know her husband's name. She don't live here.
- Q. Where does she live? A. I don't know.
- Q. Does she live in the Nation? A. Yes sir, but I don't know what part.
- Q. You don't know what name she goes by? A. She goes by her husband's name, but I have forgot what her husband's name is.
- Q. Did you know Easter before Josie was born? A. Yes sir, we were raised together.
- Q. How long had you known her before Josie was born? A. A. We were raised together, knowed her when we were children.
- Q. You think then that Josie is about 40 years old? A. Yes sir. She thinks she is not over 30, but I seed her and told her that she is about 40.
- Q. Which is the older, Lizzie or Josie? A. Josie is the oldest.
- Q. Could you be mistaken about that? A. No sir, for I know them.
- Q. Did you know Josie's mother up until she died? A. Yes sir.
- Q. Did she ever have more than the two children? A. Yes sir, she has had some more, but they are dead.
- Q. You don't know how many altogether she had? A. No, but I know she had one more and it is dead.
- Q. When did it die? A. When it was a baby-- before the war.
- Q. When you met Easter Carter at Fort Gibson, seen after the war, she had two children? A. No, she just had Josie.
- Q. Do you know anything as to when Easter come back?--She went to Kansas, you know? A. I don't know that she went out. I left her here, and when I come back she was here.
- Q. How long were you gone? A. About a year or two.

- Q. As far as you know, she might have gone out of the Nation?
 A. She might have, but when I come back she was here, and I left her here.
- Q. Was Jessie born before you went away? A. No sir, I don't think she was born. I went in time of the war, you know.
- Q. Jessie must have been very small when you saw her? A. She was just a little thing.
- Q. About how old do you think she was? A. About 3 or 4 years old.
- Q. How do you make that out, Auntie. You say you were only gone a year or two, and she wasn't born when you went away? A. I said she was a very small child.

MR. DAVIDSON:

- Q. Do you know whether Easter was ever married before she married Carter? A. Carter was her father.
- Q. Who was the father of Easter's children? A. She was married before the war. She married Sandy Ross -- no, she married Sam Payne.
- Q. Don't you know that she married Sandy Ross--married him in Kansas; and that they raised these three children? A. No Sir.

COMMISSIONER:

- Q. Did you know Sandy Ross? A. No sir, I never knew anything about him.
- Q. Did you ever hear that Easter Carter married Ross? A. Her first husband was Payne, and then she married another man in Okmulgee.
- Q. Did Payne die before or after the war? A. In war time, I think.

WITNESS EXCUSED.

Easter Grinnett, being duly sworn, testified as follows:

MR. FORDMAN:

- Q. Where do you live? A. Muskogee.
- Q. How old are you? A. A. 50 something I guess. I don't know my age.
- Q. Do you know Jessie Whitmire? A. Yes sir.
- Q. How long have you known her? A. Ever since she was a little bitty girl.
- Q. Do you know how old she is? A. She must be 21 or 22. She was a good big girl at Fort Gibson.
- Q. When? A. In '66.
- Q. Did you see her in '66? A. Yes sir, I saw her in '66. She was with her mother, Easter Carter.
- Q. Did you know Easter before the war? A. Yes sir.
- Q. Where did she live? A. Between Warren Park and Salina.
- Q. Was Easter a slave? A. Yes sir.
- Q. Where slave was she? A. Jessie County's.
- Q. Did you go away from the Cherokee Nation during the war? A. No sir, I worked for the officers in Fort Gibson.
- Q. Do you know whether Easter went away during the war? A. I suppose so, but I couldn't say positively about that.
- Q. Did you see Easter during the war? A. Yes sir, at Fort

- Q. Then you saw her in '66, directly after the war? A. Yes sir.
- Q. Did she have Josie with her then? A. Yes sir.
- Q. How old a child was Josie at that time? A. I couldn't say, you know. She was about this tall. (Measures as high as table)
- Q. Do you know where Josie is living now? A. Yes sir.
- Q. What is her name now? A. Josie Whitvire.
- Q. Did Easter have any other girls? A. Yes sir, one more, Lizzie.
- Q. Was Lizzie older or younger than Josie? A. Younger.
- Q. Is Lizzie living now? A. Yes sir.
- Q. Do you know where she lives now? A. At Wetumka, I think.
- Q. Is Easter living now? A. No sir, she is dead.
- Q. After you saw Easter and Josie in '66 did they continue to live in the Cherokee Nation? A. I don't know where they had been living before they lived on Bird Creek. That is up toward Nowata.
- Q. They lived up there after '66? A. Yes sir, that is where they were living when I found them.
- Q. Did they ever leave the Cherokee Nation? A. I couldn't tell you that. That I couldn't say. I was traveling around with some of the officers, and I couldn't tell you that.
- Q. How long did you cook for the officers? A. Until the war ended.

MR. DAVENPORT:

- Q. Now Easter, you knew Easter Carter before the war? A. Yes sir.
- Q. How far did you live from Easter Carter then? A. We lived up in Flint.
- Q. To whom did you belong at the time? A. Old man William Grinnett.
- Q. You still retain the name of Grinnett? A. Yes sir.
- Q. Easter Carter belonged to whom? A. Susie Candy.
- Q. Was Easter Carter ever married? A. Yes sir, I suppose so. In slavery time I don't know what you would call it, but you know they just went together.
- Q. After the war did she have a husband? A. Yes sir, See Davis.
- Q. How long did Davis and Easter live together? A. I couldn't tell you that for they lived in a different place from me.
- Q. Did you ever know where Mack Davis lived? A. In the Creek Nation.
- Q. Easter Carter was not married when the war broke out? A. She had a man by the name of Wallace Payne, but I don't know about the marriage.
- Q. She didn't have any children? A. I don't know about that.
- Q. Were she and Mack Davis living together as man and wife when you saw her after the war? A. Yes sir.
- Q. Do you know how long they had been living together? A. No sir.
- Q. Did you leave the Cherokee Nation during the war? A. No sir. I stayed at Fort Gibson and cooked.
- Q. Easter did leave, didn't she? A. I don't know that.
- Q. The record shows that she went to Fort Scott, Kansas? A. I don't know about that.
- Q. When you next saw her Josie was a baby? A. Yes sir.
- Q. Was Lizzie born when you saw her after the war? A. No sir.
- Q. When you saw Easter Carter after the Rebellion, be it what year it may, Josie Whitvire was born? A. Yes sir.
- Q. Josie was big enough to walk and talk? A. Yes sir.

- Q. Well Pastor, you know that Josie is only 32 or 33 years old now? A. I was just guessing. I just counted it in my head.
- Q. You lived continuously around Port Gibson during the war and after the war. After the war closed Josie's mother came back to Port Gibson and Josie was a girl big enough to walk and talk? A. Yes sir.
- Q. You have known her ever since? A. Yes sir.
- Q. She has been living at Vinita and Coffyville, hasn't she? A. I don't know about that. I just tell what I know.
- Q. Has Josie any children? A. Yes sir.
- Q. She went by the name of Josie Grubbs in Vinita, didn't she? A. Let me call you right there. There is a Josie Grubbs in Vinita, a big tall yellow woman, but it is not this Josie.
- Q. Yes, but I am talking about Josie Chitnire. She is not old enough to be 40 is she? A. She is old enough in age. She is mighty close to it. I was a great big girl about 12 years old--- big enough to cook, when she was a little wirl, and I am 56.
- Q. The war had closed before Mack Davis and Josie's mother went to living together? A. Yes sir.

MR. FOSTER:

- Q. How long after the war was that? A. I couldn't tell you, but it was a good while.
- Q. How many years? A. After the war?
- Q. Yes. A. When I seed her it was while they were all at Port Gibson. Everybody was there, and when anybody would go away we didn't pay any attention to it.
- Q. Were all the soldiers there? A. Yes sir. They all come in there after peace was declared. I was cooking at the post.
- Q. Do you know how long after the war it was that you saw Pastor and Josie? A. I couldn't just tell you to come right down to dates. I couldn't do it and be honest with myself.
- Q. Was it as much as a year? A. Yes sir, but I couldn't give you the exact dates.
- Q. Did you ever know Josie Grubbs? A. No sir. There is a Josie Grubbs, but this one that I know goes by the name of Grubbs by her mother.
- Q. Where did she live? A. On Big Creek.
- Q. Did she live in Vinita? A. She might.
- Q. Was Josie Grubbs the same girl as Josie Chitnire? A. No sir.
- Q. How old a woman is Josie Grubbs? A. I don't know what her age is.

WITNESS EXCUSED.

George Vann, being duly sworn, testified as follows:

MR. FOSTER:

- Q. What is your name? A. George Vann.
- Q. Where do you live? A. Down about Salt Lake.
- Q. What is your post office? A. Chateau.
- Q. How old are you? A. About 65.
- Q. Did you ever know Pastor Carter? A. Yes sir.
- Q. When. When did you first know her? A. Just about when the war got up, or was getting up.
- Q. Where did she live? A. I don't know just exactly where they did live.

- Q. How long after the war was that? A. I don't know just how long.
- Q. How many years? Was it as much as a year? Do you know how many years it was? A. I never paid any attention to how many years it was. I was down there in '66 and I could hear there. I don't know exactly how many years it was.
- Q. What was she doing there? A. Well, there was nobody here in the country and everybody was going that way to get work or provisions.
- Q. Did Fester have any children then? A. She had two.
- Q. Do you know whether Josie Whitmore is one of those children? A. One was called Josie and one Lizzie.

MR. DAVENPORT:

- Q. You say you knew Raster before the war? A. Before the war?
- Q. Yes, before the war. Did you or did you not? A. I didn't know her before the war. I was mistaken, I never saw her till --- I will just tell you, I didn't see her till ---
- Q. You didn't know Dick or John Carter before the war? A. I knew John before the war.
- Q. You didn't know Raster before the war? A. No sir.
- Q. And when you saw her after the war she had two children, Josie and Lizzie? A. Yes sir.

WITNESS EXCUSED.

CASE CLOSED.

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 7th. day of March, 1908, 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 12th. day of March, 1908.

Myron White

COPY.

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

APMS

In the matter of the application for the enrollment of Josie Whitmire, et al., as Cherokee Freedmen, consolidating the applications of:

Josie Whitmire,
Lizzie Sanders, et al.,

Cherokee Freedmen D 988
Cherokee Freedmen D 1022.

-1-

DECISION.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Austin Whitmire for his wife, Josie Whitmire; and by Lizzie Sanders for herself and minor children, Charles Fulson and Grever, Margaret and Clifton Sanders. The application for the enrollment of Charles Fulson has been heretofore disposed of, and his rights to enrollment as a Cherokee freedman will not be considered in this decision. A copy of the testimony taken on October 7, 1901, at Vinita, Indian Territory, in re application of Sandy Rees for enrollment as a Cherokee freedman, case No. B-380, is filed herewith and made a part of the record herein.

THE EVIDENCE IN THIS CASE SHOWS: That the applicants herein claim the right to enrollment as Cherokee freedmen as descendants of one Easter Carter, deceased, who, it is alleged, complied with the treaty stipulations of 1866.

The following points are fully established by the evidence:

(1) That Easter Carter, deceased, was the slave of a Cherokee citizen at the commencement of the rebellion, was taken from the Cherokee Nation during said rebellion, and later returned thereto.

(2) That the applicants, Josie Whitmire and Lizzie Sanders are children of the said Easter Carter, deceased and one Mack G. Davis, deceased, who began living together

subsequent to the close of the rebellion; that the applicants, Grover, Margaret and Clifton Sanders, are children of the applicant, Lizzie Sanders, and one Isaac Sanders, and that all the applicants herein were born since the close of the rebellion.

(3) That none of the applicants herein have forfeited any rights to Cherokee freedman citizenship they may have obtained through their ancestor, the said Raster Carter, deceased.

It is further established by the evidence herein and from an examination of the records at hand, that, excepting the following enrollments: Raster Carter, deceased, (as Raster Woodard) appears on the Cherokee census roll of 1893, and the applicants Lizzie and Grover Sanders appear on the Kern-Clifton roll, none of the applicants herein, nor any ancestor of said applicants through whom by any possibility they might obtain Cherokee citizenship rights, can be identified on any roll of the Cherokee Nation in the possession of this office.

The testimony is somewhat conflicting as to the nationality of Mack C. Davis, father of the applicants, Josie Whitire and Lizzie Sanders. Cherokee Freedman enrollment card No. D 1022 supra, shows him to have been a Creek freedman, and some color is given this theory by the witness Seenie Brewer, who, on March 7, 1905, (page 4), testifies: "Her (Raster Carter's) first husband was Payne, and then she married another man in Okmulgee." (Creek Nation), and by the witness Raster Grimmett, (page 5), who testifies that Mack C. Davis and Raster Carter were husband and wife and lived "in the Creek Nation". There is some testimony to the effect that Mack C. Davis was a Cherokee freedman, but on November 23, 1904, the witness, Raster Williams, testifying in re application of the said Lizzie Sanders, et al., in reply to the question "Was he (Mack C. Davis) a Cherokee freedman?" answered, "No sir, I think he was a state man." An examination of the records fails to show that Mack C. Davis was ever an applicant for enrollment, either as a Creek or a Cherokee freedman, and he cannot be identified on any Creek or Cherokee tribal roll in the possession of this office. Hence, it is considered that none of the applicants herein obtain any freedman citizenship rights in the Cherokee Nation as descendants of the said Mack C. Davis.

On November 23, 1904, the applicant, Lizzie Sanders, testified (page 6), that her former husband, Isaac Sanders, the father of her three children, minor applicants herein, was living; that she thought he claimed to be a Cherokee freedman, and that he was a son of Squire Sanders, deceased. An examination of the records fails to disclose that application has ever been made for the enrollment of anyone as a Cherokee freedman under the name of Isaac Sanders, and he cannot be identified on any roll of the Cherokee Nation in the possession of this office. In a decision

rendered by the Commission on June 16, 1905, in re application for enrollment as Cherokee freedmen of Laura Gross et al., case No. D 46, it was held that "After ample opportunity having been afforded, it is not established by satisfactory evidence that the applicants, Laura Gross and Clara A. Gross (daughters of Squire and Kate Sanders, both deceased) possess any rights to enrollment as Cherokee Freedmen." It is therefore considered that the minor applicants herein obtain no rights to Cherokee freedman citizenship as descendants of the said Isaac Sanders.

In view of the foregoing it is considered that in order to properly adjudicate said applicants' rights to enrollment as Cherokee freedmen, but one question is presented for determination, namely:

Did Ester Carter, deceased, return to the Cherokee Nation within the time specified in the Whitmire decree?

SUSIE COOBY, witness in behalf of Josie Whitmire, appeared before the Commission on July 1, 1901, at Nowata, Indian Territory and testified as follows: I know the applicant, Josie Whitmire, also knew her father and mother, George and Cynthia Carter. I saw her mother in '65, '66 and '67. I do not know whether or not Cynthia Carter was out of the Cherokee Nation during the war. I left the Cherokee Nation during the rebellion, returned in '68, and it was several years thereafter before I saw Cynthia and her husband.

(In addition to the fact that this witness's testimony is contradictory, it was later developed that the said Cynthia and George Carter, both deceased, were the grand-parents of the applicant, Josie Whitmire, thereby making this testimony immaterial.)

ABE HAIR, witness for the applicant, Josie Whitmire, same date and place, testified as follows: I am 77 years old and my post office is Wymer. I know the applicant, also knew her mother, Ester Carter. She went to Fort Scott, Kansas, during the war, but returned to the Cherokee Nation during the fall of '66. I saw her on Snow Creek after her return. I was out of the Cherokee Nation during the war and returned in 1865 and had been back some two or three years when I first saw this applicant's mother, Ester Carter.

JAMES VANE, witness for Josie Whitmire, appeared before the Commission on June 26, 1904, at Muskegee, Indian Territory, and testified as follows: I am about 47 years old, and my postoffice is Cheateau, Indian Territory. I have known the applicant, Josie Whitmire about thirty years--ever since she was six years old. I know her mother, Ester Carter, and first saw her at Fort Gibson in '67. Don't know who she belonged to before the rebellion, nor whether or not she was taken from the Cherokee Nation during the war.

JOSIE WHITMIRE, applicant, appeared before the Commission on July 25, 1904, at Muskogee, Indian Territory, and testified, in part, as follows: "I guess I am about twenty some odd, maybe thirty" years old, my postoffice is Tablequah, and I am the daughter of Baster Carter and Mack Davis.

SEEMIE BROWER, witness for Josie Whitmire, appeared before the Commission on March 7, 1905, at Muskogee, Indian Territory, and testified as follows: I reckon I am about 65 or 66 years old, and my postoffice is Muskogee, Indian Territory. I have known the applicant, Josie Whitmire, since she was about three or four years old. First saw her at Fort Gibson the next year after the war closed. I also knew her mother, Baster Carter, and first saw her after the war at Fort Gibson, in '66. She at that time had one child, this applicant, Josie. I do not believe Josie was born when I left the Cherokee Nation during the war. I was gone about a year or two, and when I returned she was a little thing about three or four years old. This applicant is older than she thinks. She must be about forty years old.

MASTER GRIFFITT, witness for Josie Whitmire, same date and place, testified as follows: I don't know my age; I am about fifty something I guess, and I live at Muskogee. I have known the applicant since she was a little bit of a thing. She must be thirty-two or thirty-three years old now. She was a good big girl when I saw her with her mother, Baster Carter, at Fort Gibson, in '66. When the war broke out Baster Carter had a man named Wallace Payne, and after the war closed she had a man named Mack Davis.

GEORGE VANN, witness for Josie Whitmire, same date and place, testified as follows: I am about 65 years old and my postoffice is Chouteau, Indian Territory. I first became acquainted with Baster Carter about the commencement of the rebellion, and saw her at Fort Gibson in '66, she had two children, when I saw her in '66, "one was called Josie and one Lizzie".

C A S E C L O S E D .

LIZZIE SANDERS, applicant, appeared before the Commission on July 2, 1901, at Nowata, Indian Territory, and in support of her application for enrollment as a Cherokee freedman, testified, in part, as follows: I am about 28 years old, my postoffice is Dawson, Cooweescoowee District, and I am the daughter of Mack C. Davis and Baster Carter.

KATIE VANN, witness for Lizzie Sanders, same date and place, testified as follows: I am 54 years old. I have known the applicant since she was about six or seven years old. I also knew her mother, Baster Carter, and father, Mack Foreman (Davis).

I first saw this girl's father at Fort Gibson in 1866, "that was I guess, before she was thought of." I first saw Easter Carter after the war, at Coesneck Bend, Coovescoowee District, about twenty-seven years ago.

STICK ROSS, witness for Lizzie Sanders, appeared before the Commission on November 23, 1904, at Muskogee, Indian Territory, and testified as follows: I am 54 years old, and live at Tahlequah, Indian Territory. I don't know the applicant, Lizzie Sanders I know her mother, Easter Carter, and first saw her after the war at Fort Gibson in 1866, but have never seen her since. I don't think Easter Carter had any children when I saw her at the time above indicated. I was Deputy Sheriff of Coovescoowee District three years, but do not know what years. I do not know what year this is, and don't know one year from another. I drew money under the Fern-Clifton payment for myself and family, but do not know what year that payment was made, neither do I know what year the Wallace payment was made. "I know '66 'cause I come from Texas and I never will forget it." I know I saw Easter Carter at Fort Gibson in 1866 by reason of the fact that I had a fuss with Dill Carter, her sister, and Easter come over and took it up. I have since had a skirmish with Ben Ward in Coovescoowee District, but don't know what year it occurred. Also had a fuss with Lee Carper at Tahlequah, but don't know what year it happened. I was not summoned as a witness in this case, but just happened to be over here and was called on to testify.

SEKIE BROWER, witness for Lizzie Sanders, same date and place, testified as follows: I am 60 years old and live at Muskogee Indian Territory. I knew Easter Carter, and saw her when she returned to Fort Gibson after the war; it was the year we drew rations. She at that time had a little girl, a child older than this applicant. This applicant is a second cousin of mine. On cross-examination this witness admitted that she did not know what year she was married, nor the years the Wallace or Fern-Clifton rolls were made, nor what year this is. That she did not know '66 from '96, and that she had been told by the attorney for the applicants to swear to the year '66. On re-direct examination, witness testified that she was not told by applicant's attorney to swear to '66.

ESTHER WILLIAMS, witness for Lizzie Sanders, same date and place, testified as follows: I knew Esther Carter, and first saw her after the war "along about the time of '66." I knew it was '66 "cause they said it was '66". She at that time had a boy and a girl. I do not know what became of the boy, this applicant, Lizzie Sanders, is the girl. I next saw Easter Carter during the big payment, and this applicant about four years ago. Easter Carter lived by the tracks when I saw her at Fort Gibson after the war. Her husband's name was Mack Davis, but I never saw him till the big payment. (First railroad was built through Fort Gibson during the latter '80's.)

LIZZIE SANDERS, applicant, same date and place, testified in part, as follows: That she was twenty-nine years old.

On December 23, 1904, applicants and Cherokee Nation being represented by their attorneys, this case was submitted upon the evidence now of record.

The foregoing is, in substance, the testimony of all witnesses in this (consolidated) case, who testified relative to the return of Easter Carter to the Cherokee Nation after the rebellion, and no violence is done the record when it is alleged that the testimony on the point above indicated is neither satisfactory nor convincing.

Abe Hair testifies that Easter Carter returned to the Cherokee Nation in the fall of '66, and immediately follows this assertion with the statement that he returned in 1865 and had been back two or three years when he first saw the said Easter Carter. In his own case, P.D. 214, this witness alleged that he returned to the Cherokee Nation with the webbers in 1866, and introduced three (noted) witnesses, Sam Webber, William Foreman and Jim (Sheep) Alberty, to corroborate his allegation. The Commission found that the said Abe Hair was not the slave of a Cherokee citizen at the commencement of the rebellion, and denied his application for enrollment on that ground.

Seenie Brewer, testifies that the applicant, Josie Whitmire, was three or four years old when she first saw her mother, Easter Carter, after the war. Under the record in this case it is fully established that the father and mother of Josie Whitmire did not begin living together until after the rebellion. This witness, however, states that Josie Whitmire is older than she thinks, and in 1905, her age must have been 40 years. Accepting this as the applicant's right age, it would indicate that this witness did not see the applicant's mother in the Cherokee Nation after the rebellion, prior to 1868 or 1869. This witness formerly testified, in the case of Lizzie Sanders, et al., supra, that she had been told by applicant's attorney to swear to the year 1866 as the date of Easter Carter's return to the Cherokee Nation, and that she does not know one year from another, all of which tends to indicate that her testimony is of little, if any value.

Easter Grinnett testifies that the applicant, Josie Whitmire, was a good big girl when she first saw her and her mother at Fort Gibson after the war. In connection with the testimony of this witness attention is called to the fact set out above, namely, that the applicant's father and mother did not begin living together till after the close of the war.

George Vann's testimony is to the same effect, with this addition, that when he first saw Easter Carter in the Cherokee Nation after the rebellion she had two children, Josie (Whitmire) and Lizzie (Sanders), applicants herein.

Stick Ross testifies that he remembers Easter Carter being at Fort Gibson in 1866 because he had a fuss with her sister, Dill Carter, in that year, and Easter came over and took it up.

He further testifies that he knows nothing of dates, is unable to remember the dates of more important events that have since happened concerning him, and admits that subsequent to his fuss with Dill Carter he has had two "rackets" with other persons, but can not state in what year or years they occurred.

FINDINGS OF FACT AND CONCLUSION: It is considered that ample opportunity has been afforded the applicants in this case to establish by satisfactory evidence their rights to enrollment as Cherokee freedmen, but that they have wholly failed in this, to-wit: to show that Easter Carter, the ancestor through whom they claim the right to enrollment, returned to the Cherokee Nation after the rebellion, within the time specified in the Whitacre decree for the return of freedmen to the Cherokee Nation, consequently, their applications come within the rulings of the Department in the cases of Eliza Bryant et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al., (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), and Moses Ross (I.T.D. 6086-04). And it is further considered that none of the applicants herein possess any rights to enrollment as Cherokee Freedmen other than as descendants of the said Easter Carter.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 20, 1898 (30 Stat., 495), Josie Whitacre, Lizzie Sanders, Grover Sanders, Margaret Sanders and Clifton Sanders, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied.

WITNESSED: Jame Birby
COMMISSIONER

Dated at Muskogee, Indian Territory,
this DEI 8 1900

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
D 1022-1026

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

Muskogee, Indian Territory, December 28, 1905.

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

Dear sir:

There is inclosed herewith a copy of the decision of the Commissioner to the five Civilized Tribes, dated December 28, 1905, denying the applications for enrollment of Jessie Whitwire and of Lizzie Sanders and her minor children, Grover, Margaret and Clifton Sanders, as Cherokee Freedmen.

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~~
Commissioner

Incl. B 99

msg

COMMISSIONERS
TAMM BIXBY.
THOMAS B. NEEDLES
C. R. BRICKNORRIDGE
W. D. REAL
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING.
Cherokee Freedmen
D-986.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 3, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of Austin Whitmire for the enrollment of his wife, Josie Whitmire, as a Cherokee freedman, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced as to the residence of Josie Whitmire since birth.

Said Austin Whitmire has, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Saturday, June 18, 1904, and introduce testimony as above indicated.

The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire.

Respectfully,



Chairman.

Land
134-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

(COPY)

January 7, 1907.

The Honorable,
The Secretary of the Interior.

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated December 28, 1905, transmitting the record relative to the application of Josie Whitmire, et al., for enrollment as Cherokee freedmen.

On July 1, 1901, Austin Whitmire applied to the Commission to the Five Civilized Tribes for the enrollment of his wife, Josie Whitmire, as a Cherokee freedman, and Lizzie Sanders applied for the enrollment of herself and her minor children, Grever, Margaret and Clifton Sanders, as Cherokee freedmen.

On December 28, 1905, the Commissioner held that the applicants were not entitled to such enrollment.

The evidence shows that Jack C. Davis, father of the two principal applicants, Josie Whitmire and Lizzie Sanders, was a non-citizen, and that Rachel Carter, deceased, their mother, was the slave of a Cherokee citizen and was taken from the Creek Nation into the State of Texas at the commencement of the war of the rebellion, and did not return to that Nation within the time specified in Section 3 of the act of April 25, 1866, Chapter 179.

-2-

Josie Whitmire and Lizzie Sanders possess no other right to be enrolled as Cherokee freedmen than that derived from their mother, Easter Garter.

The minor applicants possess no other right to such enrollment than that derived from their mother, Lizzie Sanders.

The decision of the Commissioner adverse to the applicants is therefore recommended for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

HERD--SD

D. C. 5762-1907.
I. T. D. 366-1907.
L.H.

(COPY)

U. S. D.

DEPARTMENT OF THE INTERIOR, THE
WASHINGTON.

January 25, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

December 28, 1905, you transmitted the record in the matter of the application for the enrollment of Josie Whitacre, and Lissie Sanders and her minor children, Grover, Margaret and Clifton Sanders, as Cherokee freedmen, including your decision of the same date, adverse to the applicants.

Reporting January 7, 1907 (Land 134-06), the Indian Office recommends that your decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the matter have been returned to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 2 to Ind Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
D 986.

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

Muskogee, Indian Territory, February 16, 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 December 28, 1905, rejecting the application for the enrollment of Josie Whitmire, et al., was affirmed by the Secretary of the Interior, January 23, 1907. For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. HJ-60.
HJC

Commissioner.

Cher. Fr. D. 987

Cher. Fr. D. 987

STATE OF KANSAS

vs.

GRAD LARCNEY.

No. 197

THOMAS RILEY

Costs of Prosec.

Justice

Docketing	10
Taking Aff.	25
Writing do	20
Entering do	20
Filing do	10
Warrant	25
Entering <u>com. do.</u>	10
return do	10
Filing do	10
Entering Appe-	
arance	10
Trial	50
Swearing 3 wit.	30
Entering do	10
Rendering judg	25
Entering do	25

\$2.90

Marshall

Warrant Attending trial

2.00

2.25

Justice Costs

\$3.40

Pa 14 Apr. 17/02
By Douglas Co.
E.D. Ladd, J.P.

Dec. 20, 1861. This day came Jacob Bellman and made and filed his affidavit that on or about the 1st day of December A.D. 1861, at the County of Franklin, State aforesaid, some person or persons did feloniously steal, take and carry away a certain black steed about 4 years old; and that he verily believed one Richard Roe, alias, whose real name was unknown to affiant, of the following description, to wit. About 5 feet 10 inches to 6 feet high - alias - rather dark complexion, and had on when last seen soldiers clothes, was guilty of the fact charged.

Thereupon I issued a warrant against Sa M. person and delivered same to Geo. F. Killam, City Marshall, by Norman Clark, dep.

25 Dec. 20, 1861 Warrant returned with the body of Thomas Riley. Warrant endorsed as follows.

"Served the writs by arresting Thomas Riley, and have him now before the Court." Service 25¢

Geo. F. Killam City Marshall
By Norman Clark, Dep.

The defendant being present and the parties ready for trial, trial was had. Jacob Bellman and Aleck Macy were sworn and examined as witnesses for the prosecution and Henry Sinsore was sworn and examined as witness for the defendant.

It is thereupon considered by me that the defendant be discharged and that the said County of Douglas pay the costs herein.

State of Kansas, County of Douglas, ss.

I, James Brooks, Justice of the Peace, in and for Lawrence Township said County and State, hereby certify that the foregoing is a true copy of the proceedings had in an action, wherein the State of Kansas was Plaintiff and Thomas Riley was defendant, as the same appears of record in Act No. 197 in Criminal Docket, at page 200, but on file in my office and in my possession.

Gives under my hand at my office in Lawrence, Kansas, this 28th day of September 1864.

James Brooks
Justice of the Peace.

To be filed with the case of Mary Hazelrig, C. F. D. 267.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. June 25th 1901.

In the matter of the application of Mary Ann Riley for enrollment as a Cherokee freedman.

Appearances:

Hollette & Smith attorneys for applicant

W. W. Hastings, of counsel for Cherokee Nation.

Mary Ann Riley, being duly sworn and examined by Commissioner Newble, testified as follows:

Q What is your name? A. My name is Mary Ann Riley.

Q How old are you? A I am going on 81.

Q What is your post office? A. Bartlesville.

Q What district do you live in? A. Coowascoowee.

Q You want to be enrolled as a Freedman? A. Yes sir.

Q Who do you want to enroll besides yourself? A. My daughter.

Q How old is your daughter? A I don't know her age, she will give her age when she comes.

Q Anybody else? A. No one else but me.

MR. SMITH: Where do you live? A. I live on Horse Creek Bend of Gandy

Q That is the Cherokee Nation? A. Yes sir.

Q How long have you ~~lived~~ been living there? A. I can't tell you how long I have been there, I can't and tell the truth

Q You haven't got any children I guess that are living with you? A. I have one daughter.

Q She isn't living with you? A. She is a married woman.

Q What is her name? A. Her name is Mary Hazelrig.

Q Who is she married to? A. George Hazelrig.

Q Where does she live? A. Lives about five miles from me on the other side of Coon creek.

Q Where is that in the Cherokee Nation? A Yes sir in the Cherokee Nation, all of it.

Q Were you a slave? A. Yes sir I was.

Q Then how old is your daughter; was she born before the war or after the war? A She was born before the war.

Q How old was she when the war commenced? A I can't tell you because I never knew I had to go through any such business as this, and I never tried to keep her age or nothing.

Q You can't tell me about your daughter Mary, how big a child she was when the war commenced, can't you? A. When the war commenced I reckon she was about 6 years old, maybe.

Q Who did you belong to? A. I belonged to Stand Watie.

Q Was he a Cherokee Indian? A Yes sir.

Q What did he do for the Cherokee Nation? A. He was living on Brush creek, that is the place I think they called it, I think that is the place he gave in, Brush creek.

Q In the Cherokee Nation? A. Yes sir.

Q Where was you at that time? A. I was right at his house, right with him.

Q Where was Mary? A. She was there too at the same place.

Q Was Mary with you? A. Yes sir, we both belonged to Mr. Watie.

Q Now what because of you during the war, were you taken out of the Nation or did you go out, or what because of you while the war was going on? A I was taken out by the soldiers.

Q Well where were you taken to? A They carried me to Fort Scott

Q Took Mary too? A Took Mary too.

Q When did you come back to the Cherokee Nation? A We come back to the Cherokee Nation in '66

Q Who did? A. Who came?

Q Who did you come with? A. Me and Mary and my husband and my son

Q What was your husband's name? A. Thomas Watie.

Q What was your son's name? A. Joseph Watie.

Q Whereabouts did you come to when you came back to the Nation after the war? A. We came to Aunt Susie Calberte.

Q What part of the Nation? A I can't tell you what part of the Nation

to save my life because I never thought of such a thing, but we came to Aunt Susie Gilbert's.

Q Who was she? A. She was a Cherokee freedwoman, is all I can tell you.

Q Was she a Cherokee slave, a freedman, or something of that sort? A Yes sir.

Q Well, where have you been living now since you came back here? A. ~~Standing~~ Been living on the Horse Shoe Bend of Caney.

Q Have you lived in the Cherokee Nation ever since you came back? A. I have never been out of the Cherokee Nation anywhere since I came to the Cherokee Nation, never been anywhere out of the Cherokee Nation.

Q Well, what became of your daughter Mary, where did she live after you brought her back here? A. We all lived together around here until we got split up, scattered out from one another.

Q When did Mary marry? A. Mary married, I can't tell you exactly when, because I don't know, I don't want to sit up here and tell a whole lot of something I don't know anything about, I can't tell you when Mary married.

Q What became of your son, what did you say his name was? A. Joseph Watie.

Q Where is he? A. He is dead and in the grave.

Q Where is your husband, is he dead too? A. In the grave.

Q Is any of your family alive except you and Mary? A. That is all I know of, there is some left but I don't know where they are.

Q How do you happen to be called Riley now? A. I will tell you now I been called Riley, just like other people when they marry off they take the man's name, that is the way I got it.

Q Did you marry a man named Riley after Watie died? A. I married him right there in Mr. Watie's kitchen.

Q Married who? A. Thomas Watie, he belonged to Watie and I belonged to Watie and he took his father's name.

Q Well, what was that? A. Riley.

Q So Thomas Riley was sometimes called Thomas Watie? A. Yes sir.

Mr. Hastings: Now Aunt Mary, where did your daughter Mary marry, at whose place? A. I can't tell you at whose place she married, she married here in the Cherokee Nation and she went away from me to marry, she went a long way from me to marry, I don't know how far they went to get married, but she married in the Cherokee Nation.

Q In what town was she married? A. I don't know whether in the town or not.

Q Who was living near you when your daughter Mary married? A. You want to know who my nearest neighbor is, is what you want to know?

Q Yes? A. Well Bob Dungan.

Q Was he living near you at that time? When Mary married? A. Yes sir he was the nearest man.

Q Who else lived around you? A. Sam Beck was the next closest man.

Q How far was that from Fort Scott? A. Oh well, she married here in the Cherokee Nation.

Q Well, what part of the Cherokee Nation, that is what I am trying to find out? A. I wish I was able to tell you, but I told you I don't know, I told you I don't know.

Q You don't know one year from another? A. No I don't, you spoke the truth then, God knows you spoke the truth, because I never has the liberty in this world to know that.

Q You don't know this year? A. No sir.

Q You don't know when you came back? A. I know I came back to the Cherokee Nation, I know that is all.

Q That is all you know? A. That is all, I know I came back to the Cherokee Nation.

Q You know you are in the Cherokee Nation now? A. Oh bless God, yes.

Q What was Watie's wife? A. Her name was Sallie.

Q You know that don't you? A. Yes sir I do sure know it.

Q Now I am trying to find out near what point or near what settlement or on what creek or what river or what part of the Cherokee Nation you first came to when you came back here? A. I never seen any river when I came here, I never seen any river about Aunt Susie Gilbert's, I came to her place first, but when I want down there I am living now,

Orange River, in the first river I seen.
Q I want to know where Aunt Sallie Gilbert lives? A I can't tell you, all I can tell you, I can tell you she lives in the Cherokee Nation, because I told you when I was down here I told you I couldn't tell because I never thought anything about this stuff in the world and I never even thought of it, thought I would be coming to the Cherokee Nation to live, that is all I had to think about, thought I just had to come to the Cherokee Nation to live, I didn't know I would ever be brought up about these dates.

Q Where did you see L. D. Daniels first after the war? A I saw him in the Cherokee Nation when I first came back.

Q What place? A The first place I ever saw L. D. Daniels to be acquainted with him, I had seen him, but the first place I had seen him to be in anyways personally acquainted with him, was at Goose Neck Bend.

Q That was the first time was it? A Yes sir, that was the first time and that wasn't the first time I had seen her passing by, I didn't know the man.

Q That was after the war, wasn't it? A After the war.

Taking of testimony continued by stenographer (Chas. Van Weine)

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 cause and the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) Bruce G. Jones

Sworn to and subscribed before me this the 18th of July, 1901.

(signed) T. B. Hoodless,
Commissioner.

Continued from Stenographer Bruce G. Jones,
Nowata, I. T. June 29th 1901.

L. B. DANIELS, called and sworn as a witness for the applicant,
(By Mr. Smith)

Q What is your name? A L. B. Daniels, age 58, post office Oklawaha.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Do you know this applicant? A Yes sir.

Q When did you first know her? A About '76, after I moved up here in this district.

Q Did you know her before the war? A No sir.

Q Was that the first time you saw her in the Cherokee Nation after the war? A Yes sir.

Q Where was she living then? A Her husband bought a place 4 miles from me on Peach Creek.

Q Where is Peach Creek, now in the Cherokee Nation? A Yes sir.

Q How far is it from where you live now? A Five miles from my home place.

Q Where has the applicant been living since '76? A Near Newellville, on Sandy, north of there.

Q Is that in the Cherokee Nation? A Yes sir.

Q How old are your children? A Yes sir, one girl as I know of.

Q What is her name? A I can't tell her name, I never was at her place but twice.

Q Do you know what her name was? A I don't know her name, I never was at her place but twice.

Q Do you know what her name was? A I don't know her name, I never was at her place but twice.

Q How long has this daughter been living? A. I don't believe I
know exactly, somewhere over twenty years.

By Hastings—
Q What was this daughter married when you first went up there? I don't
know, she may have been; I am not sure.

By Commission of applicant—
Q Did you ever draw said money? A. I cannot recall.

Applicant not found on the 1868 or 1870 rolls of the Cherokee Nation

Leon Clifton roll examined and the applicant found as follows:
page 183 No 4814, Mary Ann White, Co. Overconcewed district.

Applicant not found on the Wallace roll of the Cherokee Nation.

By Smith of applicant—
Q Where is your daughter Mary? A. Buried over there a little ways.

By Gen'l Woodles, Mary A. Riley applied for herself (she cannot be iden-
tified on any of the rolls except the Leon Clifton rolls) she swore
that she was a slave of one Stand Wattle, went to Fort Scott and
returned in 1868 and married one Sam Wattle sometimes know as Riley,
satisfactory proof as to residence is made, consequently she will be
listed for enrollment as a Cherokee freedman on a doubtful card
and when the final decision is arrived at she will be notified by
mail.

Chas. von Weise being sworn stated that as stenographer to the Commis-
sion to the Five Civilized Tribes he reported in full all the pro-
ceedings in the above case and that the foregoing is a full, true
and correct transcript of his stenographic notes therein.

(signed) Chas. von Weise,

Subscribed and sworn to before me this the 15th of July, 1901.

(signed) T. H. Woodles,

Commissioner.

I, Chas. von Weise, upon my oath state that the foregoing is a full
and correct copy of the original.

Chas von Weise

Subscribed and sworn to before me this 3rd of August, 1901

M. D. Green
Notary Public

Department of the Interior,
Commission to the Five Civilized Tribes,
Oscota, I. T. July, 1st 1901.

In the matter of the enrollment of Mary Hazelrig for the enrollment of herself and eight children as Cherokee freedmen and the enrollment of her husband as a Cherokee freedman by inter-marriage, she being sworn by Commissioner T. B. Hoelton, testified as follows:-

~~Called by~~ L. B. Hall, attorney for the Cherokee Nation

Louis T. Brown, agent for the applicants

By Com'r Hoelton,-

- Q What is your name? A. Mary Hazelrig.
 Q What is your age? A. 44.
 Q What is your present office address? A. Doozy.
 Q In what district do you live? A. Coowocowocooe.
 Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
 Q Who else do you want to have enrolled besides yourself? A. Myself and eight children.
 Q Are you married? A. Yes sir.
 Q What is your husband's name? A. George Hazelrig.
 Q Is he a citizen? A. No sir.
 Q Is he living now? A. Yes sir.
 Q Do you apply for him as a freedman by inter-marriage? A. Yes sir.
 Q What are the names of your children? A. William A. Hazelrig
 Q How old is he? A. 21 years.
 Q Do you want to apply for him? A. He is in jail
 Q What the next child? A. Jennie.
 Q How old? A. 19 yrs.
 Q Next? A. Lucy.
 Q How old? A. 15.
 Q Next? A. Alexander
 Q How old? A. 13 years.
 Q Next? A. Joseph B.
 Q How old? A. 8 years.
 Q Next? A. James M. B.
 Q How old? A. 6 years.
 Q Next? A. Jacob L.
 Q How old? A. 3 years
 Q Next? A. Fred
 Q How old? A. 3 years old.
 Q Is your name on any of the rolls? A. Yes sir the Kern and Wallace rolls.

Kern Roll examined and the applicants found thereon as follows- Page 125 No. 4013, Mary Hazelridge, Coowocowocooe district
 Page 125 No. 4014, William Hazelridge, Coowocowocooe district.
 Page 125, No. 4015 Jennie or Jess Hazelridge, • •
 Page 125, No. 4016 Lucy Hazelridge, • •
 Page 125 No. 4017 Alex Hazelridge • •
 Page 125 No. 4018 Joe Hazelridge • •
 Page 125 No. 4019, J. Milton Turner Hazelridge • •

Wallace roll examined and the names of the applicants found as follows
 Page 118 No. 2461 Mary W. Hazelridge,
 Page 118 No. 2462 Wm. A. Hazelridge
 Page 118 No. 2464 Jennie or Jennie Hazelridge

- Q Are these children all living at this time? A. Yes sir.
 Q And all the children of George Hamalrig by yourself? A. Yes sir.
 Q And all born in the Cherokee Nation? A. Yes sir.

By Rosen-

- Q Were you a slave at the beginning of the Civil war? A. Yes sir.
 Q To whom did you belong? A. My mother and father belonged to Stand Watie and I was born in his kitchen.
 Q Was he a Cherokee citizen? A. Yes sir.
 Q In what district did he live at that time? A. Seingsonah.
 Q Were you taken out of the Cherokee Nation during the war? A. Yes sir.
 Q With whom did you return? A. My mother and father.
 Q Who is your mother? A. Mary Ann Watie.
 Q Did she apply the other day to be enrolled under the name of Mary Ann Riley? A. Yes sir.
 Q She is your mother? A. Yes sir.
 Q Where have you lived since your return? A. In the Cherokee Nation.

By Bell-

- Q What is your mother's name? A. Mary Ann Watie.
 Q How old were you when the war broke out? A. Six years old.
 Q Where were you living then? A. On Grand river.
 Q What is your father's name? A. Sam Watie.
 Q Was he living there on Grand river? A. Yes sir.
 Q What place on Grand river? A. They tell me it was on Grand river, I don't know what place.
 Q What is your name? A. Mary Hamalrig.
 Q Same name as your mother—that is the Mary? A. Yes sir.
 Q Where did you first come to in the Cherokee Nation after the war? A. I came to my aunt Samie Gilbert.
 Q Where is that? A. I don't know except that it is in the Cherokee Nation.
 Q You know that much do you? A. Yes sir.
 Q Where did you come from? A. Fort Scott.
 Q Do you remember anything about coming back to your aunt Samie's? A. No sir I don't know anything about it, I was told we came there.
 Q Do you know where that is? A. In the Cherokee Nation.
 Q Was it on Grand river? A. No sir.
 Q Where were you when you can first recollect? A. In Big Camp in the Cherokee Nation.
 Q Did you go there from where your aunt Samie lived? A. No sir.
 Q Where did you move from? A. We first came to Pecos creek from aunt Samie's and then to Big Camp.
 Q When you came from Fort Scott you came to your aunt Samie's? A. Yes sir.
 Q Then you went to Pecos creek? A. Yes sir.
 Q How long did you live at your aunt Samie Gilbert's? A. I don't know.
 Q How long did you stay on Pecos creek? A. A month or so.
 Q When you first moved to Big Camp and before going there you stopped at Pecos or was on Pecos creek? A. Yes sir.
 Q Who were your neighbors? A. No neighbors but one white man named Sam Hamalrig.
 Q What was his name? A. I don't know.
 Q Do you know what year this is? A. No sir.
 Q Are you on the Rollins roll, did you draw money on it? A. I guess so.
 Q How old are you now? A. I guess I am 44 years old.
 Q Do you remember nothing about your year 25, 30 or 35 years old? A. No sir I was studying about work and wasn't studying nothing like that now.

- Q Where did you get married at? A. In the Cherokee Nation
 Q What place? A. Down here at Allowee.
 Q In whose house? A. The clerk's office
 Q When was that? A. I don't know.
 Q What year was it in? A. I don't know.
 Q Have you got your license? A. Yes sir.

By the Commission-

- Q Was George Hazelrig your first husband? A. Yes sir.
 Q Did he ever have any other wife besides you? A. Not that I know of.
 Q Are these children all living with you? A. Yes sir, all except those in jail.
 Q How many have you in jail? A. Two.
 Q Which ones? A. Jesse and Willie?
 Q And the reason the one of age is not here to apply for himself is because he is in jail? A. Yes sir.

By Gen's Hoodles-

Mary Hazelrig applies for herself and eight children as Cherokee freedman and for her husband as a freedman by inter marriage. The oldest child, William A., is 21 years of age, but he is not here on account of being in jail; she presents satisfactory proof of her marriage to one George Hazelrig according to the laws of the Cherokee Nation on the 27th of Dec. 1857, and presents a duly authenticated marriage license. She is duly identified on the Kern Clifton roll and the Wallace roll. Her six eldest children are identified on the Kern Clifton roll; William and Jesse are also identified with her on the Wallace roll, and she presents satisfactory proof of the birth of her two youngest children; she swears that she is the daughter of Mary Ann Wiley, nee Watis who has been listed for enrollment as a Cherokee freedman on a doubtful card, 1857 and the testimony taken thereon is hereby referred to and will be made a part of the application at bar and a copy thereof filed herewith. She makes satisfactory proof as to residence; consequently the said Mary Hazelrig and her eight children named in the testimony will be listed for enrollment as a Cherokee freedman on a doubtful card and her husband George Hazelrig as a Cherokee freedman by intermarriage. They will be notified of the final decision of the Commission when the same is arrived at.

=====

Chas. von Weiss, being sworn states that as stenographer to 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.

(Handwritten signature)

Subscribed and sworn to before me this the 18th of July, 1901

(Handwritten signature)

Special Agent.

Department of the Interior
Commission to the Five Civilized Tribes,
Washington, D. C., May 31, 1903.

In the matter of the application of **FERRY ADAMS** for enrollment
as a Cherokee Freedman:

Applicant appears by Kellotte & Smith, Cherokee Nation, by
W. V. Hastings:

By Mr. Smith:
The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Messrs Whitacre, Trustees for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F D 496, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be
deemed necessary that a copy of the said decree be filed in this
case and in the following cases, to-wit:

May Hastings, D 907;

By W. V. Hastings:
Cases now the Cherokee Nation and objects to the intro-
duction of the aforesaid decree, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning of
the year 1866, nor that he resided within the time specified in the
act of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will have judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of the decree in the case of an applicant without the same
being filed in each individual case.

The attorney for the applicant will be
advised of the Court of Claims in the
case of the said Mariah Hayden, by reference
to the record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be
deemed necessary that a copy of the said decree be filed in this
case and in the following cases, to-wit:
May Hastings, D 907;

33

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., April 6, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application of Mary A. Riley, C. F. D. 967; and in the matter of the application of Mary Hazelrig, et al., C. F. D. 967, for enrollment as Cherokee freedmen.

It appears that on the 7th day of March, 1904, the principal applicants and the Cherokee Nation were duly notified by letter that an opportunity would be given each of them to appear before the Commission at its offices in Muskegee, Indian Territory, on April 6, 1904, and then and there to introduce further testimony touching the matters stated in said letter.

APPEARANCES:

Mary A. Riley appears by her attorneys W. C. Van Hoy and J. M. Givens.
Mary Hazelrig appears in person and by her attorneys, W. C. Van Hoy and J. M. Givens.
Cherokee Nation by its attorney, W. W. Hastings.

MARY HAZELRIG, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A Mary Hazelrig.
Q How old are you? A I guess about 40.
Q What is your postoffice address? A Dewey, Indian Territory.
Q You are claiming right to enrollment as a Cherokee freedman?
A Yes, sir.

By Mr. Hastings:

- Q How old did you say you are? A About 40; I don't know exactly.
Q Were you born before or since the war? A Before the war?
Q Do you remember when the war came up? A No, sir, don't know anything about it.
Q You don't know with whom you were living? A I was with my mother and father is all I know.
Q You don't know with whom of your own independent knowledge?
A No, sir.
Q You were taken out during the war? A Taken out? I don't remember.
Q You were taken to Kansas, weren't you? A No, sir.
Q Didn't you swear before the Commission that you went to Kansas?
A Not me.
Q What town up in Kansas did you live near to? A I don't know of any. I remember of Fort Gibson.
Q That is all you remember? A Yes, sir.
Q When you were first old enough to remember where were you living?
A Living in, near Fort Gibson, or somewhere, I—
Q What direction from Fort Gibson? A Couldn't tell you anything about that.
Q Was it towards sunrise or sunset or north or south? A I don't remember nothing about that.

- Q About how far from Fort Gibson? A About a mile, maybe two, I don't know exactly.
- Q Were you living in a house or tent? A In a wagon.
- Q Just lived in a wagon? A Yes, sir.
- Q How long did you live in a wagon? A Don't remember.
- Q Just camping there? A Yes, sir.
- Q Well, how long? A Don't know anything about it.
- Q Did anybody live near there? A Couldn't tell you.
- Q Where did you get anything to eat? A Just where we could.
- Q Don't you remember anybody that your parents got something to eat from? A Just where they could get it.
- Q How long did you stay around there? A I couldn't tell you anything about it.
- Q Did you stay there a week? A I don't know, I reckon we stayed there longer than that.
- Q Did you stay there ten days? A I reckon so, I couldn't know; I was not old enough to take notice of that.
- Q Did you see anybody that you know out there? A I couldn't tell you; sometimes we would see somebody and sometimes not.
- Q Do you remember now of ever seeing anybody from there? A Yes, I remember of seeing John Baldridge.
- Q Did he live out there with you? A No, sir, I don't think he did.
- Q Did he live right near to you there? A Passing back and forth, I reckon.
- Q Don't you know that you never saw him? A I have seen him, yes, I have.
- Q Tell me some other man on earth that you saw while there? A Seen like I remember a man by the name of L. D. Daniels.
- Q You think you remember him, do you? A Yes, sir.
- Q That was while you were near Fort Gibson? A Yes, sir.
- Q L. D. Daniels swears that he never saw you until '76, what do you think about that? A I don't know.
- Q Still you are willing to swear that you saw them there at the same time? A No, I think I saw him there.
- Q John Baldridge didn't have any house there, did he? A Not as I know of, didn't know anything about it.
- Q You were not acquainted with him were you? A I have seen him.
- Q Before that? A Yes, sir.
- Q Where did you see him? A He come around there.
- Q You were in the wagon there? A Yes, sir.
- Q And couldn't get anything to eat? A They got it wherever they could.
- Q Were you camped in the prairie or timber? A We camped in the timber.
- Q Were there any creeks around there? A I don't remember about creeks.
- Q Any springs? A I don't remember no wells.
- Q Or springs? A I don't remember.
- Q Where did you get water? A Out of the springs.
- Q Thought you said there wasn't any? A No, I didn't say it.
- Q Was there any corn in the fields? A I don't remember any.
- Q Don't ever remember seeing anybody ever there, except John Baldridge pass along? A Yes, sir.
- Q That is all is it? A Yes, sir.
- Q Do you remember whether that was in the morning or evening? A I don't know.
- Q What year is this? A I couldn't tell you; don't know anything about it.
- Q What month is it? A I believe they say it is April; I don't know, you ought to know; I am not educated.

- Q You don't know one year from another do you? A Only what the people tell me.
- Q Where did you go from that neighborhood about Fort Gibson? A We come on out on Verdigris, about there.
- Q Did you find anybody living there then? A We stayed a while at Aunt Susie Gilbert's.
- Q Where was that on Verdigris? A I think it is on Snow Creek.
- Q Near what town? A Not any town that I know of.
- Q Wasn't there any place you went to trade? A Not as I know of.
- Q How long did you stay there? A We didn't stay there so very long, ~~xxxxxx~~
- Q Two or three days? A We may have stayed longer than that.
- Q Did you? A I don't know sir.
- Q Why don't you? A Because I never thought anything about the time.
- Q Did you stay a month? A I don't know.
- Q Did you stay there ten years? A Don't know anything about it.
- Q Don't you know the difference between a month and ten years?
- A I know what the people tell me is a month.
- Q Well, don't you know about staying there? A We may have stayed there a month.
- Q Where did you go from there? A Out on Coney.
- Q Where you are living now? A Where we live now.
- Q Who were neighbors to you then? A Nobody but some colored folks.
- Q Who were they? A Daniels.
- Q L. D. Daniels? A Not L. D. Daniels; I mean my sister.
- Q Any Cherokees living out there then? A I don't know of any.
- Q Any white people at all? A Not as I know of.
- Q Any town out there? A There wasn't when we came there.
- Q Where did you get what you eat? A We got what we eat from Coffeyville.
- Q Town of Coffeyville? A Yes, sir.
- Q Did Joe Parker live there? A I don't know.
- Q Any Delawareans living there then? A I don't know them.
- Q Don't know them y et? A No, sir, I know a very few of them, because I don't go around any place, stay at home and tend to my business.
- Q Who were neighbors to Susie Gilbert on Snow Creek? A I couldn't tell you.
- Q Did they have a house when you went there? A I think they did.
- Q Don't you know? A They were in a log house.
- Q Did they have a field? A A little garden spot.
- Q A little garden spot? A Yes, sir.
- Q You don't know any of her neighbors? A No, sir.
- Q You have never had Susie Gilbert to testify for you? A Not
- Q Yes. A Not as I know of.
- Q Why have you never had John Paltridge testify for you before to-day? A I don't know, sir.
- Q When did you first remember that you seen him at Fort Gibson?
- A I couldn't tell you when I first remember.
- Q You don't know what direction you came from Fort Gibson? A No.
- Q You don't know how long you stayed there? A I think two or three weeks.
- Q And then you went from there to Susie Gilbert's, on Snow Creek?
- A Yes, sir.
- Q And they had a little house and patch in and others had heard along? A I never noticed any.
- Q Then you went from there over there you are living on Coney, is that it? A Yes, sir.
- Q You stayed at Susie Gilbert's how long? A About a month.

JOE DAVIS, being first duly sworn, testified as follows:

By the Commission:

Q What is your name? A Joe Davis.

Q How old are you? A 49.

Q What is your postoffice address? A Vinita, Indian Territory.

Q Are you claiming to be a Cherokee freedman? A Yes, sir, I am a Cherokee freedman.

Q Do you know Mary A. Riley? A Yes, sir.

Q Do you know Mary Haselrig, her daughter? A Yes, sir.

Q How long have you known them? A Well, sir, I couldn't tell—a long time, though.

Q How old is Mary Riley? A I don't know her age.

Q Is she a very old woman; can't you give an idea? A No, sir, I couldn't; she is awful old.

Q How old is Mary Haselrig? A I would judge her to be somewhere about 40 or 45.

Q Was she born before the war? A She must have been.

Q Did you know either of these women before the war? A No, sir.

Q When did you first get acquainted with them, how long after the war? A Well, I don't know; it must have been four or five years after the war.

Q You don't know anything, then, of your own knowledge as to whether they were slaves of Cherokee citizens before the war? A No, sir, I don't.

Q Where were they living when you first became acquainted with them? A When I first became acquainted with them they were living, I believe, on the other side of the Verdigris.

Q On what place? A Somewhere near where the old Lane place is now.

Q Near what town? A Five or six miles from Coffeyville.

Q Could you tell about what year that was? A No, I don't know exactly.

Q Do you know about how many years ago that has been? A It has been some 25 or 30 years ago, probably longer than that.

Q Where have they continued to live since you have known them? A I don't know; they have been living out on Casey for a number of years; they moved from there out on Casey.

Q They have lived in the Cherokee Nation since you have known them? A Yes, sir.

Q Did you know the husband of Mary Riley? A Yes, sir.

Q What was his name? A Some called him Tom Riley; some Tom Ridge.

He was my grandfather.

Q Was he a slave of a Cherokee citizen? A Yes, sir, so they say.

Q When was he married to Mary Riley, before the war? A I couldn't tell you; I think it must have been.

Q Did he go out of the Cherokee Nation during the war? A I couldn't tell you that from my own knowledge.

Q When did you first see him in the Cherokee Nation after the war? A When I first seen him, it was in '66, so they say.

Q Where at? A Fort Gibson.

Q What time of the year was that? A It was sometime along in the summer; it has been so long I can't recollect.

Q Was he living there at that time? A Yes, sir, he was staying there.

Q Did he have anyone with him, his family or children? A I didn't see his family.

Q Do you know whether he was married at that time to Mary Riley? A I don't know from my own knowledge. I didn't see her; I heard him say he had a family.

Q How long did he live there at that time you speak of having seen him in Fort Gibson in '66? A I couldn't tell; I moved away from there in '66 sometime.

Q How long did he live after that? A I think it has been about 10, 11 or 12 years.

Q Did he continue to live in the Cherokee Nation from the time you saw him in Fort Gibson until the time of his death? A I think he did.

By Mr. Van Hoy:

Q Where did he die, Joe? A On Caney.

Q How old were you? A About 9 or 10 years old.

Q Did you live there at Fort Gibson for sometime after? A Yes, sir, during the war quite a while after the war.

Q Could you give me an idea about how long Tom Riley was there after the war? A No, I ~~was~~ went away sometime in the fall, up on Snow creek.

Q When did you see him next? A I seen him along sometime, I don't remember, been three or four months afterwards, he used to come up there on Snow creek to see me.

By Mr. Hastings:

Q What was Tom Riley doing in Fort Gibson when you saw him there?

A I couldn't tell; he had just come back home.

Q Did you see him more than once? Yes, sir.

Q In Fort Gibson? A Yes, sir, I did.

Q Was he living in a house? A He must have been.

Q Were you ever in his house? A No, sir.

Q Do you know what part of town he was living in? A No, sir, I don't; it has been so long; I would either see him in town or he would come to where I lived.

Q You don't remember anything about that? A No, sir, I don't.

Q You know as a matter of fact that his wife wasn't there, don't you? A Well, I don't know, I didn't see her.

Q You know from what he said that she wasn't there? A I don't know, I didn't see her.

Q You know that she was in Kansas at that time, don't you? A She may have been.

Q You know that he told you that at the time, don't you? A I think he did if I aint mistaken.

Q He told you she was there didn't he? A I think he went back after his family.

Q You never saw her for four or five years, did you? A No, I never.

Q You never saw him living in a house over there, did you? A No, sir, I don't know where he lived at or who with. It was directly after the war. I heard my ~~own~~ grandpa was in town, and he come to see me.

Q You think that was in '66? A I know it was.

Q In the spring? A In the summer.

Q How many times did he come to see you? A I don't recollect.

Q You don't remember of his stopping and doing any work? A Not as I recollect.

Q Did he say what town in Kansas his family was at? A I don't remember.

Q You don't remember of his living in any house at Fort Gibson, or what he was engaged in or anything like that? A No, sir, I don't remember.

Q What were you doing there? A Wasn't doing anything; wasn't big enough to do any work. I might have carried in chips or a bucket of water or something; didn't have any occupation.

Q How old were you then? A I suppose I was about 10 years old.

JOHN BALDRIDGE, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A John Baldrige.
- Q How are you? A 74.
- Q What is your postoffice address? A Coffeyville.
- Q You claim to be a Cherokee freedman? A Yes, sir.
- Q Do you know Mary A. Riley? A Yes, sir.
- Q Do you know her daughter, Mary Hazelrig? A Yes, sir.
- Q Do you know whether or not they are Cherokee freedmen? A I know their mother is.
- Q You know Mary Riley is? A Yes, sir, she was Stand Watie's slave.
- Q She was the slave of Stand Watie? A Yes, sir.
- Q Was she taken out of the Cherokee Nation during the war? A Yes, sir.
- Q Where was she taken to? A South.
- Q Do you know where South? A She was right along with her master, Stand Watie.
- Q Do you know where he went? A South, he was in the federal army.
- Q Did she follow him into the army? A Last account she was.
- Q Was this child, Mary Hazelrig, born before the war? A No, sir.
- Q Do you know when Mary Riley returned to the Cherokee Nation after the war? A She came back along in the spring of '65, with old man draw.
- Q Was he a Cherokee? A Yes, sir.
- Q Where did she come to? A Fort Gibson.
- Q Was Mary Riley married at that time? A She said she was married ~~in~~, but I couldn't swear to that.
- Q Was her husband with her at that time? A No, they wasn't right together; she was with a man is what she claimed.
- Q Did she have any children with her at that time? A No, sir.
- Q What was her husband's name? A They called him Tom Ridge or Riley is what she claimed.
- Q When did you first know this child, Mary Hazelrig? A It was along somewhere about '73 or '74.
- Q How old was she then? A Nothing but a girl.
- Q Do you know when she was born? A No, sir.
- Q Do you know where she was born? A No, sir.
- Q Did Mary Riley continue to live in the Cherokee Nation after you saw her shortly after the war at Fort Gibson? A No, I couldn't say.
- Q When did you next see her after then? A I saw old lady along about the latter part of '66.
- Q Where was that? A She was in Fort Scott.
- Q Fort Scott, Kansas? A Yes, sir, but the old man he was here.
- Q She was married then? A Her and Tom Ridge was together I don't know whether they were married, ~~and~~
- Q Did she have any children at that time by Tom Ridge? A She had this girl that's what they claim.
- Q Was that girl with her in Fort Scott? A No, sir.
- Q Where was she? A The girl?
- Q Yes. A I couldn't tell you where she was at that time. I knowed where the old lady was. I was up there with some scouts and saw her on the streets and had a little talk with her.
- Q Was Mary Riley living in Fort Scott at that time? A Yes, sir she was staying there.
- Q Do you know how long she lived there? A No, sir.
- Q When did you next see her? A It was a good while.
- Q How many years? A I don't know exactly, I never paid any attention. Her Pa was with me, and I know--
- Q Mary Hazelrig's father? A Yes, sir.
- Q His name was Tom Ridge? A They called him Tom Ridge, or Riley.

- Q When did you next see Mary Riley in the Cherokee Nation after you saw her in Fort Scott in '66, as you say? A Couldn't say.
- Q Was Tom Ridge the slave of a Cherokee citizen before the war?
- A I suppose he was.
- Q Who did he belong to? A I couldn't tell you; they say to old man Ridge; I don't know.
- Q Did he go out of the Cherokee Nation during the war? A They took him south, too.
- Q When did Tom Ridge return to the Cherokee Nation after the war?
- A After we came to Fort Gibson, he was over here at Frazen Rock along about the year '64, I think, and he was around about here about that time and then disappeared.
- Q He was around Frazen Rock in '64? A Yes, sir, and then he disappeared.
- Q When did you next see him in the Cherokee Nation? A I saw him in the spring of '66.
- Q Where was he then? A He came right to my house. I lived there right close to where P. P. Boss used to live.
- Q Near what town? A Fort Gibson, and he come there and stayed right with me when I was sick and waited on me.
- Q How long? A He stayed with me a little over a month or two months.
- Q Was there anybody with him when he come there? A No, sir.
- Q Where did he go when he left you? A He said he was going up Grand River and from there I don't know where he went.
- Q When did you next see him? A I saw him in '74 and '73, along there when I moved up Verdigris.
- Q Was that the first time you had seen him since the spring of '66, when he waited on you? A Yes, sir, yes, the first time.
- Q You don't know where he had been between '66 and '74? A No, sir.
- Q Was he living in the Cherokee Nation when you saw him again?
- A In '74?
- Q Yes. A Not in particular as I know of.
- Q Did he have any family, wife or children at that time? A No claimed he had them.
- Q Were they with him? A He said he was living with this girl's mother at that time, and his other wife was on Grand River. Her name was Winnie Hatliffe.
- Q Well, when did you see Tom Ridge again after '73 or '74? A I just naturally can't recollect when, right close along about '73.
- Q I believe you state you don't know when Mary Riley came back to the Cherokee Nation from Fort Scott? A No, sir.
- Q And you don't know where Mary Hazelrig was at that time? A No, sir.

By Mr. Hastings:

- Q Where were you living before the war, John? A I lived up on the Illinois river, close to Oil Springs.
- Q Where was Tom Riley living before the war? A I couldn't tell you.
- Q You didn't know him before the war, did you? A No, sir.
- Q Then you never saw him until during the war, or after the war?
- A No, sir, not to know him.
- Q You never saw Mary Riley before the war, did you? A No, sir, she lived down here somewhere about Canadian.
- Q Down in Canadian District? A Yes, sir.
- Q Down about Webbers Falls? A Somewhere in that neighborhood.
- Q You never lived there? A No, sir.
- Q You never saw her there? A No, sir.
- Q You never saw Mary Hazelrig before the war? A No, sir.
- Q She wasn't born until after the war? A No, sir.
- Q About how many years after the war until she was born? A I couldn't tell.

Q As many as five or six? A I wouldn't swear anything about it; I don't know.

Q Don't you know she wasn't born until after the war? A She was not born until after the war.

Q The first time you ever saw her was up in Fort Scott? A I saw her mother there.

Q Didn't you see her there? A No, sir.

Q Are you right certain Mary Eiley lived near Webbers Falls, in Canadian district? A I couldn't swear it, but there's where Stand Watie lived, and she was his slave.

Q You don't know she belonged to Stand Watie? A Just got their word for it.

Q You never saw her at Stand Watie's house before the war? A No, sir.

Q You say Tom Eiley belonged to the Ridges before the war? A That is what they claim.

Q You know which one of the Ridges? A I don't know.

Q John Ridge? A I couldn't tell.

Q You never saw him before the war? A No, sir.

Q You are certain that Mary Ann Eiley went south? A Yes, sir, they brought her back.

Q How do you know? A They all come right there to Fort Gibson together. Clem Rogers was along.

Q Clem Rogers come right along did he? A Yes, sir, and Sam Day.

Q They all come together? A Yes, sir.

Q Now, John, it might surprise you if she swore that she went North and didn't go south? A Well, I don't know; I don't know a thing about it.

Q Then you are liable to be mistaken? A I need her in Fort Scott.

Q Then if she swears that she went to Kansas, instead of going south she is mistaken? A I couldn't say that.

Q You never saw her South? A I couldn't say that.

Q You saw her in '66, in Fort Scott? A The old lady, yes, sir.

Q And this child wasn't yet born? A I don't know; this child was born since the war.

Q What time was it in '66 when you saw her in Kansas? A Latter part of '66.

Q Were you at her house? A No, I met her on the street, and saw her there.

Q You saw her and spoke to her? A I talked to her.

Q You don't know where she was living? A No.

Q How many years after that did you see her again? A I don't know.

Q 20 years? A Not that long.

Q Where did you next see her? A Here.

Q Where at? A In my part of the country; up on Verdigris.

Q Well about how long after you saw her in Fort Scott? A I saw her in Fort Scott directly after the war closed.

Q When did you ever see the old man living up there? A I never saw him living up there in Fort Scott.

Q Up on the Verdigris? A He stayed with me in '74.

Q Had he come from Fort Scott there? A No, he come from Kansas somewhere.

Q Where did he say his wife was? A He said he lived with one wife and was going to see the other. He said he lived with Winnie Ral-liff, if I aint mistaken.

Q Where was she living? A About Grand River somewhere.

Q Where was Mary Ann Eiley? A Said he left her in Kansas.

Q That was in '66? A Yes, sir, when he told me that.

Q You had never seen Mary Ann Eiley from the time you had seen her in '66, at Fort Scott, until you saw her in '74? A No, sir.

Q Where did you see the old man? A I told you he stopped with me at Fort Gibson.

Q Where did you next see him? A I saw him on the Vertigris.

Q When? A That was in '74.

Q You never saw him from '66, when you saw him near Fort Gibson, until you saw him in '74? A Yes, sir, he stayed with me and I never saw him any more until '74.

Q And you never saw his wife between those times? A No, sir.

Q And you never saw this girl, Mary Henselrig between those times? A No.

Q Wasn't there anyone with you when you saw him at Fort Gibson? A I couldn't tell you.

Q Was he horseback or on feet. A It was right in town.

Q Didn't have any wagon? A No, sir.

Q No horse? A No, sir.

Q Anybody there at home with you? A One man was with me and some of the boys was waiting on me.

JAKE DAVIS, being first duly sworn, testified as follows:

By the Commission:

Q What is your name? A Jake Davis is my name.

Q How old are you? A About 60 or 61, somewhere along there.

Q What is your postoffice address? A Tahlequah.

Q You claim to be a Cherokee freedman? A Yes, sir.

Q Do you know Mary A. Riley? A No, sir, I know Joe Riley, I knowed Joe Riley in Gibson.

Q Who was he? A I don't know, sir, that's all the one I know.

Q Was he the husband of Mary Riley? A I guess he was; I don't know Mary Riley.

Q Do you know Mary Henselrig? A No, sir I don't.

Q Was it Joe Riley or Tom Riley? A Yes, Tom Riley.

Q Was Tom Riley the slave of a Cherokee citizen? A I guess he was; he wasn't when I got acquainted with him.

Q When was that? A In '66.

Q Didn't you know him before that? A No, sir.

Q He was in Fort Gibson then? A Yes, sir.

Q You don't know then whether he was the slave of a Cherokee or not? A No, sir.

Q Did he have any family there with him when you knew him in '66? A Not as I know of he didn't; it has been quite a while and I don't recollect.

Q What time of the year was it you got acquainted with him? A In the spring.

Q How long did you continue to know him? A About a year, I reckon.

Q Then did he move away? A He moved away and went somewhere.

Q Have you seen him since that time? A No, sir, never have seen him since.

Q You never heard of this Mary Riley nor Mary Henselrig? A No, sir.

Q You don't know whether that Tom Riley was ever married or not? A No, sir, I don't.

Q You don't know whether he was out of the Cherokee Nation during the war or not? A No, sir, I don't; when I got acquainted with him it was '66, in the spring.

Q And you continued to know him there in Fort Gibson a year? A Yes, sir.

By Mr. Van Neys:

Q Uncle Jake, you just knew a man named Tom Riley in Fort Gibson, in '66? A Yes, sir.

By Mr. Hastings:

- Q What year is this, Jake? A Now?
Q Yes. A I don't know, sir, what year it is.
Q What year was it Kerns-Clifton made a roll here and you drew big money on it? A I forget.
Q Jake, what year was it Wallace made a roll here? A I can't tell you.
Q What year were you married in? A I don't know.
Q Here's a man that you never knew before the war, did you? You know that man you are telling about? A No, sir, I never knew him.
Q And you have never seen him since? A No, sir.
Q And now, 40 years nearly after, they are trying to make you know him? A No, sir.
Q And you can't be certain about these dates, because you can't remember dates? A No, sir.
Q Its pretty hard to remember dates, isn't it? A Yes, sir.
Q This is a man you never saw before? A No, sir.
Q And you haven't seen him since? A No, sir.
Q And you never saw his wife? A No, sir.
Q Nor his daughter? A No, sir.

By Mr. Van Hoy:

- Q Uncle, what makes you think it was '66? A Everybody say it was; that's what I go by.
Q How soon after the war was it? A Not so long after the closing of the war; not so overly long; don't know just how soon; wasn't long, though.
Q You can remember facts by the war can't you? A Yes, sir.
Q You can remember what occurred soon after the war in some cases? A Yes, I can remember. I aint got no learning and I can't tell anything.

By Mr. Hastings:

- Q And you aint going to be positive, are you, Uncle Jake? A No, sir.

MARIAH FRENCH, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A Mariah French.
Q How old are you? A I am going on 49.
Q What is your postoffice address? A Lemopak.
Q Do you claim to be a Cherokee freedman? A No, sir.
Q You are a state woman? A Yes, sir.
Q Do you know Mary A. Riley? A Yes, sir.
Q How long have you known her? A I have known her ever since the fall of '66.
Q Do you know her daughter, Mary Hazelrig? A Yes, sir.
Q How old is she? A I don't know.
Q Was she born before the war or after? A I couldn't tell you that; she was as large as I was and I don't know.
Q Do you know whether or not Mary Riley and her daughter, Mary Hazelrig, were slaves of Cherokee citizens before the war? A I don't know no Cherokee slaves.
Q Where was she then? A She was on Snow Creek.
Q That's in the Cherokee Nation? A Yes, sir.
Q What time of the year was that? A It was in the fall that I knowed her.
Q Was she living up there? A Yes, sir, she had come down to Uncle Colbert's, some called him Uncle Naylor.

- Q Did she have any children at that time? A No, sir, I didn't see any, I didn't think she did.
- Q How long did she continue to live there with Colbert? A She stayed there until late in the winter and they had a falling out and she left.
- Q That was the winter of----? A '66.
- Q Where did she go then? A The next time I saw her, they had taken a little tent up on Vinegar Creek.
- Q How long did she continue to live there? A I don't know.
- Q When did you next see her? A The next time I saw her was at Vinita at the time of this enrollment.
- Q Before the Dewey Commission? A Yes, sir.
- Q When did you see her daughter, Mary Hazelrig, and get acquainted with her? A I got acquainted with her there.
- Q Did you know Mary Hazelrig's father? A Old Uncle Tom Watie was her father, that's what we called him.
- Q Was he married to this Mary Riley? A When I seen them they were together.
- Q Do you know whether they lived together for any length of time? A Yes, sir, they lived together there at Colbert's.
- Q They were there together? A Yes, sir.
- Q Was this girl there then, Mary Hazelrig? A Yes, sir, he had his children there with him. There was another girl or two then.
- Q What sized girl was Mary Hazelrig at that time? A She was larger than I was. I was a good big chunk of a girl, in my 14th year.
- Q Then after they left Uncle Colbert's and went up on Vinegar Creek you never saw them any more until when? A I never saw them any more until I saw them at Vinita.
- Q You don't know where they had been living after they left Colbert's until you saw them in Vinita? A After they left Colbert's they lived on Vinegar Creek.
- Q How long? A I don't know.
- Q Was this man Watie living with Mary Riley at that time? A Yes, sir, she passed for his wife.
- Q Do you know anything about whether Watie was the slave of a Cherokee citizen before the war? A I don't know, I never come know here until '66. My stepmother come here as a Cherokee freedman and we were the first settlers on Snow Creek and stopped.

By Mr. Hastings:

- Q You didn't come here to be a witness in this case, did you? A No, sir.
- Q Do you recognize that you are under oath? A Yes, sir.
- Q You know of these facts before? A Why, I know old Uncle Tom---
- Q You know of these facts? A I know when he come here, yes, sir.
- Q When did you first tell these people about what you know? A I never told them.
- Q They just simply put you on the stand here? A No, sir, Mr. Amos Adair told them I was here, and they wanted me to witness for them.
- Q Did Amos Adair come here when they did? A Yes, sir/ Amos come before they did.
- Q You had never seen these people before? A No, sir, we had never seed them till they come there.
- Q Now, if Uncle John Baldridge testifies that in '76, that this woman, Mary Riley, was in Kansas, and had come down there, and that Tom Riley was there, and said his family was in Kansas, he hasn't told the truth, has he? A No, sir.

- Q If L. D. Daniels swears that they didn't come down before that time he didn't tell the truth, did he? A He couldn't have.
- Q How far do you live from Colbert's? A I don't think it was over half a mile.
- Q Did Tom Watie and this woman come there in a wagon? A Yes, sir.
- Q Where did they come from? A They claimed they come from Kansas.
- Q Straight from Kansas there? A That's what they said.
- Q Do you know from what town in Kansas? A No, sir.
- Q They stayed there the rest of that year? A No, sir, they fell out and left there.
- Q Where did they go? A Up on Vinegar Creek.
- Q Now if John Baldridge says that in '66, he saw Mary Riley living in Fort Scott he is mistaken, is he? A Yes, sir, unless she went back up there after she left Uncle Colbert's.
- Q How much are you getting to testify in this case? A Not a nickel.
- Q Don't you know that you never saw this woman there in '66? A Yes I saw her.
- Q You don't claim to be a citizen here, yourself? A I am adopted woman; I was raised in the states.
- Q Where did you first see them living in a house up there? A In Uncle Colbert's house.
- Q Did they keep house there at Colbert's? A They lived in the house with Uncle Colbert's and had some things in the wagon.
- Q How long did they stay there? A Till late in the fall.
- Q And went from there to Vinegar Creek? A Yes, sir.
- Q You are certain of that are you? A Yes, sir.
- Q How far was that from Colbert's? A It was four or five miles.
- Q How long after they left Colbert's was it before you saw them on Vinegar Creek? A We went to Coffeyville and saw a little tent there on Vinegar, and didn't know who it was--
- Q Was it on the road? A No, sir, it was off to one side of the road.
- Q How long did they stay there where that tent was? A I couldn't tell you.
- Q About how long? A I couldn't tell you, because we didn't go to Coffeyville very often.
- Q Did they stay a month? A I couldn't tell you.
- Q Did they stay there two months? A No response.
- Q Can't you form any estimate at all? A No, sir, what I tell you I know. I didn't pay attention.
- Q You did pay attention, though, while they were at Uncle Colbert's? A I did, because they were at our house every day.
- Q Did Uncle Colbert have a house then? A Yes, sir, a log house.
- Q Who else lived there? A Eeone else much; Amos Adair lived right below us in an Osage hide house.
- Q Well, after you lost them on Vinegar Creek how long was it before you saw them again? A At Vinita.
- Q How many years afterwards? A A great while.
- Q What year was it you saw them at Vinita? A When this Commission was enrolling.
- Q This present Commission? A Yes, sir.
- Q From the time you saw them on Vinegar Creek up until 1901, you never did see them? A No, sir.
- Q You don't know where they lived? A I don't know; they said they were living on Caney.
- Q You don't know how long they lived on Vinegar? A No, sir.
- Q Are any of Colbert's people living now? A Yes, sir.
- Q Who are they? A Old Aunt Susie is all.

JOHN BALDRIDGE, re-called for the purpose of additional cross-examination, testified as follows:

By Mr. Hastings:

Q You were roaming around all over the country in '66, weren't you?
A Yes, sir, I was a soldier and scouted at that time and was a soldier nine months right here.

Q Were you on Grand River any in '66? A Yes, sir.

Q Were you in Fort Scott in '66? A Yes, sir.

Q On Snow Creek? A Yes, sir.

Q Were you up there about Colbert's in '66? A Old man Colbert's?

Q Yes, A No, I don't remember; at that time I was up there along latter part of the year of '66, but we were on the scout and never stopped.

Q Were you up in there during that fall of '66? A Went through time and again.

Q You never saw Tom Riley anywhere, except what you have already testified to? A That's all.

Q Were you on Vinegar Creek? A Been through, but never stopped.

Q You never saw him? A No, sir.

Q Never heard of him? A No, sir, I was in the government service--

Q Now, about what time of the fall of '66 did you see Mary Ann Riley in Fort Scott, Kansas? A It was along, I couldn't just say, about the middle of the fall, early in the fall. I couldn't just exactly be positive.

Q Did she say where her husband was? A No.

Q Did you ask her? A No.

Q Did she say what she was doing? A No.

Q She didn't say who she was working for? A No, they called him Tom Kings, or Tom Watie and Riley.

MARILYN FRENCH, re-called for the purpose of additional cross-examination, testified as follows:

By Mr. Hastings:

Q Your name is Marilyn French? A Yes, sir.

Q Now, you are certain that you knew these people at Colbert's?

A Yes, sir, I knew them at Uncle Colbert's.

Q You say they moved from there in the fall up on Vinegar Creek?

A Yes, sir, late in the fall.

Q On which side of the road when you went to Coffeyville did you see their tent. A On the right hand side.

Q You are positive? A Yes, sir.

Q How many times did you see this tent there, going backwards and forwards to Coffeyville? A I hardly ever went to Coffeyville.

Q But you know that it was on these trips that you saw this tent?

A Yes, sir.

Q Did you go out to it? A Yes, sir, one time my father drove out to it.

By Mr. Van Hoy:

Q You say you were the first settlers on Snow Creek? A Yes, sir.

Q Near what town is Snow Creek? A Near Coffeyville; Coffeyville was the nearest then.

Q Which is nearest now? A Coffeyville is nearest now.

Q Who was the next family to come in after you? A Amos Adair.

Q Who next? A The Colberts.

Q Do you remember the Alberts? A They come in afterwards.

Q Were there any Indians? A Yes, sir.

Q What tribe? A Osage.

Q What did you people do for a living? A We raised corn and stuff.

Q Do you think you knew all the colored people that come in after the war? A We paid particular attention; there was none there.

Q Who was your father? A Steve Little.

Q Did Amos Adair bring his family? A Yes, sir.

Q How much family did he have? A Two children and two women.

Q Do you remember how many in the family of Uncle Colbert? A Himself, wife and one little boy they called Jehanis, they were raising.

Q Tell me how far Amos Adair's house was from yours? A Can't tell you exactly. We lived on the west prong of Snow Creek and he lived on the East side across the creek.

Q On which side of the Verdigris was Susan Colbert's house? A Just above on the west side of the lake.

Q Which side of the Verdigris River were you on? A On the west side.

Q It made a horseshoe bend? A Yes, sir.

Q Did you have to cross it? A Yes, sir, there was a big lake between us and Uncle Colbert and Colbert lived across that lake.

Q Is that lake on the East side of the Verdigris River? A On the east side if you are on this side, but we are on the West side.

By Mr. Hastings:

Q Who did you trade with at Coffeyville, can you recollect? A Yes, sir, I can recollect.

Q Who had a store there? A We used to trade with Wells and brothers.

Q And they had a store there at the same time you mention seeing this tent? A They had a store then in what's called Old Parker; Coffeyville wasn't a town then.

Q You are testifying about going to Coffeyville? A It was called Coffeyville; Old Colonel Coffey did more trading than anyone.

Q They had a store there at that time? A Yes, sir, old Parker aint a town now.

Q Was there a town called Coffeyville at the time? A Yes,, it was named Coffeyville, and that's what we called Coffeyville.

Q Do they call it Coffeyville? A They called it Coffeyville after old Col. Coffey.

Q Is it where Coffeyville is now? A Yes, sir.

Q That is where you saw these people when you were passing along?

A Yes, sir.

Commission:

Upon request of the attorneys for the applicants, and the Cherokee Nation, this case is continued, for the introduction of farther testimony.

o-o-o-o-o-o-o-o-o

N. A. Vance, being first duly sworn, states that as stenographer 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.

Subscribed and sworn to before me this the 8th day of April, 1904.

Charles H. Sawyer

Notary Public.

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

In the matter of the applications for the enrollment of Mary Ann Riley, et al., as Cherokee Freedmen, consolidating the applications of:

Mary Ann Riley,
 Mary Hazelrig, et al.,
 Mary Brown, et al.,

Cherokee Freedmen D 957,
 Cherokee Freedmen D 987,
 Cherokee Freedmen D 988.

--- DECISION ---

The record herein shows that applications for enrollment as Cherokee freedmen were made to this Commission by Mary Ann Riley for herself; by Mary Hazelrig for herself and children, William A., Jesse, Lacy, Alexander, Joseph R., James M. T., Jacob L. and Fred Hazelrig, and husband, George Hazelrig by intermarriage, but as the application for the enrollment of George Hazelrig as a Cherokee freedman by intermarriage, has been heretofore disposed of, he will not be embraced in this decision; and by Mary Brown for herself and minor children, Robert Lee and George B. Brown.

The evidence in this case shows that the applicants, Mary Ann Riley and Mary Hazelrig are mother and daughter, and were the slaves of a Cherokee citizen at the commencement of the Rebellion; that they were taken out of the Cherokee Nation during said Rebellion and did not return thereto and establish a residence therein, within the time specified in the decree of the Court of Claims rendered February 3, 1866, in the case of *Hessa Whitmore, trustee, etc., vs. the Cherokee Nation, et al.*, for the return of Cherokee freedmen to said Nation. The other applicants herein are children and grandchildren of the applicant, Mary Hazelrig, were born since 1866, and possess no rights to enrollment other than as descendants of the said Mary Hazelrig. None of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1866, or the Cherokee census roll of 1896.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Mary Ann Riley, Mary Hazelrig, William A. Hazelrig, Jesse Hazelrig, Lacy Hazelrig, Alexander

Hazelrig, Joseph E. Hazelrig, James M. T. Hazelrig, Jacob W. Hazelrig and Fred Hazelrig, Mary Brown, Robert Lee Brown and George E. Brown, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 23, 1903 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tom Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Bryckbridge
Commissioner.

Dated at Muskogee, Indian Territory,

this Feb 13 1905

064

COMMISSIONERS:
TAMM HENRY,
THOMAS S. HENKLES,
C. E. BRACKENRIDGE,
WM. O. BEALL,
Secretary.

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

CHEROKEE FREEDMEN
A-27 et al.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 13, 1906.


Bell, Hastings, & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 13, 1906, rejecting the applications for the enrollment of Mary Ann ~~Ellis~~, Mary, William A., Jesse, Lacy, Alexander, Joseph E., James E. L., Jacob L., and Fred Hazelrig; and Mary, Robert Lee, and George E. Brown, as Cherokee freedmen.

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-14.

1149

COMMISSIONERS
THOMAS BERRY,
THOMAS D. NEEDLES,
C. R. BRUCEWRIGHT,
W. E. STANLEY.

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

REPLY IN FULL TO THE FOLLOWING
Cherokee Freedmen
D-987.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 7, 1904.

V. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of Mary Hazelrig for the enrollment of herself and others as Cherokee freedmen, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced as to whether or not said Mary Hazelrig returned to the Cherokee Nation, after the rebellion, within the time specified in the treaty of 1866. In this connection the Commission desires that testimony other than that of the applicant's be introduced.

Said Mary Hazelrig has, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, on Wednesday, April 6, 1904, at nine o'clock A. M., and introduce testimony as above requested.

The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire.

Respectfully,

Commissioner in Charge.

Fort Scott Kans
27th May '04

Mr Starr Esqr

From the best information
I can get, and I believe it is reliable
Tom Watie lived in Fort Scott during
the war (1861-1865) and for several
years after; was a preacher by occupation.
from here he moved to or near Lawrence
Kans; that he had a son Jo Watie;

that said Tom Watie had one or more
daughters, names not remembered, that
Tom Watie died about 12 years ago.

that Jo the son of Tom Watie was living
in or near Lawrence
and visited Fort Scott two years ago.

The man who worked for a grocery Co
in Ft Scott proves not to be the person you
are looking for.

Respectfully

B. F. Fortney

John Brown -

I have been thinking of
the ...

I have been thinking of
the ... from
the ... of the ... about
18 ... - ~~to~~ ... was
... -

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

to be and appear before the United States Commission to the Five Civilized Tribes, at Muskogee, I. T., on the _____ day of _____, A. D. 1902, then and there to give evidence in such contested citizenship cases as the representatives of the Cherokee Nation may desire.

Dated

Attorneys for the Cherokee Nation

No.

Cher. Fr. D. 988

Cher. Fr. D. 988

To be filed with the case of Mary Riley, P. P. No. 122.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. June 28, 1921.

In the matter of the application of Mary Ann Riley for enrollment as a Cherokee Freedman.

APPEARANCES:

Hollotte & Smith, Attorneys for applicants.
W. V. Hastings, of counsel for Cherokee Nation

Mary Ann Riley being duly sworn and examined by Commissioner Nowata, testified as follows:

- Q What is your name? A. Mary Ann Riley.
Q How old are you? A. I am going on 82.
Q What is your post office? A. Bartlesville.
Q What district do you live in? A. Coconawawee.
Q You want to be enrolled as a Freedman? A. Yes sir.
Q Who do you want to enroll besides yourself? A. My daughter.
Q How old is your daughter? A. I don't know her age, she will give her age when she comes.
Q Anybody else? A. No one else but me.
Mr. Smith:
Q Where do you live? A. I live on Horse Shoe Bend of Caney.
Q That in the Cherokee Nation? A. Yes sir.
Q How long have you been living there? A. I can't tell you you how long I have been there, I can't and tell the truth.
Q You haven't got any children I guess that are living with you? A. I have one daughter.
Q She isn't living with you? A. She is a married woman.
Q What is her name? A. Her name is Mary Hazelrig.
Q Who is she married to? A. George Hazelrig.
Q Where does she live? A. Lives about five miles from me on the other side of Can creek.
Q Where is that, in the Cherokee Nation? Yes sir, in the Cherokee Nation, all of it.
Q Were you a slave? A. Yes sir I was.
Q Then how old is your daughter? was she born before the war or after the war? A. She was born before the war.
Q How old was she when the war commenced? A I can't tell you because I never knew her age or ~~nothing~~ know I had to go through any such business as this, and I never tried to keep her age or nothing.
Q You can't tell me about your daughter Mary, how big a child she was when the war commenced, can't you? A. When the war commenced I reckon she was about 6 years old, maybe.
Q Who did you belong to? A. I belonged to Stand Vatie.
Q Was he a Cherokee Indian? A. Yes sir.
Q Living in the Cherokee Nation? Yes sir.
Q Where was you at that time? A. I was right at his house, right with him.
Q Where was Mary? A. She was there too at the same place.
Q Was Mary with you? A. Yes sir, we both belonged to Mr. Vatie.
Q Now what because of you during the war, were you taken out of the Nation or did you go out, or what because of you while the war was going on? A. I was taken out by the soldiers.
Q Well where were you taken to? A. They carried me to Fort Scott.
Q Took Mary too? A. Took Mary too.
Q When did you come back to the Cherokee Nation? A. We came back to the Cherokee Nation in '63.
Q The day? A. The same.
Q The day you came with? A. Me and Mary and my husband and some my son.
Q What was your husband's name? A. Thomas Vatie.
Q What was your son's name? A. Joseph Vatie.
Q Whereabouts did you come to when you came back to the Nation after the war? A. We came to Aunt Maria Gilbert's.
Q What part of the Nation? A. I can't tell you what part of the Nation it was my life because I never thought of my time going, but we came to Aunt Maria Gilbert's.
Q How was that? A. She was a Cherokee Freedman, is all I can tell you.

Q Was she a Cherokee slave, a freeman, or something of that sort? A. Yes sir.

Q Well, where have you been living now since you came back here? A. Have been living on the Horse Shoe Bend of Gauley.

Q Have you lived in the Cherokee Nation ever since you came back? A. I have never been out of the Cherokee Nation anywhere since I came to the Cherokee Nation, never been anywhere out of the Cherokee Nation.

Q Well what became of your daughter Mary, where did she live after you brought her back here? A. We all lived together around here until we got split up, scattered out from one another.

Q When did Mary marry? A. Mary married, I can't tell you exactly when, because I don't know, I don't want to sit up here and tell a ~~lot of things~~ whole lot of something I don't know anything about, I can't tell you when Mary married.

Q What became of your son, what did you say his name was? A. Joseph Watie.

Q Where is he? A. He is dead and in his grave.

Q Where is your husband, is he dead too? A. In the grave.

Q Is any of your family alive except you and Mary? A. That is all I know of, there is some left but I don't know where they are.

Q How do you happen to be called Riley now? A. I will tell you how I been called Riley, just like other people than they marry off they take the man's name, that is the way I got it.

Q Did you marry a man named Riley after Watie died? A. I married him right there in Mr. Watie's kitchen.

Q Married who? A. Thomas Watie, he belonged to Watie and I belonged to Watie and he took his father's name.

Q Well, what was that? A. Riley.

Q So Thomas Riley was sometimes called Thomas Watie? A. Yes sir.

Mr. Hastings: Now, Aunt Mary, where did your daughter Mary marry, at whose place? A. I can't tell you at whose place she married, she married here in the Cherokee Nation and she went away from me to marry, she went a long way from me to marry, I don't know how far they went to get married, but she married in the Cherokee Nation.

Q In what town was she married? A. I don't know whether in town or not.

Q Who was living ~~with~~ near you when your daughter married? A. You want to know who is my nearest neighbor, is what you want to know?

Q Yes? A. Well Bob Duroon.

Q Was he living near you at that time? ~~He lived~~ When Mary married? A. Yes sir, he was the nearest man.

Q Who else lived around you? A. Sam Beck was the next nearest man.

Q How far was that from Fort Scott? A. Oh well, she married here in the Cherokee Nation.

Q Well, what part of the Cherokee Nation, that is what I am trying to find out? A. I wish I was able to tell you, but I told you I don't know I told you I don't know.

Q You don't know one year from another? A. No, I don't know you spoke the truth then, God knows you spoke the truth, because I never has the liberty in this world to know that.

Q You don't know this year? A. No sir.

Q You don't know when you came back? A. ~~When~~ I know I came back to the Cherokee Nation, I know that is all.

Q That is all you know? A. That is all, I know I came to the Cherokee Nation.

Q You know you are in the Cherokee Nation now? A. Oh bless God, yes.

Q What was Watie's wife? A. Her name was Gattie.

Q You know that, don't you? A. Yes sir, I do sure know it.

Q Now I am trying to find out near what point or near what settlement or on what creek or what river or what part of the Cherokee Nation you first came to when you come back here? A. I never seen any river when I come here, I never seen any river about Aunt Sannie Gilberts. I came to her place first, but when I went down where I am living now Gauley River, is the first river I seen.

Q I want to know where Aunt Sannie Gilbert lives? A. I can't tell you, all I can tell you. I can't tell you she lives in the Cherokee Nation ~~because I told you when I was down here I told you I couldn't tell because I never thought anything about this stuff in the world and I never thought of it, thought I would be coming to the~~

2.

Sherokee Nation to live, that is all I had to think about, thought I just had to come to the Cherokee Nation to live, I didn't know I would ever be brought up about those things.

Q Where did you see L. B. Daniels first after the war? A I saw him in the Cherokee Nation when I first came back.

Q What place? A The first place I ever saw L. B. Daniels to be acquainted with him, I had seen him, but the first place I had seen him to be in anyway personally acquainted with him was Secontech Pond.

Q That was the first time, was it? A Yes, that was the first time, and that wasn't the first time I had seen him passing by, I didn't know the man.

Q That was after the war wasn't it? A After the war.

Taking of testimony continued by stenographer Chas. Van Solice.

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.

(signed) Bruce G. Jones.

Sworn to and subscribed before me this the 19th of July, 1901.

(signed) T. B. Needles,

Commissioner.

+++++

Continued from stenographer Bruce G. Jones.
Sevaco, I. T., June 24th 1901.

L. B. DANIELS, called and sworn as a witness for the applicant-

By H. W. Smith-

Q What is your name? A L. B. Daniels, age 55, post office Glassboro.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Do you know the applicant? A Yes sir.

Q When did you first know her? A About '78, after I moved to here in this district.

Q Did you know her before the war? A No sir.

Q Was that the first time you saw her in the Cherokee Nation after the war? A Yes sir.

Q Where was she living then? A Her husband bought a place 3 miles from me on Pecos creek.

Q Where is Pecos creek, in the Cherokee Nation? A Yes sir.

Q How far is it from where you live now? A Five miles from my home place.

Q Where has the applicant been living since '78? A Near Bartlesville, on Coney, north of there.

Q Is that in the Ok Moco Nation? A Yes sir.

Q Has she any children? A Yes sir, one girl as I know of.

Q What is her name? A I can't call her name, I never was at her place but twice.

Q Do you know of your own knowledge what her daughter is married to? A I think she is married to a man named MacCallister.

Q Do you know where she is living now? A On Big Coney, Glassboro district, Cherokee Nation.

Q How long has this daughter been living there? A I can't tell, I have never seen her, something over twenty years.

H. W. Smith

Q Was this daughter married when you first went up there? A I don't don't know, she may have been, I am not certain.

By Commission of applicant

Q Did you ever draw strip maps? A I drewed twice.

Applicant not found on the 1880 or 1890 rolls of the Cherokee Nation

Kern Clifton roll examined and the applicant found as follows-
Page 165, No. 4014, Mary Ann ~~Watts~~, ~~Geowessocowas~~ district.

Applicant not found on the Wallace roll of the Cherokee Nation.

By Smith of Applicant-

Q Where is your daughter Mary? A Camped over there a little ways.

By Com'r Needles,- Mary A. Riley applies for herself; she cannot be identified on any of the rolls except the Kern Clifton roll; she avers that she was a slave of one Stand Watie, went to Fort Scott and returned in 1866 and married one Tom Watie sometimes known as Riley; satisfactory proof as to residence is made, consequently she will be listed for enrollment as a Cherokee freedman on a doubtful card and when the final decision is arrived at she will be notified by mail.

+ + + + +

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings therein the above cause and that the foregoing is a true and correct transcript of his stenographic notes there n.

(Signed) Chas. von Weise,

Subscribed and sworn to before me this the 13th of July, 1901.

(Signed) T. B. Needles.

Commiss oner.

=====

I, Chas. von Weise, upon my oath state that the foregoing is a full and correct copy of the original.

Chas von Weise

Subscribed and sworn to before me this the 3rd of July, 1901.

M D Green
Notary Public,

Exhibit

To be filed in the case of Mary Hazelrig, C. F. D. 968.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 1st 1901.

In the matter of the enrollment of Mary Hazelrig for the enrollment of herself and eight children as Cherokee freedmen; and the enrollment of her husband as a Cherokee freedman by intermarriage; she being sworn by Commissioner T. B. Needles, testified as follows:

L-B. Bell, attorney for the Cherokee Nation
Lewis T. Brown, agent for the applicants.

By Com'r Needles-

- Q What is your name? A. Mary Hazelrig.
Q What is your age? A. 44.
Q What is your post office address? A. Dewey
Q In what district do you live? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee freedman? A Yes sir.
Q Who else do you want to have enrolled besides you self? Myself
and eight children.
Q Are you married? A. Yes sir.
Q What is your husbands name? A. George Hazelrig
Q Is he a citizen? A. No sir.
Q Is he living now? A. Yes sir.
Q Do you apply for him as a ~~slave~~ freedman by intermarriage? A. Yes sir
Q What are the names of your children? A. William A. Hazelrig.
Q How old is he? A. 21 years.
Q He must apply for himself? A. He is in jail.
Q Well the next child? A Jessie.
Q How old? A. 19 years.
Q Next? A. Lacy.
Q How old? A. 15.
Q Next? A. Alexander.
Q How old? A. 10 years.
Q Next? A. Joseph E.
Q How old? A 8 years.
Q Next? A. James M. T.
Q How old? A 6 years.
Q Next? A. Jacob L.
Q How old? A. 3 years,
Q Next? A Fred.
Q How old? A. One year/ old.
Q Is your name on any of the rolls ~~of the~~? A Yes sir on the Kern
Clifton and Wallace rolls.

Kern Clifton roll examined and the applicants found thereon as
follows- Page 163 No. 4015 Mary Hazelridge, Cooweescoowee dist.
page 163 No 4016 William Hazelridge " "
page 163 No 4018 Jessie or Jess Hazelridge " "
page 163 No 4019 Lacey Hazelridge " "
page 163 No 4020 Alex Hazelridge " "
page 163 No 4021 Joe H Hazelridge " "
page 163 No 4022, J. Milton Turner Hazelridge " "

Wallace roll examined and the name of the applicant found as
follows:

page 118 No 2481 Mary W. Hazelrigg,
page 118 No 2482 Wm. A. Hazelrigg
page 118 No 2484 Jesse or Jessie Hazelrigg.

- Q Are these children all living at this time? A. Yes sir.
Q And all the children of George Hazelrig by yourself? A. Yes sir.
Q And all born in the Cherokee Nation? A. Yes sir.

By Brown-

- Q Were you a slave at the beginning of the Civil war? A. Yes sir.
Q To whom did you belong? A. My mother and father belonged to stand
Wells and I was born in his kitchen.
Q Was he a Cherokee citizen? A. Yes sir.

- Q In what district did he live at that time? A. Goingstate.
- Q Were you taken out of the Cherokee Nation during the war? A. Yes sir.
- Q With whom did you return? X My mother and father.
- Q Who is your mother? A Mary Ann Waite
- Q Did she apply the other day to be enrolled under the name of Mary Ann Riley? A. Yes sir.
- Q She is your mother? A. Yes sir.
- Q Where have you lived since your return? A In the Cherokee Nation By Bell-
- Q What is your mother's name? A Mary Ann Waite.
- Q How old were you when the war broke out? A. Six years old.
- Q Where were you living then? A. On Grand river.
- Q What is your father's name? A. Sam Waite.
- Q Was he living there on Grand river? A. Yes sir.
- Q What place on Grand river? A. They tell me it was on Grand river, I dont know what place.
- Q What is your name? A. Mary Hazelrig.
- Q Same name as your mother— that is the Mary? A. Yeasir.
- Q Where did you first come to in the Cherokee Nation after the war? I come to my aunt Susie Gilbert.
- Q Where is that? A. I dont know except tJay it is in the Cherokee Nation
- Q You know that much do you? A. Yes sir.
- Q Where did you come from? A. Fort Scott.
- Q Do you remember anything about coming back to your aunt Susie's? A Yes sir, I dont know anything about it, I was told we came there.
- Q Do you know where that is? A. In the Cherokee Nation
- Q Was it on Grand river? A. No sir.
- Q Where were you when you can first recollect? A. Big Canev in the Cherokee Nation.
- Q Did you go there from where you Aunt Susie lived? A. No sir.
- Q Where did you move from? A. He first come to Pecos creek from Aunt Susie's and then to Big Canev.
- Q When you come from Fort Scott you came to your aunt Susie's? A Yes sir.
- Q Then you went to Pecos creek? A. Yes sir.
- Q How long did you live at your aunt Susie Gilbert's? A I dont know.
- Q How long did you stay on Pecos creek? A A month or so.
- Q Then you just moved to Big Canev and before going there you stayed a month or two on Pecos creek? A Yes sir
- Q Who were your neighbors? A No neighbors but one white man named Bob Duncan.
- Q What year was it? A I dont know.
- Q Do you know what year this is? A. No sir.
- Q Are you on the Wallace Roll? Did you draw money on it? A. I guess so.
- Q How old are you now? A. I guess I am 44 years old.
- Q Dont you remember nothing since you were 30, 30 or 35 years old? A. No sir I was not studying about work and wasn't studying nothing like this here..
- Q Where did you get married at? A. In the Cherokee Nation
- Q What place? A. Down here at Allowee.
- Q In whose house? A. The Clerk's office.
- Q When was that? A. I dont know.
- Q What was it in? A. I dont know.
- Q Have you got your license? A. Yes sir.
- By the Commission-
- Q Was George Hazelrig your first husband? A. Yes sir.
- Q Did he ever have any other wife besides you? A. Not that I know of
- Q Are these children all living with you? A. Yes sir, all except two in jail.
- Q How many have you in jail? A. Two.
- Q Which ones? A Jesse and Willie.
- Q And the reason the one of age is not here to apply for himself is because he is in jail? A. Yes sir.

By Geo's Testles, Mary Hazelrig applies for herself and eight children

as Cherokee freedmen and for her husband as a freedman by intermarriage. The oldest child, William A., is 21 years of age, but he is not here on account of being in jail; she presents satisfactory proof of her marriage to one George Hazelrig according to the laws of the Cherokee Nation on the 27th of October, 1887, and presents a duly authenticated marriage license. She is duly identified on the Kern Clifton roll and the Wallace roll. Her six oldest children are identified with her on the Kern Clifton roll; William and Jesse are also identified with her on the Wallace roll, and she presents satisfactory proof of the birth of her two youngest children; she avers that she is the daughter of Mary Ann Riley, now ~~Wise~~ ~~and has been listed for enrollment~~ as a Cherokee freedman on a doubtful card, and the testimony taken therein is hereby referred to and will be made a part of the application at bar and a copy thereof filed herewith. She makes satisfactory proof as to residence; consequently the said Mary Hazelrig and her eight children named in the testimony will be listed for enrollment as a Cherokee freedman on a doubtful card and her husband George Hazelrig as a Cherokee freedman by intermarriage. They will be notified of the final decision of the Commission when the same is arrived at.

=====

Chas. von Weise, being 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.

Chas von Weise

Subscribed and sworn to before me this 3rd of August, 1891.

M. D. Green
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes
Wash., D. C. July 1st 1901.

In the matter of the application of Mary Brown for the enrollment of her
self and two children as Cherokee Freedmen; she being sworn by Commissioner
E. B. Needles testified as follows:-

Louis T. Brown, agent for the applicant

By Com'r Needles:-

- Q What is your name? A. Mary Brown
- Q What is your age? A. 19
- Q What is your post office address? A. Bartlesville
- Q Do you want to be enrolled as adherent freedman? A. Yes sir.
- Q Do you want to have enrolled besides yourself? A. Two children.
- Q What are their names? A. Robert Lee Brown.
- Q How old? A. 5 years.
- Q Next? A. George R. Brown.
- Q How old? A. 3 years old.
- Q Are you married? A. Yes sir.
- Q What is your husband's name? A. Alex Brown.
- Q Is he a citizen? A. No sir.
- Q What is your father's name? A. George Hasselrig
- Q What is your mother's name? A. Mary Hasselrig
- Q Where were you born? A. In the Cherokee Nation.
- Q Have you always lived here? A. Yes sir.
- Q Are your two children living with you? A. Yes sir.
- Q Is your name on the rolls of the Cherokee Nation? A. No sir
- Q Did you never draw strike money? A. No sir my mother did.

Applicant not on the 1894 or 1896 rolls.

Kearl Clifton roll examined and the name of the applicant found
as follows:-
Page 123 No. 4417, Mary Hasselrig, Coconino district.

Wallace roll examined and the name of the applicant found as
follows:- Page 118 No. 2483 Mary Hasselrig, Coconino district

By Brown:-

- Q Is your mother the same woman who has just been enrolled? A. Yes sir.
- Q What is your grand mother's name? A. Mary A. Riley.
- Q Some times known as Mary Ann Watts? A. Yes sir.
- Q Is she your grand mother on your mother's side? A. Yes sir.

By Com'r Needles:

Mary Brown applies for herself and two children as Cherokee
Freedmen, their names being Robert Lee, and George R. Brown. He
swears that she is married to an Alex Brown a non citizen; she
swears that she is the daughter of Mary Hasselrig who has been
listed for enrollment as Freedman B. Card 1007 and the testi-
mony taken in said case is hereby referred to and will be made
a part of this application, a copy thereof being filed herewith
and which is also to include a copy of the testimony in the
case of her grand mother Mary Ann Riley, the same being
1007, the applicant makes great or residing as and on to the
of her children; she is identified herself on the rolls of
and Wallace rolls under her maiden name; she will now be listed
with her two children for enrollment as Cherokee Freedmen on a
particular card, and when the final decision of the Commission is
arrived at she will be notified by mail.

2

Olaf von Weise, being sworn states that as stenographer to 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.

Chasomirica

Subscribed and sworn to before me this 10th day of July 1901.

A large, stylized handwritten signature in dark ink, possibly reading "Chasomirica" or similar, written over the printed name above.

~~Notary Public~~

Department of the Interior,
Commission to the Five Civilized Tribes,
Washoe, D. C., May 20, 1902.

In the matter of the application of HENRY A. B. for enrollment
as a Cherokee Freedman:

Applicant appears by Hallett & Smith; Cherokee Nation, by
W. W. Hastings:

By H. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmore, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case # 2458, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Mary Brown, # 2458;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning
of the war, nor that he returned within the time specified in the
Treaty of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the rights of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Complainant:

The motion of the attorney for the applicant will be ad-
mitted and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in all
the cases above named with the exception of those cited above which
are covered by the various judgments recently rendered by
the Supreme Court of the United States, of the Supreme Court,
Indian Territory.

By W. W. Hastings:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmore, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case # 2458, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

~~In the case of Moses Whitire, trustee, vs Cherokee Nation, on file~~
in the Court of Claims to the counsel of the Cherokee Nation if it
is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to
the allowance of this permission or to the granting of this request
for the reason that most of these applicants have had more than a
year in which to file all of their testimony that they desired to
file to make out their case before the Commission and that notice
was given them all by agreement in March last, that the cases would
be closed so far as testimony was concerned by the special per-
mission of the firm of attorneys representing these applicants, on
the 31st day of May, 1902, and that this being the 31st day of May,
1902, we say that under the rulings of the Commission, that under
the agreement between the attorneys, that the testimony in all these
cases is to close and should be closed by the Commission, and that
no extension should be granted in any case and no case reopened
unless there is some special and particular reason shown either by
the Cherokee Nation on the one side or the applicant on the other
why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall
be made in strict compliance with the decree of the Court of Claims
rendered the 3rd day of February, 1896, and as the Commission must
take judicial notice of the judgment roll of said Court in the
proceedings referred to the motion of attorneys for applicants for
additional time to file certified copies of the proceedings of the
said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the
Five Civilized Tribes, on oath state that the above and foregoing
is a true and perfect copy of the original testimony in the above
entitled cause as filed with the Commission, which copy was made by
me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cher. Fr. D. 989

Cher. Fr. D. 989

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

MCCOWAN & SEPVEN,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Huston West, et al'

989

MOTION FOR REVIEW OF DECISION.

Comd now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1866.

That applications were made for their enrollment prior to September 1, 1866.

Therefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of . 1866.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

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

Houston west et al, Callow west et al, George West et al, vs. The Cherokee Nation. :	:: :: :: Approved Cherokee Freedmen, :: :: :: :: :: :: :: ::
---	--

Motion by plaintiffs to dismiss and strike from the record and files of the Commissioner the motion of the Cherokee Nation filed June.....1906, to reopen and reject the citizenship of plaintiffs.

Comes now the plaintiffs herein and moves the Commissioner to strike from the records and files of this office the motion filed by the Cherokee Nation on the.....day of June, 1906 to reopen and reject the citizenship rights of plaintiffs herein, for the following reasons, to-wit:

First, because the motion as filed by the nation herein comes too late by reason of the fact that the citizenship of plaintiffs herein was ordered and approved by the Honorable Secretary of the Interior,1904, and the time allowed the Cherokee Nation to make and file a protest against the enrollment of these plaintiffs according to the laws and regulations promulgated by the Honorable Secretary of the Interior has long since expired.

Second, because there is no authority of law or any ruling or regulation issued from the Interior department authorizing the making of such a motion.

Third, because the principal ground set out in the motion filed by the Cherokee Nation has thoroughly been thrashed out and passed upon by the secretary of the Interior and plaintiffs herein ordered to be enrolled as citizens of the Cherokee Nation.

Fourth, because said motion contains no allegation or allegations, any material discovered evidence which would be material

to the interest of the Cherokee Nation, and ^{it} which due diligence had been made by the Cherokee Nation to ascertain within the time limited to file its protest against the enrollment of these plaintiffs.

A S M R
Atty

UNITED STATES OF AMERICA, :
WESTERN JUDICIAL DISTRICT, : ss.
INDIAN TERRITORY :
:

Personally appeared before me, the undersigned, a Notary Public within and for the western Judicial District of the Indian Territory, duly commissioned and acting as such, A. S. Moran, who states that he is the attorney ^{of record} for the above plaintiffs in the within and foregoing motion and states that the matters and things set forth are true as he verily believes.

A S M R
Atty

Subscribed and sworn to before me this _____ day of _____

1906.

Notary Public.

My commission expires

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

In the matter of the application of ~~various West, et al.~~, for
 enrollment as Cherokee Freedmen, consolidating the applications of:

Houston West, et al.,	Cherokee Freedmen D 988,
George West, et al.,	Cherokee Freedmen D 990,
Callie West,	Cherokee Freedmen D 1000,
Callie West,	Cherokee Freedmen D 1004.

SUPPLEMENTAL MOTION.

In addition to the argument heretofore submitted to review and re-
 jeet this consolidated case, attached hereto is a copy of the testimony
 of T. H. Still and Henry Hiner of Overton, Texas, which shows conclusively
 that Walk Hayfield did not return to the Cherokee Nation until about the
 first of April of 1867, as testified to by Walk Hayfield before the
 Cherokee Court when he testified that he returned on the 4th day of April,
 1867. This testimony strongly corroborates the testimony of D. H.
 Yankins, W. T. Harango, Haniel Harango, and others, originally intro-
 duced in this case, and we think conclusively shows that the applicants
 did not return to the Cherokee Nation within the time prescribed by the
 treaty of 1866, and that they should not be enrolled as freedmen citizens
 of the Cherokee Nation, but that the motion to rescind filed on behalf of
 the Cherokee Nation in this case should be granted and the case reversed.
 This testimony was taken in the case of Ada Kilpatrick who was a daughter
 of Callie, and a granddaughter of Henry West, all claiming through the
 grand parent, the said Henry West, all claiming that they return to the
 Cherokee Nation with Walk Hayfield, their former owner.

Respectfully submitted,

Wm. H. Hastings
 Attorney for the Cherokee Nation

1-5-07

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

In the matter of the application of Houston West, et al., for enrollment as Cherokee Freedmen, consolidating the applications of:

Houston West, et al.,.....Cherokee Freedmen \$ 900,
George West, et al.,.....Cherokee Freedmen \$ 900,
Callis West.,.....Cherokee Freedmen \$ 1000,
Callis West,.....Cherokee Freedmen \$ 1000.

Motion to Review and Reject.

The records of the Commission show that, among others, the applicants in the above consolidated cases were rejected by the commission on August 5, 1904, and that the said decision was reversed by the Department on September 15, 1908, and the applicants herein ordered enrolled. The records further show that all of said applicants claim through Henry West, the father of some of the principal applicants, and the grandfather of all of the other applicants herein.

For grounds of said motion it is insisted that the record in this case shows that Henry West, the father of all of the principal applicants herein, and through whom they all claim, was denied ~~the~~ by the Supreme Court of the Cherokee Nation on the 15th day of June, 1871.

That thereafter, the said Henry West applied to the citizenship Court commonly known as the Chambers Court, wherein the following decision was rendered, denying the applicants, to-wit:

No. 1.	Henry West vs. Cherokee Nation.	} Claim of Citizenship. Before the Commission on Citizenship, sitting at Tahlequah, C. N. June 12th, 18
--------	---------------------------------------	---

This case, comes under that class of cases, of which the Commission has jurisdiction under act of Dec. 1877, claiming citizenship under the 14th article of the treaty of 1866, in regard to persons of African descent. His statement alleges that he was a slave and owned by a citizen of the Nation, and both resident here at the commencement of the rebellion. Claimant was afterwards sent to Texas, by his owner, but returned in time, that is, within six months after the ratification of the treaty of 1866.

The facts above are proven satisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The Commission find that the only testimony on that point, is the statement of Walter Hayfield, who says that he and claimant returned to the Nation on the 4th day of April, 1867. This is decisive of the case. Claimant came too late. The Commission are confined by the Act establishing the Court to the time mentioned in the conditions to the Cherokee Constitution, as far as to the exact time of the ratification of said treaty is concerned.

which places it, on the 19th day of July 1866, and hence claimants return in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

John Chambers,
President Commission.
O. P. Brewer }
George Downing } Comrs."

This decision shows that the applicants appeared before the Court under the Act of December, 1877, claimed under the 9th Article of the treaty of 1866, and submitted testimony and admitted their case to be adjudicated by the court, and the decision further shows that their owner, Walter Mayfield, was present and testified in the case and testified that he returned on the 4th day of April, 1867, and the court upon this testimony decided that the claimants had come too late and were, therefore, not entitled to be enrolled as freedmen citizens of the Cherokee Nation.

The department held in the John Morgan case on March 5, 1906 (13716-1906), the following:

"The record shows, a fact not mentioned in said decision, that the Supreme Court of the Cherokee nation on June 8, 1871, denied John and Cynthia Morgan rights in the Nation.

In a similar case that of Harry Still, in which such court admitted the applicant to all rights of Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 8, 1903, approved, stated that the adjudication of this court has the same effect as the adjudication of 'similar cases by the United States Court under the act of June 10, 1896,' that when reopened to inquiry upon the facts, such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the court and that now available, show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong; that 'The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial, than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.'

"The allegation is made in this case that the determination of the court in 1871 was vitiated by fraud, and no attempt has been made to show that it was made on account of 'lack of evidence then available.' The motion for review is accordingly hereby denied."

We have quoted at length from the decision in the John Morgan case which quotes from the approved opinion of the Assistant Attorney General for the Department of the Interior in the Harry Still case. We have always insisted that this should be the position of the Cherokee Nation. Courts have held time and again in effect that "The precedents and

judgments of the courts of the Cherokee Nation in cases within their jurisdiction are on the same footing with those of the courts of the territories of the Union and entitled to the same faith and credit." *Nehlin versus Lee* 56 Federal Reporter 12, *Stanley versus Roberts* 56 Federal Reporter 226, *In re Mayfield* 141 U. S. 107, *Barbee versus Shannon* 40 SW 544, *Remondino versus Peor*, 56 Federal Reporter 777.

It will be observed from this record that these applicants were not only rejected by the Supreme Court in 1871, within five years after the war, when Walter (Walker) Mayfield, their former owner, was alive, when a number of his relatives were alive, when the exact date of his return could be definitely ascertained, but they also applied to the Cherokee Court under the act of December, 1877, some ten years after they returned and at that time Walter (Walker) Mayfield, their former owner, was alive, and he appeared before the Court, so the judgment resites, and testified definitely and positively that he returned with these claimants on the 4th day of April, 1867, too late to acquire rights under the 9th Article of the treaty of 1866 as freedmen citizens of the Cherokee Nation.

No allegation is made in this case that the determination of the Court in 1878 was vitiated by fraud, and there is not a line of testimony which goes to show, nor has there been any attempt to show, that these judgments were made on account of lack of evidence then available. But upon the other hand, the last judgment definitely shows that the most trustworthy testimony available, being that of the former owner, Walter Mayfield, was obtained; that he appeared before the Court and testified, and we cite this case as a strong illustration of the wisdom of the opinion of the Assistant Attorney General in the Parry Still case, because now some 40 years after Walker Mayfield, and every member of his family, is dead, and in fact most all of his near relatives. No one was able to speak as definitely as he as to the time of the return, and this case being twice rejected before courts of competent jurisdiction, entitled to the same faith and credit as courts in the other territories or states of the Union, and it not having been shown that any fraud was practiced against the claimants or that these decisions were made adverse to them because of lack of evidence, we submit that the motion hereinabove made for the rejection of these consolidated cases in accordance with the

opinion of the Assistant Attorney General in the Harry Still case and the opinion of the Department in the John Morgan case, heretofore cited, should be allowed.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation

W. W. Hastings, being first duly sworn states that the facts set forth in the above motion he believes to be true; that he believes said motion is meritorious, and that the same is not made for delay, but that justice might be done.

Subscribed and sworn to before me this the 28th day of June, 1906.

My Com. Ex.

Notary Public,

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

In the matter of the applications of Houston West, et al., for enrollment as Cherokee Freedmen, consolidating the applications of:

Houston West, et al.,.....Cherokee Freedmen B 999,
George West, et al.,.....Cherokee Freedmen B 990,
Callie West,.....Cherokee Freedmen B 1000,
Callie West,.....Cherokee Freedmen B 1004.

Second Supplemental Motion.

On January 8, 1907, a supplemental motion was filed in the above case and attached hereto is the testimony of T. W. Still and Henry Biner of Overton, Texas, taken in the case of Ada Kilpatrick, et al., applicants for enrollment as Cherokee freedmen. The said Ada Kilpatrick being a daughter of Callie West, and claiming through him, and a granddaughter of Henry West, and attached hereto is a copy of the decision of the Commissioner to the Five Civilized Tribes of date January 9, 1907, based upon the testimony taken in the case of Ada Kilpatrick, et al. The decision is an exceptionally exhaustive and able one, reviewing all questions of law and fact involved and conclusively shows that the ancestors through whom they claim did not return to the Cherokee nation within the time prescribed by the 9th Article of the treaty of 1846, and that neither they, nor their descendants, are entitled to be enrolled as freedmen citizens of the Cherokee nation.

Respectfully submitted,

W. W. Hastings
Attorney for the Cherokee Nation

Dated at Muskogee, this January 13, 1907.

DEPARTMENT OF THE INTERIOR.

In the matter of the application of HOUSTON WEST, ET AL., for enrollment as Cherokee freedmen, consolidating the applications of:

Houston West, et al.,
George West, et al.,
Callis West
Callis West

Cherokee Freedmen D 989
Cherokee Freedmen D 990
Cherokee Freedmen D 1000
Cherokee Freedmen D 1054

Motion to Reconsider, Review and Reverse.

Comes now the representative of the Cherokee Nation and respectfully moves the Secretary of the Interior to reconsider its action dated February 12, 1907, refusing to reopen the above consolidated case, notice of which was served upon the representative of the Cherokee Nation March 8, 1907, and reverse its former action reversing the decision of the Commissioner to the Five Civilized Tribes adverse to the applicants and ordering them enrolled and request that their names be stricken from the Cherokee freedmen rolls for the following reasons:

1. Because the action of the Department dated February 12, 1907 (I.T.F. 21812-1906) refuses the motion to reopen and review said case upon the following ground:

"In view of Section 2 of the Act of April 26, 1906 (34 Stat. 137), even if a prima facie case for a rehearing was presented the department would not be warranted in ordering a rehearing at this late date."

Which shows that the Department refused to reopen the case, not because it did not believe that the applicants were not entitled, but because it deemed the time too short between that date and the 4th of March to have the cases remanded for further consideration.

2. The Secretary of the Interior erred in not complying with the recommendation of Commissioner Bixby dated February 26, 1906, recommending that the motion made by the Attorney for the Cherokee nation to review the case above consolidated be granted.

3. The Secretary of the Interior erred in not following the recommendation of the Commissioner of Indian Affairs dated October 22,

1906, recommending that the motion theretofore filed by the Attorney for the Cherokee Nation to review the above consolidated case be granted.

4. The Secretary of the Interior erred in withholding action in said case from October 29, 1906, the date of its transmission from the office of commissioner of Indian Affairs, until February 12, 1907, almost three months thereafter.

5. The Secretary of the Interior erred in holding that Henry West, the father of the principal applicants in this consolidated case, and the principal applicants returned prior to February 11, 1867.

6. The Secretary of the Interior erred in not holding that the principal applicants, together with their father Henry West, did not return until about the first of April, 1867, too late to qualify under the 9th Article of the treaty of 1866.

7. The Department erred in not holding that the decision of the Cherokee Supreme court known as the Daniels court of date June 15, 1871, adverse to the applicants, was not binding upon the Department unless it was shown that said decision was obtained through fraud or lack of evidence, when no attack whatever was made against said decision (I.T.D. 7658-1904, 13208-1905).

8. The Secretary of the Interior erred in not holding that the decision of the Chambers court for Cherokee citizenship in 1878 adverse to Henry West, the common ancestor through whom all of these applicants claim, was not binding upon the Department under the rulings of the Department in the Cherokee freedmen cases of John Morgan rendered March 5, 1905 (I.T.D. 10716-1905), and Harry Still, rendered October 5, 1905 (I.T.D. 7658-1904, 13208-1905).

9. The Department erred in not finding that the testimony conclusively showed that none of the applicants returned within the time prescribed by the treaty of 1866.

AMENDMENT.

The representative of the Cherokee Nation filed a motion to review this case on the 25th day of June, 1906. The records show that

Commissioner Bixby on September 28, 1906, two months thereafter, recommended it. The records further show that on October 29, 1906, one month thereafter, the Commissioner of Indian Affairs recommended it in an exceptionally strong letter. And the records further show that on February 12, 1907, or nearly three months thereafter, it was denied by the Department for the want of time.

We submit that this is an injustice to the Cherokee Nation. The Act of April 26, 1906, said that these rolls must be closed by March 4, 1907. The representative of the Cherokee Nation filed this motion to review this case on the 25th day of June, 1906, more than eight months before the law said the rolls should be finally closed. It was three months thereafter before the Commissioner to the five civilized Tribes ^{trans} submitted it to Washington and it was seven and a half months after it was filed with the Commissioner to the five civilized Tribes before the Department denied it because it deemed it too late to have it remanded under Section Two of the Act of April 26, 1906.

The Cherokee nation and every citizen that lives in the locality where these freedmen reside keenly feels that an injustice has been done the Cherokee Nation by the enrollment of these applicants; that the principal applicants herein returned with Walker Mayfield on or about the 4th day of April, 1867, there cannot be any doubt whatever. In fact there is no reputable testimony to the contrary.

The Cherokee Nation introduced a great many reputable witnesses to the effect that these applicants are not entitled to be enrolled and among them:

D. M. Faulkner who testified that he, in company with Rachel L. Adair whom he afterwards married, went down to see Walker Mayfield about the first of April, 1867, the said Walker Mayfield being a relative of the said Rachel L. Adair; that his wagon was still uncovered and many things were in his wagon at that time where it stood loaded.

William T. Harnage, a relative of Walker Mayfield's, also testified

that Henry West came back to the Cherokee Nation in the spring of 1867.

Ezekiel Farnage, who lived in that same vicinity to which Walker Mayfield returned, and a relative, also testified that Walker Mayfield came back in the spring of 1867.

The Cherokee Supreme court known as the Daniels Court on June 15, 1871, rejected Henry West and the Department has repeatedly held that in the Harry Still case and the John and Cynthia Morgan case and the Amos Adair case that these decision were binding upon the Department unless it was shown that the decision denying them was procured through fraud or lack of evidence, and this decision was not attempted to be attacked by the applicants.

The Cherokee Citizenship Court known as the Chambers Court in 1878 rejected the applicants and at that time Walker Mayfield was alive and appeared before that Court and testified and he testified that they returned on April 4, 1867, said decision denying the applicants being as follows:

*No. 1.	Henry West vs. Cherokee Nation.) Claim of Citizenship. Before the) Commission on Citizenship, Sitting) at Tahlequah, C.N. June 12th, 18
---------	---------------------------------------	--

This case, comes under this class of cases, of which the Commission have jurisdiction under act of Dec. 1877, claiming citizenship under the 9th Article of the Treaty of 1866, in regard to persons of African descent. His statement alleges that he was a slave and owned by a citizen of the Nation, and both resident here at the commencement of the Rebellion Claimant was afterwards sent to Texas, by his owner, but returned in time, that is, within six months after the ratification of the treaty of 1866.

The facts above are proven satisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The Comm find that the only testimony on that point, ~~is Henry West's~~ is the statement of Walter Mayfield, who says that he and claimant returned to the nation on the 4th day of April, 1867. This is decisive of the case. Claimant came too late. The commission are confined by the Act establishing the Comm to the time mentioned in the amendments to the Cherokee constitution, so far as to the exact time of the ratification of said treaty is concerned, which places it, on the 19th day of July 1866, and hence claimants return in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said treaty in the opinion of the commission, and consequently they decide that said claimant is an intruder, on the Public domain of the Cherokee Nation.

John Chambers,) Comm'n.
President Commission.	
Opp. Brewer	
George Downing) Comm'n.

The Department held in the John Morgan case on March 5, 1906

(I.T.D 10716-1906), the following:

"The record shows, a fact not mentioned in said decision, that the Supreme Court of the Cherokee Nation on June 8, 1871, denied John and Cynthia Morgan rights in the Nation.

In a similar case, that of Harry Still, in which such court admitted the applicant to all rights of Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 5, 1905, approved, stated that the adjudication by this court has the same effect as the adjudication of "similar cases by the United States Court under the Act of June 10, 1896;" that when reopened to inquiry upon the facts such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court or that the evidence then before the court and that now available show that the conclusion of the court upon the case for fraud or lack of evidence then available was clearly wrong; that "the commission should regard itself rather as a court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than 30 years."

"No allegation is made in this case that the determination of the court in 1871 was vitiated by fraud, and no attempt has been made to show that it was made on account of lack of evidence then available."

It will be noted that the Assistant Attorney General on October 5, 1905, in the Harry Still case stated that the adjudication of the Supreme Court of the Cherokee Nation had the same effect as the adjudication of "similar cases by the United States Court under the Act of June 10, 1896." Honorable Charles J. Donaparte, Attorney General, in a very lengthy opinion to the Secretary of the Interior on February 19, 1907, in the cases, among others, of Lulu West, et al., and William C. Thompson, et al., held that the decision of the court under the Act of June 10, 1896 was final and conclusive and if as held by the Assistant Attorney General that the adjudication by the Cherokee court in similar cases should have the same effect as that of the United States Court under the Act of June 10, 1896, then clearly the applicants, having been rejected by the Cherokee Supreme Court known as the Daniels Court in 1871 and by the Charters Commission on Citizenship in 1878, and no allegation having been made in this case that the determination in 1871 and in 1878 adverse to the applicants that there was any fraud committed as against them, and no attempt having been made to show that the adverse decisions were rendered because of lack of evidence then available, we submit that under the opinions of the Assistant Attorney General and the Attorney General hereinabove referred to that these applicants should have been rejected.

In 1871 hundreds of witnesses were alive who could testify as to the

very day that Walker Mayfield returned; quite a number, including Walker Mayfield, were alive in 1878, who could testify as to the date of his return, and he did appear and testify that he returned on the 4th day of April, 1867; a number of witnesses whose reputation for truth and veracity could not be attacked, among them D. M. Faulkner, the present Assistant Chief of the Cherokee Nation, who had held numerous positions of honor and trust and whose reputation cannot be assailed; also William T. Farnage, at the time he testified a Cherokee Senator, and the other witnesses of equal reputation, all testified to the same effect that Walker Mayfield testified in 1878, namely, that he and his slaves returned about the first of April, 1867.

Subsequent to the decision in this case Ada Kilpatrick, Cherokee V.E. 24, applied to be enrolled and the additional testimony was taken in that case of T. W. Still, who married a sister of Walker Mayfield, and Henry Minor, of Rusk County, Texas, and Still testified that he left Texas during the first days of March, 1867, with his family and the mother of Walker Mayfield, that they left Walker Mayfield in Texas, and that he came on to the Cherokee nation in a few days thereafter. This corroborates the statement of Walker Mayfield as found in the judgment of the Chambers Commission on Citizenship in 1878 to the effect that Walker Mayfield reached the Cherokee Nation April 4, 1867.

Henry Minor of Rusk County, Texas, said that he met Walker Mayfield as he was leaving Texas; that Mayfield tried to get him to come to the Cherokee Nation with him, and that this was during the first days of March, 1867, and this corroborates what Walker Mayfield said before the Chambers Court in 1878. Araminta Paok lived in the vicinity to which Walker Mayfield returned and she corroborates his statement.

Here are two solemn judgments of Cherokee courts which the Assistant Attorney General says shall have the same faith and credit as the United States Court in similar cases under the Act of June 10, 1866. But the courts have frequently held:

"The proceedings and judgments of the Cherokee Nation in cases within their jurisdiction are on the same footing with those of the courts of the territories of the Union and entitled to the same faith and credit." Hoblin vs. Lee 24 Fed. Rep. 12; Stanley vs. Roberts 29 Fed. Rep. 226;

-7-

In re Mayfield 141 U. S. 107; Barbee vs. Shannon 40 Northwestern 594;
Mondine vs. Pore 56 Ind. Rep. 777.

These decisions are in line with the decision of the Assistant Attorney General in the Harry Still case hereinabove referred to.

As against this testimony the applicants offer practically none except themselves.

We submit that the great injustice should not be done the Cherokee Nation because the representatives of the government waited from June 25, 1906, the date when the motion to review and reject these applicants was filed, until February 12, 1907, seven and a half months thereafter, and then deny the motion because it was too late under Section 2 of the Act of April 26, 1906.

The only question should be are these applicants honestly and fairly entitled under the law and the testimony submitted in this case; if they are the Cherokee Nation says enroll them, and if not, we contend that the testimony overwhelmingly and conclusively shows that they are not, then justice should not be denied the Cherokee people, the wards of the government of the United States, because of any delay of the representatives of the government.

The Cherokee Nation makes a last appeal to the government for justice in this case; that the principal applicants in this case, through whom the other applicants claim, did not return within the time prescribed by the Treaty of 1866 there can be no question whatever; that they were rejected twice by a court of competent jurisdiction has been shown; no attack was made upon either of these judgments and no attempt was made to show that they were procured through fraud or for lack of evidence then available, and we submit that in the fact of this record that the action of the Department denying our motion to review and reject these applicants should be reconsidered and that said motion should be allowed and the former action of the Department reversing the action of the commissioner to the five civilized tribes denying the applicants, should be rescinded and that the names of the applicants should be stricken from the freedmen rolls of the Cherokee Nation.

Respectfully submitted,

5-3-07

[Signature]
Attorney for the Cherokee Nation.

Department of the Interior,
 Commission to the Five Civilized Tribes,
 Muskogee, Ok. T., July, 2nd 1891.

In the matter of the application of Houston West for the enrollment of his self and five children as Shawanese Indians; he being sworn by Commissioner T. E. Needles, testified as follows:-

- Q What is your name? A. Houston West.
- Q What is your age? A. 47
- Q What is your post office address? A. Muskogee Ok. T.
- Q In what district do you live? A. Sequoyah district.
- Q Do you want to be enrolled as Shawanese Indians? A Yes sir.
- Q Who do you want to have enrolled besides yourself? A. Five children.
- Q What are their names? A. Ida West.
- Q How old? A. 19 years.
- Q Next? A. Nancy Nancy
- Q How old? A. 17 years
- Q Next? A. Fannie.
- Q How old? A. 15
- Q Next? A. Georgia
- Q How old? A. 23
- Q Next? A. William
- Q How old? A. 9 years
- Q Is your name on any roll of the Cherokee Nation? A. Yes sir the Ross and Wallace rolls.
- Q Are you married yet? A I have been, or not now.
- Q Is your wife living? A. The mother of these children is not living.
- Q What was her name? A. Lizzie Ed Albert when I married her.
- Q When were you married to her? A. In '78.
- Q Why is your name not on the roll of 1869? A. I have always tried to get it on.
- Q How have you failed though? A Yes sir.
- Q Is your wife a citizen? A. Yes sir.

Ross Clifton roll examined and the name of the applicants found as follows-

- Page 111 No. 2763, Houston West, Illinois district.
- Page 111, No. 2765, Ida West
- Page 111 No. 2766, Nancy West,
- Page 111 No. 2767 Fannie West
- Page 111 No. 2768 Georgia West
- Page 111 No. 2769 Willie West

Wallace roll examined and the name of the applicant found as follows

- Page 147 No. 3000 do. Houston West, Sequoyah district.
- Page 147 No. 3002 Ida West,

- Q Were you a slave? A. Yes sir.
- Q Who did you belong to? A. Falk Hayfield.
- Q Was he a Cherokee citizen? A. Yes sir.
- Q Did you go out of the Cherokee Nation during the war? A. Yes sir.
- Q Where to? A. Texas.
- Q When did you return? A. In '66.
- Q What time in '66? A. It was in the winter.
- Q Were you married then? A. No sir.
- Q Have you lived in the Cherokee Nation continuously since then? A. No sir.
- Q Where these children born here? A Yes sir.
- Q And have they lived here all the time? A. Yes sir.
- Q Have you any proof of your marriage? To your wife Lizzie? A Yes sir.
- Q A marriage certificate? A. No sir.

- Q Who was your father? A. Henry West.
- Q And your mother? A. Freedman.
- Q And you belonged to the Mayfield? A. Yes sir.
- Q Where were you living when the war commenced? A. In the old plantation place in Bogoyah.
- Q When did you go to Texas? A. The second year of the war.
- Q Where did you stop at there? A. At the old Mayfield place near Bellville Texas.
- Q Did your father belong to Walk Mayfield at the beginning of the war? A. Yes sir.
- Q When did your return here? A. In '66.
- Q Who with? A. Walk Mayfield and his family.
- Q What was his wife's name? A. Jane Stockham before he married her.
- Q What ever became of your father? A. Died.
- Q Is your mother alive? A. No sir.
- Q Just you and the Walk's family came together? A. That is all.

By the Commission-

- Q When did your father die? A. In '65 or '64.
- Q When did your mother die? A. She died before he did.
- Q How father and mother are not on the roll of 1860? A. No sir but I have a sister on the 1860 roll.
- Q What is her name? A. Mary Whitmore.
- Q Is she married now? A. Yes sir.
- Q Did she go to Texas with you? A. Yes sir.
- Q And did she return with you? A. Yes sir.

The 1860 authenticated roll of the Cherokee Nation examined and the name of the applicant's sister found as follows-
Page 228 No. 1299, Mary Whitmore, Bogoyah district.

- Q You say this is your full sister? A. Yes sir.
- Q Same father and mother? A. Yes sir.

Harrison Foreman called and sworn as a witness for the applicant

- Q What is your name? A. Harrison Foreman.
- Q What is your age? A. 48.
- Q What is your post office address? A. Gatowana.
- Q Are you a recognized citizen of the Cherokee Nation? A. Yes sir.
- Q A Freedman? A. Yes sir.
- Q Do you know the applicant? A. Yes sir.
- Q How long have you known him? A. Since the war.
- Q Was he a slave? A. Yes sir that is what I heard.
- Q When did you first see the applicant after the war? A. I can't be positive as to the exact time, in '66 I believe.
- Q Where? A. I was the surgeon at Fort Smith and I ferried him over the river.
- Q Who was with him? A. Walk Mayfield and his family and the applicant's father and mother.
- Q And you think it was in '66? A. Yes sir.
- Q Has he lived in the Cherokee Nation since '66? A. Yes sir.

By Bell-

- Q What time of the year was that? A. I don't know if it was in November or December, but along there.
- Q Walk Mayfield was his former owner? A. Yes sir.
- Q Is Walk living? A. No sir.

Henry Dean called and sworn as a witness for the applicant-

- Q What is your name? A. Henry Dean.
- Q What is your age? A. 48.

- Q What is your post office address? A. Millers.
- Q Are you a Cherokee Creekman? A. Yes sir.
- Q How long have you known him? A. Yes sir.
- Q How long have you known him? A. Ever since — I think it was the fall of '66.
- Q Was he a slave? A. Yes sir.
- Q Who owned him? A. Walk Hayfield.
- Q Did this applicant go out during the war? A. I guess they did.
- Q When did you first see them after the war? A. They was coming through making their way up by where I lived in '68, I lived on the bank of the Arkansas this side of Fort Smith.
- Q Who was with this applicant then? A. His father and mother and two sisters I think a man named Tom Hanning and a woman named Aggie and Dave West.
- Q Was Walk Hayfield with him? A. Yes sir that was his owner.
- Q Has this applicant lived here ever since? A. Yes sir.

By Hall-

- Q Where were you living then? A. On this side of the river on the place that belonged to Martha Thomson. The house is caved in now.
- Q Was that the old George Johnson house? A. No sir that was below us.

By Commission

- Q You are positive that you are correct as to these dates? A. Yes sir.
- Q What circumstances makes you think it was in '68? A. Because they was all harping about the '68 treaty then.

Albert Johnson called and sworn as a witness for the applicant.

- Q What is your name? A. Albert Johnson
- Q What is your post office address? A. Berge.
- Q What is your age? A. 43.
- Q Do you know the applicant? A. I do.
- Q How long have you known him? A. Ever since I was a boy.
- Q Was he a slave? A. I guess he was, he was with Walk Hayfield.
- Q Did he go out of the Cherokee Nation during the war? A. Most sure, he come back.
- Q How do you know he come back? A. Moved on the Lilly Starr place in the fall of '66.
- Q Where is that? A. This side of the Arkansas river.
- Q Who was with him? A. His mother and father.
- Q Have you known him ever since that time? A. Yes sir.
- Q You are sure that it was in '68? A. As my memory serves me it was '68.
- Q You was here yourself then? A. Yes sir.

By Hall-

- Q Who was with him, was Walk Hayfield with him? A. Yes sir.

By the Commission:

- Q Was Walk Hayfield a Cherokee citizen? A. Said to be.
- Q Do you know this applicant's wife? A. Yes sir.
- Q Do you know they were married? A. Yes sir.
- Q Was you suspicious they married? A. Yes sir.
- Q And saw them married? A. Yes sir.
- Q Who married them? A. Judge.
- Q What was her name when she married him? A. I don't know now.
- Q Where were they married? A. At the Fair place.
- Q Have they lived together since then until recently or not? A.
- Q And raised a family? A. Yes sir.

By Geo'Y Needles,-

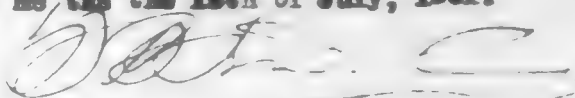
Houston West applies for himself and five children, Ida, Nancy, Fannie, Georgia and William West; he cannot be identified on the authenticated roll of 1880 or the census roll of 1896; he is identified on the Kern Clifton roll and the Wallace roll according to the page and number of the rolls as indicated in the testimony; he avers that he was the slave of Walk Mayfield, that he was taken out of the Cherokee Nation during the war and returned in 1868 with his master Walk Mayfield, and offers evidence to establish that fact. He makes satisfactory proof of his marriage to Lizzie Albert now deceased, who is the mother of his children; all of his children are identified on the Kern Clifton roll; he avers that he is the full brother of Mary Whitmore, they having the same father and mother; she is now married and enrolled on the authenticated roll of 1880; he avers that she returned to the Cherokee Nation with him at the same time as his father and mother and the balance of the family; the evidence so far presented is sufficient to justify the Commission in enrolling the said Houston West and his five children herein named, as Cherokee freedmen, but now comes the Cherokee Nation and protests the enrollment, averring that they have witnesses with which to rebut the evidence now given; consequently the said Houston West and his five children will be listed for enrollment as Cherokee freedmen on a doubtful card and when the final decision is arrived at he will be notified by mail.

+ + + + +

Chas con Weise, being 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 con Weise

Subscribed and sworn to before me this the 15th of July, 1901.



Commissioner.

C.F. D- 989, Houston West.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment
as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:

Applicant not present:

V. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of
service of notice that they will introduce testimony in this
case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, tes-
tified as follows:

Q What is your name? A W. T. Harnage.

Q What is your postoffice? A Tahlequah.

Q What is your age? A About 53.

Q You a Cherokee citizen by blood? A Yes, sir.

Q I believe you made a statement that you returned here in December
of 1866, after the war? A Yes, sir.

Q To what part of the Cherokee Nation did you come? A Sequoyah
district.

Q How far did you locate from Fort Smith? A Just across the river,
about half a mile from the line.

Q What relation are you to Zeke Harnage? A Half brother.

Q Is he older or younger than you? A He is older.

Q Did you know Walk Mayfield? A Yes, sir.

Q What relation is he to you? A He is my uncle.

Q How long did you continue to remain down there in Sequoyah dis-
trict immediately after you came? A I stayed there in the bottom
until after Christmas, then I went up to Flint.

Q You stayed there until after Christmas of '66? A Yes, sir.

Q About the first of January? A About the first of January some-
time.

Q How did your uncle Walker Mayfield return when you lived there?
A No, sir.

Q Now how long did you remain up in Flint? A I stayed up there
till about the middle of April and went back down in the bottom.

Q And when you came back had he returned then? A Yes, sir, he was
there then when I went back to the bottom.

Q That was in April of what year? A '67.

Q But when you left there after Christmas of '66, about January,
he hadn't come? A No, sir, he hadn't come in, we left him in Texas
in the fall of '66.

Q You left him there? A Yes, sir.

Q Had he made a crop there in Texas that year? A Yes, sir.

Q You know what kind of a crop, cotton and corn? A Corn and
cotton.

Q Well, how far did he locate from your place and from the place
that you had stopped when you returned there in April of '67?
A About five miles.

Q He was your uncle? A Yes, sir.

Commissioner: He came there you say in April, '67? A I came
back to the bottom in April '67 and he was there when I came.

Q Walker Mayfield was? A Yes, sir.

Q You know when he came there? A No, sir, he came after I left,
I left the bottom in January, '67, and went up to my uncle's in Flint.

and stayed there till April.

Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.

Q What brings it to your memory that it was in '67? A Because it was in '66 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.

Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you can't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came up here? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Corn and cotton.

Ezekiel Harnage, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Harnage.

Q What is your postoffice? A Poyil.

Q What is your age? A 59 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q Now you came back, I believe you say, to Sequoyah District?

A Yes, sir.

Q Now you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q Now did you live from him down there, or did he from you?

A About a month or more, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You came up here in Sequoyah about December 16, 1866?

A Yes, sir.

Q For what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walk Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had some boys, Houston, Willie and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16 up until the following April, March or April?

A On yes, I was there all the while.

Q When did you see Walk Mayfield again, from you when he came?

A I guess it was four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew them boys.

Q Did he have a sister named Mary? A I don't know anything about the girls.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.

Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield came back to the Nation.

Q With Mayfield's family? A Yes, sir.

Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.

Q Is he living? A No, he is dead.

Q His wife living? A No, she is dead.

Q What fact fixes the date of Mayfield's return in your mind?

A The fact of the business is; the fact that fixes it in my mind was about going to work to make a crop.

Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield come the next spring like.

Q You know that you came in '66? A I know that, I am positive of the fact.

Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A D. M. Falkner.

Q What is your age, Mr. Falkner? A I am about 60.

Q What is your postoffice address? A Hanson, Indian Territory.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Falkner, you have been married, I believe, the second time?

A Yes, sir.

Q What was your first wife's name? A Her name was Rachel L. Adair.

Q That was her maiden name? A Yes, sir.

Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.

Q Did you know Walk Mayfield yourself? A Yes, sir.

Q Where were you living in the year of '66 and the spring of '67?

A I was living in Sequoyah district, Cherokee Nation.

Q Did you know Walk Mayfield before the war? A Yes, sir.

Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.

Q Now Mr. Falkner, tell the Commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of —

Q That you afterwards married? A Yes, she was boarding with my sister, teaching school, and the news come that her wife had come home from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we went, and they claimed they had just come in.

Q Well, how far was it that you had to go? A Four miles, and then I went with her over there, and the reason why I am so positive about it, — and her was married about ten or fifteen days after that; that is, this young lady.

Q Your first wife? A Yes, my first wife.

Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home, my marriage; we were married about a week or fifteen days after he come, and I think it is dated on the 17th of April, or the 27th of April, when we and her were married, and just a few days before that is when we and her went over there.

Q That is her uncle, Walk Mayfield? A Yes, sir.

Q How had you heard of him coming these four miles here, and you went over there to see him, and they had just come in? A That is what they claimed, they had just come in.

Q You hadn't heard of him before that? A No, sir.

Q Did they have some slaves, colored people, with them?

A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.

Q Had they unloaded the wagons when you got there? A There was a covered wagon standing there at the house when we got there.

Commissioner: What year were you first married, Mr. Falkner?

A It was in April, '67.

Q You are positive of that? A Yes, sir, I have got it in the bible at home.

Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me then was his darkies, all I know.

Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.

Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.

Commissioner: Walker Mayfield dead? A Yes, sir.

Q His wife dead? A Yes, sir.

Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys and they are all dead.

Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about four miles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.

Q Four or five miles from that place to Fort Smith? A Yes, sir.

Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.

Q There is where they all crossed? A Yes, sir.

Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callis West, D-1000, and George West, D-990.

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 correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 6th of September, 1901.

C. R. Beckwith

Commissioner.

(COPY)

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Houston West, et al. for enrollment as Cherokee Freedmen, consolidating the applications of:

Houston West, et al.	Cherokee Freedman D	989,
George West, et al.	" "	D 990,
Callis West	" "	D 1000,
John West	" "	D 1030,
Eugenia Harris, et al.	" "	D 1032,
Callis West,	" "	D 1054.

DECISION.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Houston West for himself and his minor children, Ida, Nancy, Fannie, Georgie and William West; by George West for himself and his minor children, George, Jr., Jessie, Albertha and James West as Cherokee Freedmen, and for his wife, Lizzie West, as a Cherokee Freedman by intermarriage, but as the status of persons applying for enrollment as Cherokee Freedmen by intermarriage is not fixed at this time, the application for the enrollment of Lizzie West, as such, will not be passed upon or considered in this decision; by Callis West (son of Henry West), for himself; by John West for himself; by Eugenia Harris for herself and her minor child, Janie Harris, and by Callis West (son of Houston West), for himself.

The evidence shows that the applicants, Houston West and Callis West, together with their parents, Henry and Phoebe West, were the slaves of a Cherokee citizen at the commencement of the rebellion; that they were taken out of the Cherokee Nation during the rebellion and did not return thereto within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee Nation et al., for the return of freedmen to said Nation; that all the other applicants herein, except Lizzie West, John West, Eugenia Harris, Janie Harris and Callis West (son of Houston West), are descendants of Henry and Phoebe West, or of Houston West, and, having been born since 1865, their rights to enrollment are derived solely through their said ancestors.

The evidence further shows that the said John West, Eugenia Harris and Janie Harris, were born since 1865, and are the descendants of Bose West and Millie West; and that they acquired no greater rights, as Cherokee Freedmen, than were possessed by their said ancestors. It does not appear that either Bose

West or Millie West was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the rebellion. None of said applicants' names are found on the 1880 authenticated Cherokee roll.

It further appears that the said James West died on June 17, 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 that the applications for the enrollment of Houston West, Ida west, Nancy West, Fannie West, Georgie West, William West, George West, George West, JR., Jessie West, Albertha West, Callis West (son of Henry West), John West, Lugania Harris, Janie Harris and Callis West (son of Houston West), as Cherokee Freedmen should be denied, under 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 James West as a Cherokee Freedman be and the same is hereby dismissed, under the provisions of the law above quoted.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) TAMS BIDBY
Chairman

(Signed) E. B. Needles
Commissioner

(Signed) C. R. Breckinridge
Commissioner

Dated at Muskegee, Indian Territory

this Aug 5 1904

FD 989

1 Department of the Interior Washington D.C.
2 Commission to the five civilized tribes,
3 In the matter of Applications for the small
4 ment of the consolidated Applications of
5 Houston West et al Cherokee freedmen Do 989

6
7 Cherokee freedmen,
8 To the Hon. E A Hitchcock Secretary of the
9 Interior Washington D.C.

10 The petitioners applicants for Cherokee
11 citizenship as freedmen,
12 would most respectfully represent and
13 show:

14 The applications were made to the
15 Commission to the five civilized
16 tribes by the above named freedmen
17 for small ment as Cherokee freedmen
18 And after the Commission had heard
19 the evidence in the case said Com-
20 mission rendered a decision rejecting
21 the claims of the applicants on the
22 4th of August 1904 as of Julia A Jones
23 on July 1st 1903

24 Your petitioners therefore allege:
25 That Henry and Charles West deceased
26 whose former name was Walk My field
27 a Cherokee patriot by blood that
28 to say Henry and Charles West were those
29 of a Cherokee citizen at the commencement
30 of the war of the rebellion
31 and that said Henry and Charles West
32 their children and their children
33 carried out of the Cherokee nation during
34 the war of the rebellion

1 to avoid Federal Government troops
2 and said Henry and Charles West deed the
principal applicant in this case through
whom all the above named applicants
claims their ^{rights} enrollment as Cherokee freedmen
returned back to the Cherokee nation
in December 1866. and

That said applicants arrived at Fort Smith
Ark. just a few day before Christmas, Dec 22nd
1866 that the applicants crossed the
Arkansas river on the 26th or 27th
day of December 1866 into the Cherokee
nation and there in the nation on
or near the Arkansas river bank the
said Henry and Charles West then
living and at the head of the West
family or families went into camp
at the above named place and time
and said applicants continued into
camp on or near the Arkansas river
bank until the last of March 1867

Petitioner alleges that the applicants was
necessarily compelled to go into
camp at the time, and place above
mentioned, on account of the fact
that Walker Mayfield's farm was occupied
by Geo Hughes a loyal Indian who held
possession of the Walk Mayfield's farm
until the last of March 1867
the applicants was without a place
to go to until the said Walker May
field's farm was vacated by Geo
Hughes

And as soon as the walk Mayfield's farm
was vacated the said Henry and Charles West
together with their children and their grand
children broke their camp and moved out on
the said Mayfield's farm which is 3 miles from
their camp on the Arkansas river opposite
Fort Smith in the Cherokee nation where the
said applicants had been encamped since
the 26th or 27th day of December 1866—

petitioners alleges

That the Cherokee nation; alleges that the
applicants did not return to the said Nation
until a few days before the said applicants
removed upon the walk Mayfield's farm
certainly said allegations is a Misrepresentation
of the facts in the matter

On the 20th day of Aug. 1904 the petitioners
discovered and secured evidence of Mr
Sam Hughes, of Ft Smith Ark. age 59 years
and who has been a hard working on
the ferry boat at Ft Smith since 1864-5
and grandvillie Cimshaw age 72 years
who was one of among the many friends
who aided the applicants in getting food
for the children and supplying their
needs

That the evidence of these witnesses will
clearly and conclusively show
That the applicants and their children
their grand children arrived at Ft Smith
in December 1866— just a few days before
Christmas 1866— and that the applicants
crossed the Arkansas river into the Cherokee
nation on the 26 or 27th of December 1866—

which testimony will corroborate the
evidence of Harrison Freeman given in
the applicants case at the original hearing
of the case,

Petitioner alleges that the Cherokee nation avoided
the citizens who was living at or near
where the applicants was encamped who
knew when the applicants were camped
at the above mentioned place in a time
between Dec 1866, and the last of March 1867
and before the applicants had met of
persons who were living in the locality where they
were then encamped (about 1867) as witnesses. The
citizens of said nation had then organized an
association the object of which was to forbid
the recognized citizens of the nation from testifying
in behalf of the freedmen who were carried out of the
nation, which is still in existing in said nation it is
therefore very difficult to get witnesses for the
doubtful applicants;

Petitioner further alleges:

That this motion is not made merely to delay the
settlement of matters in said nation, but by
careful and due diligence the applicants have
just discovered and secured new testimony
which is sufficient ground for a rehearing
Petitioner have due diligence in trying to get up
more, and and material testimony in support
of the case which testimony they knew not of at
the original hearing of the case

Petitioner alleges that the testimony at the original hearing
of the case was not closed by the applicants, but
the same was left open for the introduction of more
evidence the said commission informed

(continued on page 4)

the applicants that should they need more evidence in support of their claims they would be duly notified of that fact— But instead of so notifying the applicants of the need more evidence in support of their claims, it seem that the said commission allowed Mr. W. W. Hastings the atty. for the nation to present the testimony of Bill Harnage who was living in the state of Texas in 1866— and never got back here until the year of 1873.

Therefore your petitioners believing that the applicants should be enrolled as Cherokee freedmen asked that the decision of the commission to the civilized tribes be reversed and set aside and the applicants claims be granted

A
Signed,

Hovatore West x
Callis West x

sworn to and subscribed before
me this day of 1904

Notary Public

On this 31 day of Aug 1904 personally appeared
before me a notary public within and for
Sebastian County, State of Arkansas Saml Hughes
^{age 59 years}
who was a ferry boat hand at Fort Smith in 1866
and ~~Grandchild~~ Crumshaw age 72 years
to me well known to be persons of good
moral character and worthy of belief
who after being sworn according to law
says that they are acquainted with
Houston, and Callis west. And have
known them and their father and mother
Henry and Phoebe West since December
1866 - witnesses became acquainted with
the said Henry and Phoebe West and their
children and their grand children
soon after they had returned from
Texas in December 1866 -
the said applicants had just
returned from Texas, they arrived
at Fort Smith Ark, December
26 or 27 1866 -
Witnesses aided the said Henry &
Phoebe West and their children
and grand children across the
Arkansas river into the Cherokee Nation
December about 27th 1866 -
Witnesses says as to Saml Hughes that
he was one of the boat hands and had
good opportunity to become acquainted
with the applicant in the case

for witnesses put the applicants
across to the Arkansas river into the
Cherokee nation on the day and time
above named and the said applicant
together with their children and
grand children went into camp
near the ferry boat landing on the
Cherokee side of the river and
the said applicants remain in
said camp until about the
last of March 1867 after that time
said applicants moved upon the
former owner's farm 3 miles above
the landing in the Cherokee nation,
Signed

A. D. Schuck N. C.

A True Copy

mdg

COMMISSIONERS

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

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

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-989.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY TO
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 23, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In accordance with the verbal request of A. S. McRea, Muskogee, Indian Territory, attorney for Houston West et al., the Commission has advised said Houston West that he will be given an opportunity to introduce further testimony in the matter of his application for the enrollment of himself and children as Cherokee freedmen, before the Commission at its offices in Muskogee, Indian Territory, on Wednesday, April 6, 1904, at nine o'clock A. M.

The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire.

Respectfully,



Commissioner in Charge.

(Copy of a copy)

Refer in reply
to the following
Lead
87286-1808

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,
WASHINGTON, September 19, 1904

The Honorable,

The Secretary of the Interior

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized Tribes, dated August 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen by Houston West and his minor children, Ida, Nancy, Fannie, Georgie, and William West; by George West for himself and his minor children, George Jr., Jessie, Alberta and James West; by Callie West (son of Henry West) for himself; by John West for himself; by Ligenia Harris for herself and her minor child, Janie Harris and by Callie West (son of Houston West) for himself.

August 8, 1904, the Commission decided adversely to the applicants.

The record shows that the applicants, Houston West and Callie West, together with their parents, Henry and Fieche West were the slaves of a Cherokee citizen at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return on or before February 11, 1867; that all the other applicants except John West, Ligenia Harris

+

and Janie Harris were born since 1846, and are the descendants of
Boss West and Millie West, and that they required no greater
rights than were possessed by their ancestors. It does not appear
that either Boss or Millie West were the slaves of a Cherokee
citizen or a free colored person residing in the Cherokee Nation
at the beginning of the war of the rebellion.

None of the applicants is identified on the 1850 authenti-
cated Cherokee roll.

In view of the record the approval of the Commission's
decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tenner
Acting Commissioner

H.H.H.

V.

(Copy of a copy)

D.C. 39949-1904
I.T.D. 7604-1904

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

W.C.F
J.P.
FHK
L.R.S.

October 15, 1904.

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

Gentlemen:

August 17, 1904, you transmitted the record in the consolidated Cherokee freedman case of Houston West et al.

It appears that applications were made for the enrollment as Cherokee freedmen of Houston West and his minor children, Ida, Nancy, Fannie, Georgie and William West; of George West and his minor children, George Jr., Jessie, Albertina and James West, and his wife Lizzie West; of Callis West (son of Henry West); of John West; of Lagenia Harris and her minor child, Janie Harris; and of Callis West (son of Houston West). The application for the enrollment of the applicant Lizzie West as a Cherokee freedman by intermarriage was not passed upon by you, and is therefore not included in this decision.

It appears that the applicant James West died June 17, 1902, On August 8, 1904, you dismissed the application for the enrollment of James West, and decided that all the other applicants herein are not entitled to enrollment.

Reporting September 19, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved, and on September 21, 1904, he forwarded a petition, in behalf of the applicants, praying for the reopening of the case.

It appears that Houston West, George West and Callis West are brothers of Nancy Starr; that their father was Henry West; that Houston West and Callis West were born prior to 1866; that they were the slaves of a Cherokee citizen at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during said war, and returned with Nancy Starr. The applicant George West appears to have been born after the return of Henry West to the Cherokee Nation .

In the case of Nancy Starr the testimony in the case of Houston West was made a part of the record, and on September 17, 1904, the Department held that the evidence submitted concerning the circumstances connected with the return of Nancy Starr to the Cherokee Nation showed that she returned prior to February 11, 1867.

It appears that the applicants John West and Eugenia Harris were born subsequent to 1866, and are son and daughter of Bece West, a brother of the applicant Houston West. The evidence shows that Bece West did not return to the Cherokee Nation

prior to February 11, 1867.

Your decision , in so far as it affects said John West, Lougenia Harris and Janie Harris, is therefore approved, Your

decision in so far as it affects Houston West, Ida West, Nancy West, Hannie West, Georgie West, William West, George West Jr., Jessie West, Albertha West, Callis West (son of Henry West), and Callis West (son of Houston West), is reversed, and you are directed to enroll said applicants as Cherokee freedmen.

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

Respectfully

Thos Ryan
Acting secretary

1 inclosure

COMMISSIONER:
THOMAS B. HENNING,
C. B. HENNING,
Wm. C. HALL,
Secretary.

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

REPORT IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
D-989-990-1000-1054

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

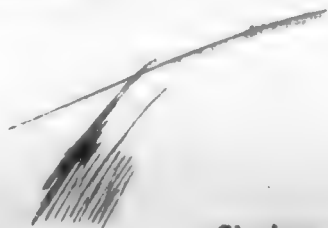
Muskogee, Indian Territory, November 2, 1904.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the Commission's decision dated August 5, 1904, rejecting the applications for the enrollment of Houston, Ida, Nancy, Fannie, Georgie, William, George, Lissie, George Jr., Jessie, Albertha, Callis, (son of Henry West), and Callis (son of Hosuton West), as Cherokee freedmen, was reversed by the Secretary of the Interior on October 15, 1904, and the Commission ordered to enroll the applicants as Cherokee freedmen.

Respectfully,



Chairman.

Land
18867-1906
87762-1906
84129-1906

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

October 29, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a letter from Commissioner Binby, dated September 28, 1906, with which is enclosed a motion made by the attorney for the Cherokee Nation to review the Cherokee freedmen cases of Houston West et al., D 909, George West, et al. D 970, Callis West D 1000, and Callis West, D 1054. This motion was filed with the office of the Commissioner to the Five Civilized Tribes June 25, 1906. There is also transmitted the reply to that motion made by the attorney for the applicants.

Commissioner Binby reports that these applications were included in the Cherokee freedmen consolidated case of Houston West et al., D 909, in which the Commission to the Five Civilized Tribes on August 5, 1904, rendered its decision rejecting, among others, the applications for the enrollment of Houston, Ida, Nancy, Fannie, Georgia, William, George, George, Jr., Jessie, Albertha, Callis, (son of Henry West), and Callis West, (son of Houston West.)

The decision of the Commission adverse to the applicants was reversed by the Department October 15, 1904, (I. T. B. 7604-1904).

and the applicants ordered enrolled as Cherokee freedmen. The Cherokee Nation, through its attorney, asks for a review of the Department's decision as to the above named applicants, and that they be rejected for the reason that Henry West, father of the principal applicants Houston, George and Callis West, and grandfather of all the other applicants, was denied citizenship in the Cherokee Nation by the supreme court of that nation on June 15, 1871; that on June 12, 1878, Henry West having applied to the Chambers Court for Cherokee citizenship, was denied by that court, and that under the rulings of the Department in the Cherokee freedmen cases of John Morgan, rendered March 5, 1905, (I.T.D. 10716-1905), and Harry Still, rendered October 5, 1905, (I.T.D. 7658-1904, 13208-1905), the applicants were not entitled to enrollment as Cherokee freedmen.

The Department in its decision of October 15, 1904, found that Houston, George and Callis West are brothers of Nancy Starr; that their father was Henry West; that Houston and Callis West were born prior to 1866 and were slaves of a Cherokee citizen at the beginning of the War of the Rebellion; that they were taken out of the Cherokee Nation during the war, and that they returned to the Cherokee Nation with Nancy Starr.

The Department on September 17, 1904, (I.T.D. 6943-1904) held that the circumstances connected with the return of Nancy Starr to the Cherokee Nation showed that she returned thereto prior to February 11, 1867, and the decision of the Commission to the Five Civilized Tribes, dated July 1, 1903, holding that, among

others, Nancy Starr was not entitled to enrollment as a Cherokee freedman was reversed by the Department.

Commissioner Bixby reports that the Departmental decision cited by the attorney for the Cherokee Nation in the Morgan and Still cases, (I.T.D. 10716-1904), and (I.T.D. 7459-1904), 13908-1905), are directly on the point as to what weight should be given decisions by the Cherokee courts, and he says that inasmuch as they are at variance with the position taken by the Department in the Starr case, he recommends that the Department's decision of October 15, 1904, in the Houston West case be considered.

The records show that the names of the applicants to which the nation's motion refers are included in a schedule of Cherokee freedmen approved by the Department April 19, 1905, opposite numbers 3866 to 3877 inclusive; that applications for the selections of allotments of land in the Cherokee Nation for all of the parties have been made; that certificates describing the land selected for them, except as to the homestead designated for William West, roll number 3871, have been issued, and that no deeds describing the lands selected for them have been prepared.

The record in the case is inclosed herewith.

Very respectfully,

C. F. Larrabee.

Acting Commissioner.

EHM-KKH.

Copy

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

LAND:
103300-1906.

December 8, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 23, 1906, enclosing a motion by the attorney for the Cherokee Nation, filed in his office June 25, 1906, asking for a review of the Cherokee freedmen case of Henry West et al., children of Callie West.

The record in the case of Callie West was transmitted to you in Office letter of October 29, 1906, (Land: 100307-1903, 49765-1906, 86139-1906).

Very respectfully,
C. F. Larrabee,
Acting Commissioner,

EVL-M

COPY

LAND
3189-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 21, 1907.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from W. W. Hastings, attorney for the Cherokee Nation, dated January 8, 1907, with which is enclosed supplemental motion in the matter of the application for the enrollment of Houston West, et al., as Cherokee freedmen.

The files of this Office show that the record in the case of Houston West, et al., was transmitted to the Department with Office letter of October 29, 1906.

Very respectfully,

C. F. Larrabee.

Acting Commissioner.

AMM-KH

4425-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 23, 1907.

The Honorable,

The secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from W. W. Hastings, attorney for the Cherokee Nation, dated January 12, 1907, with which is enclosed second supplemental motion in the matter of the application for the enrollment of Houston West, et al., as Cherokee freedmen.

The record in the case of Houston West, et al., was transmitted to the Department with Office letter of October 29, 1906.

Very respectfully,

C. V. Larrabee,

Acting Commissioner.

KHM-C

MINUTE.

V.H.N. JFJr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

24220-1906.
I.T.D. 21612-
1458-1907.
1600-

February 12, 1907.

ESB

Commissioner to the Five Civilized Tribes
Muskogee, Indian Territory.

Sir:

On October 29, 1906, the Indian Office transmitted your report, dated September 28, 1906, forwarding a motion for review and to reject, filed by the attorney for the Cherokee Nation, in the matter of the applications of Houston West, et al., D. 909, George West, et al., D. 970, Callis West, et al., D. 1000, and Callis West, et al., D. 1054, for enrollment as Cherokee freedmen. You recommended that a further hearing be had in these cases.

On December 8, 1906 (Land 103, 300), the Indian Office transmitted your report, dated November 23, 1906, forwarding a motion for review, filed by the attorney for the Cherokee Nation, in the matter of the application of Henry West, et al., children of Callis West, for enrollment as Cherokee freedmen.

On January 21, 1907 (Land 1189), the Indian Office transmitted a communication from the attorney for the Cherokee Nation, forwarding a supplemental motion in the matter of the application for enrollment of Houston West, et al., as Cherokee freedmen.

On January 25, 1907 (Lent 4485), the Indian Office also transmitted a communication from the attorney for the Cherokee Nation, forwarding a second supplemental motion in the matter of the application for enrollment of Houston West, et al., as Cherokee freedmen.

In view of Section 2 of the Act of April 30, 1906 (34 Stat., 137), even if a prima facie case for a rehearing was presented, the Department would not be warranted in ordering a rehearing at this late date. All the motions are accordingly denied.

Copies of the Indian Office letters are enclosed. The papers in the cases are returned for the files of the Indian Office, together with a copy hereof.

Respectfully,

Thos Ryan

First Assistant Secretary.

4 enclosures.
18 enclosures to Ind. Of.

A. F. Mc
2-13-07

REFER IN REPLY TO THE FOLLOWING:

Cherokee F-1414
1418, 1416, 1417

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

Muskogee, Indian Territory, March 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

You are hereby advised that the motion for rehearing of the Cherokee freedman case of Houston West, et al., was denied by the Secretary of the Interior February 12, 1907.

For your information, there is a copy of Departmental letter enclosed herewith.

Respectfully,



Commissioner.

Enc. X-97

MH

D. C. 23634-1907.

D. T.
47959-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

347

June 5, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Houston West, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the Department's action.

Very respectfully,

(Signed) E. F. Larrabee,

Acting Commissioner.

647-CH.

473

COPIES IN REPLY TO THE FOLLOWING:
Cherokee P
1414 et al.

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

Muskogee, Indian Territory, June 11, 1907.

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

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Houston West, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,



Commissioner.

Encl. V-42.
S.V. *

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT

In the matter of the application of Houston

West for enrollment as a Cherokee Freedman.

No. F. D. 989

J. C. Starr, of lawful age, being duly sworn on oath states that on the 28 day of August, A. D., 1901, he registered to Houston West whose postoffice is Muldrow

Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto attaches the receipt of the Postmaster at Vinita Indian Territory

and that on the 4th day of Sept, 1901, he received the return card which is hereto attached, signed by the said H West, showing that he had received said notice.

Subscribed and sworn to before me on this the 4 day of Sept, A. D. 1901.

J. C. Starr
Notary Public

Copy

Copy
FD 989

**INDIAN TERRITORY,
CHEROKEE NATION.**

I hereby certify that I served the with-
in notice on _____

by delivering a true copy thereof on the
_____ day of _____ A. D. 1901.

Given under my hand this
_____ day _____ A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
_____ day of _____, 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to _____

on the _____ day of _____ A.D. 1901

Subscribed and sworn to before me
this _____ day of _____ A.D. 1901.

Registered August 24, 1901.

copy
made & filed

Registered August 31, 1901.

47
P
P
P
P

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-

in notice on

by delivering a true copy thereof on the

day of A. D. 1901.

Given under my hand this

day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

day of 1901.

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

I do solemnly swear that I delivered a

true copy of the within notice to

on the day of A. D. 1901.

Subscribed and sworn to before me

this day of A. D. 1901.

Wm. H. ...
J. H. ...

NOTICE!

IN THE MATTER OF The application of **Houston West**
for enrollment as a Cherokee Freedman:

Case No. F. D. **989**

To **Houston West, Muldrow I. F.**

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 Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of **Fort Gibson** Indian Territory, on the following dates, to-wit: **September 7th** A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this **27th** day of **August**, 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport
Attorneys for the Cherokee Nation

Cher. Fr. D. 990

Cher. Fr. D. 990

Department of the Interior,
Washington to the Five Civilized Tribes.
Wash., D. C. July, 1st, 1901.

In the matter of the application of George West for the enrollment of himself and four children as Cherokee freedmen and for the enrollment of his wife as a Cherokee freedman by inter-marriage, he being sworn by Commissioner T. B. Needles, testified as follows:-

- Q What is your name? A. George West.
Q What is your age? A. 34.
Q What is your post office address? A. Tulsa.
Q In what district do you live? A. Sequoyia.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who else do you want to have enrolled? A. Four children.
Q What are their names? A. George West Jr.,
Q How old? A. 8 years.
Q Next? A. Jessie.
Q How old? A. 8 years.
Q Next? A. Albertina.
Q How old? A. 2 years.
Q Next? A. James.
Q How old? A. 3 months.
Q Are those children living? A. Yes sir.
Q Are you married? A. Yes sir.
Q What is your wife's name? A. Lizzie.
Q Is she living? A. Yes sir.
Q Is she the mother of your children? A. Yes sir.
Q Is she a citizen? A. No sir.
Q Do you apply for her as a Cherokee freedman by inter-marriage? A. Yes sir.
Q What is her age? A. 35.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir on the Wallace and Ross Clifton roll.

The Ross Clifton roll examined and the name of the applicant found thereon as follows:-

Page 111 No. 2771, George West, Illinois district.
Page 111 No. 2772, George West Jr. "

Applicant not found on the 1886 or 1896 rolls.

Wallace roll examined and the name of the applicant ascertained thereon as follows:-

Page 147 No. 3224, George West, Sequoyia district.

- Q Were you a slave? A. No sir.
Q How long a slave? A. Yes sir.
Q What is your father's name? A. Henry West.
Q What is your mother's name? A. Francis West.
Q Are you a brother to Herman West? A. Yes sir.
Q Did you ever go to the Cherokee Nation since time he died? A. Yes sir.
Q Where were you found? A. In the hospital farm in Sequoyia district Cherokee nation.
Q When did you marry your wife? A. In 1888.
Q Have you a certificate of marriage? A. Yes sir here it is now and I have a license too.

By L. L. Hall:-

The Cherokee Nation finds the testimony of the several parts of the Cherokee Nation in cases of inter-married Cherokee freedmen children.

By Sam'l Hodges,

George West applies for himself and four children, George Jr., Jennie, Albertina and James as Cherokee freedmen, and for his wife Lizzie as a Cherokee freedman by intermarriage; the applicant swears that he was born and raised in the Cherokee Nation; that the children he applies for are living he and his oldest child are identified on the 1882 New Clifton roll; he swears that he is the child of George and Phoebe West and that he is the full brother of Houston West, and claims his citizenship through his father and mother, who were slaves of Walker Mayfield and returned to the Cherokee Nation at 1865; reference is made to the testimony taken in 1882 case of his brother Houston West on Cherokee freedman B. Card 969 and a copy of same will be filed in this case. It will be necessary for the applicant to file a certificate of his marriage with this Commission and also such satisfactory proof of the birth of his three youngest children.

- Q Is this your first wife? A. Yes sir.
Q Are you her first husband? A. Yes sir.
Q Neither of you ever married before? A. No sir.
Q Have you been living together continuously since your marriage? A. Yes sir.
Q And is she the mother of these children? A. Yes sir.

Consequently the said George West and his four children as herein named will be listed for enrollment as Cherokee freedmen on a doubtful card, and his wife Lizzie as a Cherokee freedman by intermarriage on a doubtful card, and when the final decision is arrived at they will be notified by mail.

+ + + + +

Chas. von Weise, being sworn states that as stenographer to 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 15th of July, 1902.



Commissioner.

il
028
01

lent to justify the Commission in enrolling the said Houston West and his five children herein named, as Cherokee freedmen, but now comes the Cherokee Nation and contests the enrollment averring that they have witnesses with which to rebut the evidence now given; consequently the said Houston West and his five children will be listed for enrollment as Cherokee freedmen on a doubtful card and when the final decision is arrived at he will be notified by mail.

.....

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a true and complete transcript of his notes thereon.

Chas. von Weise

Subscribed and sworn to before me this 3rd of August, 1901.

M. D. Green
Notary Public.

To be filed with the case of George West, C. T. N. 202.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 1st 1901.

In the matter of the application of Houston West for the enrollment of himself and five children as Cherokee freedmen; he being sworn by Commissioner F. B. Needles, testified as follows:

- Q What is your name? A. Houston West.
Q What is your age? A. 47.
Q What ~~street~~ is your home and is your post office address? A. Midway, I. T.
Q In what district do you live? A. Sequoyah district.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Five children.
Q What are their names? A. Ida West.
Q How old? A. 19 years.
Q Next? A. Nancy.
Q How old? A. 17 years.
Q Next? A. Fannie.
Q How old? A. 15.
Q Next? A. Georgia.
Q How old? A. 13.
Q Next? A. William.
Q How old? A. 9 years.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir the Kern Clifton and Wallace rolls.
Q Are you married? A I have been, am not now.
Q Is your wife living? A. The mother of these children is not living.
Q What was her name? A. Lizzie Albert when I married her.
Q When were you married to her? A. In '78.
Q Why is your name not on the roll of 1899? A I have always tried to get it on.
Q You have failed though? A. Yes sir.
Q Is your wife a citizen? A. Yes sir.

Kern Clifton roll examined and the name of the applicant found as follows:

page 111 No 3763 Houston West,	Illinois district
page 111 No 3768 Ida West	"
page 111 No 3768 Nancy West	"
page 111 No 3767 Fannie West	"
page 111 No 3768 Georgia West	"
page 111 No 3778 Willie West	"

Wallace roll examined and the name of the applicant found as follows:

page 147 No 3898 Houston West,	Sequoyah district.
page 147 No 3899 Ida West.	"

- Q Were you a slave? A. Yes sir.
Q Who did you belong to? A. Walk Mayfield.
Q Was he a Cherokee citizen? A. Yes sir.
Q Did you go out of the Cherokee Nation during the war? A. Yes sir.
Q Where to? A. Texas.
Q When did you return? A. In '66.
Q What time in '67? A. It was in the winter.
Q Were you married then? A. No sir.
Q Have you lived in the Cherokee Nation continuously since that? A. Yes sir.
Q Were these children born here? A. Yes sir.
Q And have they lived here all the time? A. Yes sir.
Q Have you any proof of your marriage to your wife? A. Yes sir.
Q A marriage certificate? A. No sir.
Q By L. S. Bell, Cherokee Commissioner.
Q Was your father? A. Henry West.
Q And your mother? A. Fannie

- Q And you belonged to the Mayfields? A. Yes sir.
- Q Where were you living when the war commenced? A. On the old Blackburn place in Sequoyah.
- Q When did you go to Texas? A. The second year of the war.
- Q Where did you stop at there? A. At the old Mayfield place near Bellville Texas.
- Q Did your father belong to Walk Mayfield at the beginning of the war? A. Yes sir.
- Q When did you return here? A. In '68.
- Q Who with? A. Walk Mayfield and his family.
- Q What was his wife's name? A. Jane Blackburn before he married her.
- Q What ever became of your father? A. D. d.
- Q Is your mother alive? A. No sir.
- Q Just you and Walk's family came together? A. That is all.
- By the Commission-
- Q When did your father die? A. In '93 or '14.
- Q When did your mother die? A. She died before he did.
- Q Your father and mother are not on the roll of 1880? A. No sir but I have a sister ~~that~~ on the 1880 roll.
- Q What is her name? A. Mary Whitmire.
- Q Is she married now? A. Yes sir.
- Q Did she go to Texas with you? A. Yes sir.
- Q And did she return with you? A. Yes sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's sister found as follows:
page 728 No 1599, Mary Whitmire, Sequoyah district

- Q You say this is your full sister? A. Yes sir.
- Q Same father and mother? A. Yes sir.

HARRISON FOREMAN called and sworn as a witness for the applicant-

- Q What is your name? A. Harrison Foreman.
- Q What is your age? A. 48.
- Q What is your post office address? A. Gatoosa.
- Q Are you a recognized citizen of the Cherokee Nation? A. Yes sir.
- Q A freedman? A. Yes sir.
- Q Do you know the applicant? A. Yes sir.
- Q How long since you know him? A. Since the war.
- Q Was he a slave? A. Yes sir that is what I hear.
- Q When did you first see the applicant after the war? A. I can't be positive as to the exact time, in '66 I believe.
- Q Where? A. I was the ferryman at Fort Smith and I ferried him over the river.
- Q Who was with him? A. Walk Mayfield and his family and the applicant's father and mother.
- Q And you think it was in '66? A. Yes sir.
- Q Has he lived in the Cherokee Nation since '66? A. Yes sir.
- By Ball-
- Q What time of the year was that? A. I don't know if it was in November or December, but along there.
- Q Walk Mayfield was his former owner? A. Yes sir.
- Q Is Walk living? A. No sir.

DEAN'S DEAN called and sworn as a witness for the applicant-

- Q What is your name? A. Dennis Dean.
- Q What is your age? A. 43.
- Q What is your post office address? A. Muldrow.
- Q Are you a Cherokee freedman? A. Yes sir.
- Q Do you know the applicant? A. Yes sir.
- Q How long have you known him? A. Ever since—I think it was the fall of '66.
- Q Was he a slave? A. Yes sir.
- Q Who owned him? A. Walk Mayfield.
- Q Was this applicant set out during the war? A. I guess they did.

Q When did you first see him after the war? A. They was coming through making their way up by where I lived in '66, I lived on the bank of the Arkansas this side of Fort Smith

Q Who was with this applicant then? A His father and mother and two sisters I think a man named Tom Harnage and a woman named Aggie and Dave West.

Q Was Walk Mayfield with him? A. Yes sir that was his owner.

Q Has this applicant lived here ever since? A Yes sir.

By Bell-

Q Where were you living then? A. On this side of the river on the place that belonged to Menerva Thornton. The house is caved in now.

Q Was that the old George Johnson house? A. No sir that was below us.

By the Commission-

Q You are positive that you are correct as to these dates? A. Yes sir

Q What circumstance makes you think it was in '66? A Because they was all harping about the '66 treaty then.

ALBERT JOHNSON called and sworn as a witness for the applicant:

Q What is your name? A. Albert Johnson.

Q What is your post office address? A. Benge.

Q What is your age? A. 43.

Q Do you know the applicant? A. I do.

Q How long have you known him? A. Ever since I was a boy.

Q Was he a slave? A. I guess he was, he was with Walk Mayfield.

Q Did he go out of the Cherokee Nation during the war? A. Must have, he came back.

Q How do you know he came back? A. Moved on the Lilly Starr place in the fall of '66.

Q Where is that? A. This side of the Arkansas river

Q Who was with him? A. His mother and father

Q Have you known him ever since that time? A. Yes sir.

Q Are you sure that it was in '66? A As my memory serves me it was '66

Q You was here yourself then? A. Yes sir.

By Bell-

Q Who was with him, was Walk Mayfield with him? A. Yes sir.

By the Commission

Q Was Walk Mayfield a Cherokee citizen? A. No-sir. Said to be.

Q Do you know this applicant's wife? A. Yes sir.

Q Do you know they were married? A. Yes sir.

Q Was you there when they married? A. Yes sir.

Q And saw them married? A. Yes sir.

Q Who married? A. Jinkins.

Q What was her name when she married him? A. I dont know now.

Q Where were they married? A. At the Fox place.

Q Have they lived together since then continuously as man and wife?

A Yes sir.

Q And raised a family? A. Yes sir.

By Com'r Needles,-

Houston West applies for himself and five children, Ida, Nancy, Fannie, Georgia and Willia, West; he cannot be identified on the authenticated roll of 1880 or the census roll of 1896; he is identified on the Kern Clifton roll and the Wallace roll according to the page and number of the rolls as indicated in the testimony; he avers that he was the slave of Walk Mayfield, that he was taken out of the Cherokee Nation during the war and returned in 1866 with his master Walk Mayfield and offers evidence to establish that fact. He makes satisfactory proof of his marriage to Lissie Albert now deceased, who is the mother of his children; all of his children are identified on the Kern Clifton roll; he avers that he is the full brother of Mary Whitwire, they having the same father and mother; she is now married and enrolled on the authenticated roll of 1896; he avers that she returned to the Cherokee Nation with him at the same time as his father and mother and the balance of the family; the evidence so far presented is sufficient to establish the facts in relation to the said Houston West.

U.S. DEPARTMENT OF JUSTICE
DIVISION OF INVESTIGATION
JUL 11 1934

fact to justify the suspicion in recalling the said Herman
West and his five children from the home, as Charles Frederick,
of New York, had been the witness in the trial and
evidence was given; consequently the said Herman West and his
five children will be listed for enrollment as Charles Frederick
on a central card and when the final decision is arrived at he
will be notified by mail.

One, von Weiz, being sworn stated that as stenographer to
the Commission to the Five Civilized Tribes he reported in full
all the proceedings in the above case and that the foregoing
is a true and complete transcript of his notes thereon.

Chapman

Subscribed and sworn to before me this 1st of August, 1934.

W.D. Green
Notary Public.

RECORDED
INDEXED
JUL 11 1934

C.F. No. 220, George West.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment
as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Applicants:

Applicant not present:

V. V. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of
service of notice that they will introduce testimony in this
case on September 4, 1901.

V. T. HARRAGE, being duly sworn by Commissioner Needles, tes-
tified as follows:

Q What is your name? A V. T. Harrage.

Q What is your postoffice? A Tahlequah.

Q What is your age? A About 53.

Q You a Cherokee citizen by blood? A Yes, sir.

Q I believe you made a statement that you returned here in December
of 1866, after the war? A Yes, sir.

Q To what part of the Cherokee Nation did you come? A Sequoyah
district.

Q How far did you locate from Fort Smith? A Just across the river,
about half a mile from the line.

Q What relation are you to Zeke Harrage? A Half brother.

Q Is he older or younger than you? A He is older.

Q Did you know Walk Mayfield? A Yes, sir.

Q What relation is he to you? A He is my uncle.

Q How long did you continue to remain down there in Sequoyah dis-
trict immediately after you came? A I stayed there in the bottom
until after Christmas, then I went up to Flint.

Q You stayed there until after Christmas of '66? A Yes, sir.

Q About the first of January? A About the first of January some-
time.

Q How did your uncle Walker Mayfield return when you lived there?
A No, sir.

Q How long did you remain up in Flint? A I stayed up there
till about the middle of April and went back down in the bottom.

Q And when you came back had he returned then? A Yes, sir, he was
there then when I went back to the bottom.

Q That was in April of what year? A '67.

Q But when you left there after Christmas of '66, about January,
he hadn't come? A No, sir, he hadn't come in, we left him in Texas
in the fall of '66.

Q You left him there? A Yes, sir.

Q He made a crop there in Texas that year? A Yes, sir.

Q You know what kind of a crop, cotton and corn? A Corn and
cotton.

Q Well, how far did he locate from your place and from the place
that you had stopped when you returned there in April, '67?

A About five miles.

Q He saw your uncle? A Yes, sir.

Commissioner: He came there you say in April, '67? A I came
back to the bottom in April '67 and he was there when I came.

Q Walker Mayfield was? A Yes, sir.

Q You know what he came there? A No, sir, he came after I left,
I left the bottom in January, '67, and went up to my uncle's in Flint

and stayed there till April.

Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.

Q What brings it to your memory that it was in '67? A Because it was in '68 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.

Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came up here? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Corn and cotton.

EZEKIEL HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Harnage.

Q What is your postoffice? A Foyil.

Q What is your age? A 59 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q Now you came back, I believe you say, to Sequoyah District?

A Yes, sir.

Q Now you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q How far did you live from him down there, or did he from you?

A About a couple of miles, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You moved up there in Sequoyah about December 16, 1866?

A Yes, sir.

Q Now what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had some boys, Houston, Callis and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16 up until the following April, March or April?

A Oh yes, I was there all the while.

Q About how far did Walk Mayfield locate from you when he came?

A I guess it was four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew them boys.

Q Did he have a sister named Mary? A I don't know anything about the girls.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.

Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield came back to the Nation.

Q With Mayfield's family? A Yes, sir.

Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.

Q Is he living? A No, he is dead.

Q His wife living? A No, she is dead.

Q What fact fixes the date of Mayfield's return in your mind?

A The fact of the business is, the fact that fixes it in my mind was about going to work to make a crop.

Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield come the next spring like.

Q You know that you came in '66? A I know that, I am positive of the fact.

Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A D. M. Falkner.

Q What is your age, Mr. Falkner? A I am about 60.

Q What is your postoffice address? A Hanson, Indian Territory.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Falkner, you have been married, I believe, the second time?

A Yes, sir.

Q What was your first wife's name? A Her name was Rachel L. Adair.

Q That was her maiden name? A Yes, sir.

Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.

Q Did you know Walk Mayfield yourself? A Yes, sir.

Q Where were you living in the year of '66 and the spring of '67?

A I was living in Segoyah district, Cherokee Nation.

Q Did you know Walk Mayfield before the war? A Yes, sir.

Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.

Q Now Mr. Falkner, tell the commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of —

Q That you afterwards married? A Yes; she was boarding with my sister, teaching school, and the news come that her uncle had come home from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we went, and they claimed they had just come in.

Q Well, how far was it that you had to go? A Four miles, and then I went with her over there, and the reason why I am so positive about it, me and her was married about ten or fifteen days after that; that is, this young lady.

Q Your first wife? A Yes, my first wife.

Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home, my marriage; we were married about a week or fifteen days after he came, and I think it is dated on the 17th of April, or the 27th of April, when me and her were married, and just a few days before that is when me and her went over there.

Q That is her uncle, Walk Mayfield? A Yes, sir.

Q You had heard of him coming these four miles here, and you went over there to see him, and they had just come in? A That is what they claimed, they had just come in

Q You hadn't heard of him before that? A No, sir.

Q Did they have some slaves, colored people, with them?

A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.

Q Had they unloaded the wagons when you got there? A There was a covered wagon standing there at the house when we got there.

Commissioner: What year were you first married, Mr. Falkner?

A It was in April, '87.

Q You are positive of that? A Yes, sir, I have got it in the bible at home.

Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me that was his darkies, all I know.

Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.

Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.

Commissioner: Walker Mayfield dead? A Yes, sir.

Q His wife dead? A Yes, sir.

Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys and they are all dead.

Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about four miles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.

Q Four or five miles from that place to Fort Smith? A Yes, sir.

Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.

Q There is where they all crossed? A Yes, sir.

Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callis West, D-1000, and George West, I-990.

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 correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 6th of September, 1901.

C. R. Beckwith

Commissioner.

990.

appropriated and amount to pay for the title the sum of \$100.00.

Commission, as the same was copied by me.
is a true and complete copy of the original now on file with
the Civilized Tribes, on file, at the time the above was
I, VIRGINIA G. EVANS, a stenographer to the Commission do hereby

Notary Public
[Signature]
Evans

F. D-888.

To be filed with C. F. D. 938, George West et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C., May 23, 1905.

In the matter of the application of Hunter West for the
enrollment of himself and children as Cherokee Freedmen,

EXHIBIT TO D-888.

APPEARANCES:

A. S. Nelson for applicants,
W. V. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision
of the Supreme Court in 1871, as taken from a book from the records
of the Executive Department of the Cherokee Nation entitled, Docket
of Doubtful Cases for Cherokee Citizenship tried in 1871, and
from that part of the book headed Doubtful Roll, Sejoyah District,
No. 143, the following:

"Henry West.
Decided against claimant June 15, 1871."

The Cherokee Nation also desires to introduce in evidence a
decision of what is known as the Chambers Court, on June 13, 1871,
as shown from the citizenship record, No. 1, page 9, in the case
of Henry West vs. the Cherokee Nation, the same being signed by
John Chambers, President of the Commission, O. P. Downer, George
Downing, Commissioners, countersigned D. L. Nicholson, Clerk of
Commission, as follows:

Henry West } Claim of Citizenship. Before the
"No. 1. vs } Commission on Citizenship, sitting at
Cherokee Nation. } Washoeah, C. N., June 13th, 1871

This case, comes under that class of cases, all which the
Commission have jurisdiction under act of Dec. 1877, claiming
citizenship under the 9th Article of the Treaty of 1866, in regard
to persons of African descent. His statement alleges that he was
a slave and owned by a citizen of the Nation, and born a resident here
at the commencement of the rebellion. Claimant was afterwards sent
to Texas, by his owner, but returned in 1866, and within six
months after the ratification of the Treaty of 1866.

The facts about are stated as follows: Henry West, as to the
time of the return to the Nation, says he returned to the Nation in
Henry West's case. He says that he returned to the Nation at that
point, is the statement of Henry West, and that he returned to the
claimant returned to the Nation on the 4th of July, 1867. This
is decisive of the case. The act of Dec. 1877, and Commission
are confined by the act establishing the Commission to the time mentioned
in the amendments to the Cherokee Constitution, as far as to the
exact time of the ratification of said Treaty is concerned, which
places it, on the 13th day of July 1866, and hence claimant's return

in April 1867, is more than six months after the time specified in the said 5th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

Attest:

D. L. Nicholson,
Clerk Comm.

John Chambers,
President Commission.
G. P. Brewer)
George Hastings,) Commrs."

Attention is called to the fact that at the head of the decision, dated June 12, 1878, that the date is omitted, but the decision on page 8 of the same book, in the case of Mary Ann Trinkle vs. the Cherokee Nation, is dated June 7, 1878, and the case upon the page following this decision, the name being that of Grill Miller vs. the Cherokee Nation, is dated June 12, 1878.

MR. HASTINGS: To all of which the applicant objects for the reason the cases cited does not tend in any manner to prove any issue in this case, and has no bearing whatever. Commrs now the attorney for the applicant and objects to the introduction of the records above for the reason that neither of the records cited by the representatives of the Cherokee Nation in this case has any tendency whatever to prove any issue in his case, and for the further reason that the same is incompetent and irrelevant; and further, it appears that in the records cited, the same being known as the Chambers record, that it appears upon the face of the same there is no year mentioned in the alleged decision of the said Commission as being rendered against Henry West, whose name is not mentioned in the application of the case at bar, and subsequently would have no bearing as to the rights and the status of those applicants. It would further appear that these applicants, Houston West et al, were slaves in the Cherokee Nation before the war of the rebellion, and was owned by a Cherokee citizen by blood. Consequently, the alleged decision as appears against Henry West would have no bearing upon these applicants, they being claimants in their own rights and status. Mr. Hastings, I'll swear you, without waiving any of the objections.

W. S. Hastings, being first duly sworn, testified as follows:

MR. HASTINGS: Your name is W. S. Hastings.

Q Age and postoffice address? A I am 35 years old and postoffice is Tallahassee.

Q Mr. Hastings, what knowledge or information have you as regards the appointment of the Cherokee Commission, by what constituted authority and the Commission appointed? A By an act of the Cherokee National Council, as I am informed and so bound to say.

Q I will ask you if it is not the law under the Constitution of the Cherokee Nation that in the appointment of these alleged Commissioners on citizenship, if when the same has been appointed, it is their duty as regards this case, that before the same can become a law, either for or against the applicants as appear before these respective Commissions, would have to be ratified by the Council of the Cherokee Nation, ratified by the Council of the Cherokee Nation? A Yes.

I haven't that law before me, but I have no doubt from the fact that I have read of it that it did admit a great number of people and it didn't take any subsequent action of the National Council.

Q Well do you know of your own knowledge or information whether or not there were any persons who appeared before these respective Commissions and their cases were submitted to the Council for admission or rejection? A There weren't any so far as I know except-there weren't any submitted to the National Council except, so far as I know, except some in 1871; none of these later Commissions they had full authority to investigate and admit themselves or reject, and this Commission had authority to admit or reject, and the Council have no supervisory control over it.

Q Then the action of the Commission as regards the enrollment of citizens was final? A Yes, sir. Now I mean this Commission, yes, sir.

Q The Chambers Commission? A Yes, sir. Well I was stating in judgment of the law, I wasn't there, you know; never practised before it.

Q How about the Commission of 1871, known as-what's the name of that Commission? A Well, in 1869 an act was passed allowing certain people to go before the Chief Justice of the Supreme Court, and he had hearings up until some time in 1871, I don't remember the exact date, but under that class of cases, and under that act, my recollection was that it was December 3, 1869, but I wouldn't be positive as to that, but anyhow under that the justice of the Supreme Court heard applications, and referred them to the National Council, but I know of no other authorities that did; don't recall any.

Q Who was the president of the Commission of 1871, chairman of the Commission appointed in 1871? A I would have to look that up. I believe John S. Vann; I know he was along about that time, but perhaps I am mistaken. Well, this record here shows that R. B. Daniels was chief Justice in 1871. John S. Vann was along about that time, I don't know now just when he went in or out.

Q Who was the member of the Commission appointed to hear citizens who made application in '71? A This book shows that R. B. Daniels was Chief Justice of the Supreme Court in '71; that book shows that.

Q I want to make a further objection as regards the entries of the '71 docket. It is further objected to as regards the introduction of the entries upon the docket of doubtful cases from Cherokee citizenship tried in '71 for the reason that from the very face of the record produced, that the same appears more like the entries kept upon that of a day book than that of a regular record kept by a regular organized and a properly constituted court of record.

THOMAS A. WILLIAMS, being first duly sworn, testified as follows:

MR. MCRAE: What is your name? A My name
Q Yes, sir? A Thomas A. Williams.
Q Your age? A I am 61, being on 62.
Q Postoffice address? A Malcom, Indian Territory, Sequoyah District.
Q Mr. Williams, are you acquainted with Houston West and brothers?
A Yes, sir, I am acquainted with Houston and especially acquainted with Collis West.

Q How long have you known him? A Well, sir, in 1866 I had a bunch mules, myself and Crosby, and we was keeping them on Camp Creek there right below old man West's, and some time in the early part of the winter perhaps, just before Christmas, two or three or four days, Walk Mayfield brought the family back there, they were claps.

Q Who was Walk Mayfield? A Walk Mayfield? That was a Cherokee I took him to be.

Q Where was he when you saw him in '66? A I saw them and camped just about about, when they first came there they came just above where the bridge is.

Q In the Cherokee Nation? A Yes, sir, in the Cherokee Nation, because I was crossing there with the mules.

Q Now I will ask you, Mr. Williams, how long have you lived in the Cherokee Nation? A Why, sir, I have lived in an out of the Cherokee Nation, well, let me see, I came in there, I located one year in the Cherokee Nation before I was made a citizen of it.

I was in the Cherokee Nation in '67, the bigger part of the year in '67; then in '74 I came into the Cherokee Nation and made a crop, I believe it was in '74, and then in '77 I became an adopted citizen, and I have been here most of the time since.

Q Were you acquainted with the father and mother of these boys? A Why I have seen them hundreds of times, yes; I didn't have a close personal acquaintance with them because they were left to themselves.

Q You are positive that it was some time in the month of December, '66? A Yes, sir, to the best of my knowledge it was three or four days before Christmas.

Q In the Cherokee Nation? A They were in the Cherokee Nation, because I and Crosby was driving a little bunch of mules we had, taking them over.

Q Well to your knowledge, so far as you know, have they lived continuously in the Cherokee Nation since you first knew them in '66? A Yes, sir to the best of my knowledge their family has lived and remained right there.

Q You have had occasion to see them oftentimes since then? A Very often, we were hunting stock there very often.

Q And you say that your knowledge and acquaintance with Callie is of a very intimate nature? A Yes, sir.

Q And character? A Yes, sir, he a truthful, honest, straight, upright man so far as I know.

Q You were at one time a recognized citizen of the Cherokee Nation, were you not? A Yes, sir, I was, and drew money from the Cherokee funds.

MR. HASTINGS: When did you draw money? A I think it was in '70 and maybe '82, the record shows. Dava Commission found me on the record, and you can find me there very easy.

Q Don't you know that they didn't pay out any money either in '79 or in '82 to anybody in the Cherokee Nation, and the records will show it? A Well, I don't remember the exact year, but it was along there somewhere, I drew in Tahlequah and I drew in Vinita.

Q Do you remember more about when you saw Callie West than you do when you drew money yourself? A I made no minute of that.

Q Well did you make any minute of seeing him? A I made a minute of some cows that he had got in.

Q What cows? A They made some records, that I remember very well.

Q What's Callie's wife's name? A I don't know both; which, his first wife.

Q Yes, sir. A I don't remember what his first wife's name was.

Q How many children did he have when you first saw him? A Why he didn't have any one.

Q Did he have a wife? A No, sir, wasn't no wife.

Q About how old was he when you first saw him? A I don't know; he was a kid of a boy.

Q Don't have any idea about that? A No, I couldn't think anything about it.

Q With whom were you living when you first saw him? A I was living with myself.

Q Where? A Why I was going from Fort Smith to Jamie Lind and around; we had a bunch of cattle, they were scattered, and we had some cattle in the Cherokee Nation, and quite a little bunch in Arkansas.

Q Who owned them? A He and Jesse Grady, that fell out of a two-story window in Fort Smith and broke his neck in two.

Q He isn't alive now? A No, sir, he's dead now.

Q Did you know any other Cherokees over there in '66? A Why I think I did, Uncle Billie Wilson.

Q He's dead too? A Yes, sir.

Q Was he there in '66? A He was quartered there in '66 I think.

Q Now, Mr. Williams, Walker Hayfield testified, and the record in this case shows, that he returned to the Cherokee Nation there with a crowd of people on the 4th day of April, '67, and the testimony of a number of other reputable witnesses is to that effect; what do you say about that? A Well I will say that I am not responsible for what Walker Hayfield swore.

Q Well do you say that isn't true?

MR. MCRAE: You say that Walker Hayfield has testified to that in this case?

MR. HASTINGS: No, I say he has testified and the record shows.

MR. MCRAE: This record?

MR. HASTINGS: Yes, sir.

MR. MCRAE: This judgment just offered here?

MR. HASTINGS: Yes, sir.

Witness: Well, to the best of my recollection it was three or four days before Christmas that I saw Walk Hayfield here, whether he went back into the state and come back again into the Nation I don't know.

Q Mrs. D. M. Faulkner swore in '96 that her uncle, Walker Hayfield, came there about the first of April, '67, and that she was teaching school in that vicinity, and that she went out there to see him.

Do you say now that you put your judgment, and you a stranger, as against those who were blood relatives? A I put my recollection,

I am telling just as I remember it; it certainly was just before Christmas that we drove our rules over; and the family was certainly there; to the best of my recollection it was just before Christmas.

Q D. M. Faulkner, who lives at Hudson, swears that Walker Hayfield, who was his wife's uncle, came back in '67 in April, do you dispute that? A Why I am not disputing; I am telling you to the best of my recollection, and I recollect where I first saw Walker Hayfield when I came back from Texas.

Q Did you see him before the war? A I had seen him a few times.

Q Where did he live? A He lived right close to where the railroad runs now.

Q Did you see him there? A Not him in Fort Smith, and I have seen him over in the Nation.

Q In the Nation before the war? A Yes, sir, I was all through that country before the war.

Q Was Walker Hayfield married before the war? A I don't know anything about his marriage though I have no knowledge of that.
Q Will you ever leave the Cherokee Nation before the war? A I had a horse, a solid horse, in the Cherokee Nation before the war as a matter of fact.

Q Will you show where did you buy these cattle in the Cherokee Nation in '68? A We bought some cattle in the Cherokee Nation.

Q Will you show where did you buy these horses? A Just bought them and let them run wild in the Cherokee Nation.

Q How many horses did you buy? A Scattered all around they were all over the place, and I bought one or two a month or so ago of them.

Q Where did you live? A Somewhere on Old Creek.

Q You have just now been rejected by the Commission as an applicant for citizenship, haven't you? A Yes, sir, I don't care anything about the rejection, I would rather be a white man than a Cherokee so far as my preference is concerned.

Q Will you have any objection to that? A I have got it, too. The young clerk here, I like him, wouldn't give his preference.

Q Will you not answer my questions now you are willing to swear as against your own name is that the family came back there just before Christmas, 1868? A To the best of my knowledge.

Q How many of the family were there? A To the best of my knowledge, that's what the family was qualified to swear, to the best of my recollection.

MR. KERR: You have knowledge of years, haven't you? A It seems to me like I ought to have, I was born in '41, and I was a United States citizen, and I ought to have been old enough to have some knowledge of things. I wouldn't story for Collis Post to get into the Cherokee Nation.

Q Well you aren't any more likely to be mistaken in your statement than Mr. Hayfield would be in his? A No, sir.

MR. EASTMAN: But Mr. Hayfield testified in '73, only 12 years after that time.

COMMISSIONER: This testimony will be filed in and made a part of the record in the following freedom suits: D-988, being that of Nancy Stark, et al., being that of George Post et al.; D-1686, being that of Collis Post; D-1688, being that of Laganda Harris et al.; and D-1689, being that of William Post, et al. in the case of Mr. Post, et al. It appears from the records of the Commission that the above named applicants are all represented by A. S. Wolfe.

WITNESSED my hand and seal this 1st day of March, 1893, at Washington, D.C.

(Signed) JOHN C. SWANWICK.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this the 20th day of Aug., 1902.

B. Jones
Notary Public.

which places it, on the 19th day of July 1866, and hence claimants return in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

John Chambers,
President Commission.
G. P. Brewer } Comrs.
George Downing }

This decision shows that the applicants appeared before the Court under the Act of December, 1877, claimed under the 9th Article of the treaty of 1866, and submitted testimony and submitted their case to be adjudicated by the court, and the decision further shows that their owner, Walter Mayfield, was present and testified in the case and testified that he returned on the 4th day of April, 1867, and the court upon this testimony decided that the claimants had come too late and were, therefore, not entitled to be enrolled as freedmen citizens of the Cherokee Nation.

The Department held in the John Horgan case on March 5, 1906 (10716-1906), the following:

"The record shows, a fact not mentioned in said decision, that the Supreme Court of the Cherokee nation on June 8, 1871, denied John and Cynthia Horgan rights in the Nation.

In a similar case that of Harry Still, in which such court admitted the applicant to all rights of Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 8, 1905, approved, stated that the adjudication of this court had the same effect as the adjudication of 'similar cases by the United States Court under the act of June 13, 1896,' that when reopened to inquiry upon the facts, such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the court and that now available, show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong; that 'The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial, than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.'

"No allegation is made in this case that the determination of the court in 1871 was vitiated by fraud, and no attempt has been made to show that it was made on account of 'lack of evidence then available.' The motion for review is accordingly hereby denied."

We have quoted at length from the decision in the John Horgan case which quotes from the approved opinion of the Assistant Attorney General for the Department of the Interior in the Harry Still case. We have always insisted that this should be the position of the Cherokee Nation. Courts have held time and again in effect that "The precedents and

Judgments of the courts of the Cherokee Nation in cases within their jurisdiction are on the same footing with those of the courts of the territories of the Union and entitled to the same faith and credit." *Muhlin versus Lee* 25 Federal Reporter 12, *Stanley versus Roberts* 50 Federal Reporter 222, *In re Hayfield* 141 U. S. 107, *Burton versus Shannon* 40 SW 241, *Hammond versus Peor*, 25 Federal Reporter 777.

It will be observed from this record that these applicants were not only rejected by the Supreme Court in 1871, within five years after the war, when Walter (Walker) Hayfield, their former owner, was alive, when a number of his relatives were alive, when the exact date of his return could be definitely ascertained, but they also applied to the Cherokee Court under the act of December, 1877, some ten years after they returned and at that time Walter (Walker) Hayfield, their former owner, was alive, and he appeared before the Court, as the judgment recites, and testified definitely and positively that he returned with these claimants on the 4th day of April, 1867, too late to acquire rights under the 9th Article of the treaty of 1866 as freedmen citizens of the Cherokee Nation.

No allegation is made in this case that the determination of the Court in 1878 was vitiated by fraud, and there is not a line of testimony which goes to show, nor has there been any attempt to show, that these judgments were made on account of lack of evidence then available. But upon the other hand, the last judgment definitely shows that the most trustworthy testimony available, being that of the former owner, Walter Hayfield, was obtained; that he appeared before the Court and testified, and we cite this case as a strong illustration of the wisdom of the opinion of the Assistant Attorney General in the Perry Still case, because now some 40 years after Walter Hayfield, and every member of his family, is dead, and in fact most all of his near relatives. No one was so able to speak as definitely as he as to the time of the return, and this case being twice rejected before courts of competent jurisdiction, entitled to the same faith and credit as courts in the other territories or states of the Union, and it not having been shown that any fraud was practiced against the claimants or that these decisions were made adverse to them because of lack of evidence, we submit that the motion hereinabove made for the rejection of these ~~unsuccessful~~ ~~cases~~ ~~in~~ ~~accordance~~ ~~with~~ ~~the~~

opinion of the Assistant Attorney General in the *Wesley Still* case and the opinion of the department in the *John Morgan* case, heretofore cited, should be allowed.

Respectfully submitted,

W. W. Hastings

Assistant for the Services Section

W. W. Hastings, being first duly sworn states that the facts set forth in the above motion he believes to be true; that he believes said motion is meritorious, and that the same is not made for delay, but that justice might be done.

Subscribed and sworn to before me this the 25th day of June, 1906.

My Com. Ex.

Henry Rubin

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

} SS

In the matter of the application of

George

for enrollment as a Cherokee Freedman.

West

No. F. D.

990

J. Starr, of lawful age, being duly sworn on oath states that on the *28*- day of *Aug*, A. D., 1901, he registered

to *George West* whose postoffice is *Tulsa*

Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto

attaches the receipt of the Postmaster at *Vinita* Indian Territory;

and that on the *28th* day of *Sept*, 1901, he received the return

card which is hereto attached, signed by the said *George (A)*, showing

that he had received said notice.

Subscribed and sworn to before me on this the

4

day of

Sept

A. D. 1901.

W. H. [Signature]
Notary Public.

Registered Aug 28 1901.

**INDIAN TERRITORY,
CHEROKEE NATION.**

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901.

Given under my hand this
day A. D. 1901.

Marshall for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, ||
INDIAN TERRITORY, || s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

.....

Registered Aug 28 1901.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on _____

by delivering a true copy thereof on the
_____ day of _____ A. D. 1901.

Given under my hand this -
day _____ A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
_____ day of _____, 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, } s. s.
INDIAN TERRITORY, }
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the _____ day of _____ A. D. 1901

Subscribed and sworn to before me
this _____ day of _____ A. D. 1901.

NOTICE!

IN THE MATTER OF The application of **George West**
for enrollment as a Cherokee Freedman:

Case No. F. D. **990**

To **George West, Tulsa 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 Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of **Fort Gibson** Indian Territory, on the following dates, to-wit: **September 4th** A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this **27th** day of **August**, 1901.

L. P. Bell
W. W. Hastings
J. O. Lovejoy
Attorneys for the Cherokee Nation.

Cher Fr D 991

Cher Fr D 991

Commissioner Headed - Sarah Whitman applied for the enrollment of herself and William Rogers and Mary Rogers. She avers that she was the slave of Joe Hunt, and that her maiden name was Vann; that she first married one Joe Rogers, by whom she had the two children for whom she applies, and that she was married to one Joseph Rogers, she has married to one James Whitman, who is now living. She presents proof as to her citizenship and that of her husband. She also presents proof of the fact that she served in the United States Army of the Cherokee Nation during the war between the United States and the Confederacy, and belonged in the year 1868. She is duly identified upon the Kern Clifton and the Wallace roll, on the Kern Clifton roll as Sarah Vann, and on the Wallace roll as Sarah Rogers. She cannot be identified upon the roll of 1880. She applies for the enrollment of her son, William Rogers, 16 years of age, and avers that he is confined in the penitentiary at Columbus, Ohio, and consequently cannot appear for himself. She avers that said William Rogers is now owned by her husband Joe Rogers. He is duly identified upon the Kern Clifton and the Wallace rolls. He cannot be identified upon the authenticated roll of 1880. She also applies for the enrollment of her child, Mary Rogers, whom she claims is non compos, and not in a mental condition sufficient for her to testify; she is not married and lived with her, the applicant. Mary Rogers is duly identified upon the Kern Clifton roll. They are duly identified, but by reason of the fact that the said Sarah Whitman is not on the roll of 1880, and the further fact of the protest of the Cherokee Nation, said Sarah Rogers Whitman and her two children, Mary Rogers and William Rogers, will be listed for enrollment as Cherokee freedmen.

SARAH WHITMAN, recalled, testified:

Do you remember exactly when that boy was arrested?

To be filed with the case of Angeline Rogers, U. S. D. 502.

Department of the Interior,
Commission to the Five Civilized Tribes,
Wewata, I. T. June 21, 1901.

In the matter of the application of Sarah Whitwira for the enrollment of herself and two children as Cherokee freedmen;

Appearances:

Hallette & Smith, attorneys for applicants.
L. B. Ball, of counsel for Cherokee Nation.

Sarah Whitwira, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A. Sarah Whitwira, some calls me Sarah Vann, and Sarah Whitwira.
- Q How old are you? A. I guess about 53.
- Q What is your post office? A. Hayden, I. T.
- Q What district do you live in? A. Snowbird.
- Q How do you want to be enrolled as a Cherokee freedman? A. Yes sir.
- Q Who do you want to enroll besides yourself? A. I have got a girl that is kinder mindless and a boy, he is in the penitentiary.
- Q Are you married? A Yes sir.
- Q What is your husband's name? A. James Whitwira.
- Q What are the names of those children? A. My husband is dead.
- Q What are the names of the children? A Sam Rogers and Mary Rogers
- Q How old is Sam Rogers? A 25 years old.
- Q He is in the penitentiary? A. No sir, it is Will in the penitentiary.
- Q What is the matter with Sam, is he crazy? A. No sir, it is Mary.
- Q He is all right is he? A. Mary apply for himself. What is the name of the boy in the penitentiary? A William Rogers.
- Q What is the girl's name? A. Mary Rogers.
- Q How old is William? A. 26.
- Q How old is Mary? A. About 23 I guess.
- Q Is William married? A. Yes sir.
- Q Is Mary married? A. No sir, she lives with me.
- (Mr Hallette) How old are you? A. About 53 I guess.
- Q Were you a slave in the Cherokee Nation? A. Yes sir.
- Q Before the war? A. Yes sir.
- Q Who owned you? A. Jos Vann.
- Q Was he a Cherokee Indian? A. Yes sir.
- Q A citizen of the Nation? A. Yes sir.
- Q Did you live in the Nation during the war? A. Yes sir.
- Q Did you go out? A. Yes sir.
- Q Where did you go? A. Went to Kansas.
- Q When did you come back? A. In the fall of '66.
- Q Who did you come with? A. Will Tucker.
- Q Where did you go to? A. Down to Spring creek.
- Q Which side of Grand river? A. I just can't remember, it is on the west side of Grand river.
- Q On this side of the river? A. Yes sir.
- Q Same side that contains it? A Yes sir, it is in Saline, District, the Spring creek is.
- Q Well, were you a grown girl at the time you got back? A. Yes sir, I was grown and had one child when I came back.
- Q What was your father's name? A. James Vann.
- Q What was your mother's name? A. Patsy Vann.
- Q Did your mother come back with you? A. No sir.
- Q Did your husband come back with you? A. Yes sir.
- Q What was his name? A. James Vann.
- Q What was it you said about Tucker? A Will Tucker, I came with Will Tucker and his family and another old man that called Nabo still but he is dead.
- Q And you came with your husband? A. And my husband was living with me.
- Q Where have you lived since that time? A. Well, I have lived on many places right around here in the Territory.
- Q What places have you lived in since that? A. Just right around here,

and I have lived on Grand river a while, and on Pryor creek and now I am living at Lightning creek.

Q What Nation have you lived in? A. I have lived in Indian.
Q Cherokee Nation or Choctaw Nation or Chickasaw Nation? A No, sir, I haven't lived nowhere but inside the Cherokee Nation ever since I returned back; why I haven't never been no place but right around here in the Nation.

Q Is your name on any roll? A. Yes, sir, on the Clifton roll and the Wallace roll.

The 1890 authenticated roll of Cherokee freedmen examined and the applicants not identified thereon.

The 1896 census roll of Cherokee freedmen examined and the applicants not identified thereon.

The Kera Clifton roll examined, and the applicants identified thereon as follows-

Sarah Whitwire on page 130, No 5258, Cooweescoowee district as

Sarah Vann.

William Rogers on page 130 No 5242 Cooweescoowee district as Will Rogers.

Mary Rogers on page 130 No 3841, Cooweescoowee district

The Wallace roll examined and the applicants identified thereon as follows:

Sarah Whitwire on page 134 No 2611, Cooweescoowee district as Sarah Rogers.

William Rogers on page 134, No 2612, Cooweescoowee district, as Wm Rogers.

Q Mr. Bell) You did you say come back with you? A. Bill Tucker.

Q Is that the Bill Tucker that lives on Sabia creek now up there near the Kansas line? A. Yes sir he is the man.

Q Lives in Cooweescoowee district? A. Yes sir, and another old man they called Rube Still, Harry Still's father, he is dead.

Q Anybody else? A. And a half sister of mine.

Q Now where did you come to when you first come here? A. Over down on Spring creek.

Q Where did you first come to into the Nation? A. Why down on Spring creek.

Q Where did you cross the Kansas line? A. Why I crossed the Kansas line up here on Russell creek, I guess it was, I don't know nothing much, only just left Kansas and coming down here to my old home, and I have been here ever since I came.

Q You didn't stop anywhere then after you crossed into the Nation until you got to Spring creek? A. No sir I didn't

Q And you did stop there did you? A. Yes sir, I stopped there.

Q How long did you stay there? A. I guess I staid there about three or four years I reckon, I disremember; of course I never did give it a thought, when I was living around, nothing about this excitement going

come up; if I had don't you know I would have kept track of the dates and the months and everything.

Q You didn't then come on down to Fort Gibson and into the Choctaw Nation? A No, sir, I didn't, never went to the Choctaw Nation; my husband would go to Fort Gibson and haul around there, but I didn't go

Q Did your husband come back with you? A. Yes sir, he came back.

Q What was his name? A. Joe Rogers.

Q You and he went and stopped right on Spring creek, at what house? A. I stopped in with my grandmother, old Granny Lennie some calls her.

Q How far is that from Katie Williams? A. About ten or 12 miles I guess

Q You stopped then near down about Joe Vann's old place? A. Yes sir, right to my same old home.

Q How far is that from where Mrs. Archer was living at that time? About three miles I guess.

Q Was she living right at the old Joe Vann place, or at her own place? A. She was living at her own place.

Q She was there when you lived there? A. Yes sir, I guess she was, I saw her the next spring after we come down.

Q What time was that you say you come back? A. In the fall of '90.

Q What month? A. I just can't tell what month it was.

Q Was it cold weather? A. Yes sir, it was along in the fall like.

Q And you lived there three or four years before you moved over? A. Yes sir

Q Then where did you go but A. Moved up to the Choctaw's country

staid there a while and then moved over head on Grand river, and then from there went here on Fryer creek, and staid those five or six years, and then back over here on Lightning creek.

{ By V. V. Hastings } { Cherokee attorney } Your husband, Joe Rogers got killed? A. Yes sir, he got killed.

Q Bill Pigeon, a full blood Indian, killed him? A. Yes sir.

Q And he was indicted at Fort Smith in the United States Court for killing him? A. Yes sir.

Q And they sent for you? A. Well, I didn't say it; they wanted me to come down there, and of course I had to go, but I never saw at all he was a man citizen here because I know he wasn't, and they didn't get the man.

{ Commissioner }

Q What was your maiden name before you were ever married? A. My maiden name was Peckley, or some called me Sarah.

Q What was your last name? A. Sarah Rogers.

Q Before you were ever married? A. Before I ever married?

Q Before you married any man? A. My name was Sarah.

Q Sarah what? A. Sarah Vann.

Q What was your first husband's name? A. Joseph Rogers.

Q What was your next husband's name? A. James Whitling.

Q Never been married but twice? A. Just twice, James is dead.

{ Mr. Mellette } Now Sarah, you have no children by Whitling? A. No sir

L. B. DANIELS, being duly sworn by Commissioner Needles, testified as follows:

{ Mr. Mellette } Q What is your name? A. L. B. Daniels.

Q What is your age? A. 56.

Q Where do you live? A. Post office, Glassboro.

Q Are you on the authenticated roll of Freedmen citizens of the Cherokee Nation? A. Yes sir.

Q Do you know the applicant here, Sarah Whitling? A. Yes sir.

Q How long have you known her? A. I have known her something over thirty years.

Q Did you know her husband, Joe Rogers? A. Yes sir, I was well acquainted with him.

Q How long did you know him? A. A bout 36 years, Joe Rogers.

Q When did you first see him, after the war? When did you first see him? A. I seen him in Christmas, in '69, at Fort Gibson, at William P. Ross.

Q Do you know whether he was married to this woman at that time or not? A. No sir, I didn't at that time but I did afterwards.

Q Was she there? A. No sir, he was just there himself.

Q How long after that before you saw her? A. It might have been, I don't know really, I believe it was the next summer I think.

Q Did you see Joe off and on after that? A. No sir.

Q What became of Joe? A. He got killed.

Q Well, after you got acquainted with this woman, where did she live? A. She lived on Grand river in the district of Salina.

Q Which side of Grand river? A. On the east side.

Q Which side of Grand river is Spring creek? A. On the east side.

Q It is not on this side then? A. No sir.

{ Mr. Bell } Was you knowing witnesses at the time you saw Joe? A. No sir, I was working for Bill Ross at that time.

Q That was Christmas of '69? A. Yes sir.

Q What was Joe doing at Bill Ross? A. He went there to get in order to see if he couldn't kill some beaver for his Salina.

Q What time in Christmas was that? A. It was just after Christmas, it must have been about the 20th or 21st of December '69.

Q How long did you stay there? A. Why he came to the place and camped was there where Bill Ross lived, and I told him yes, and he said he wanted to see him, and I took him in the morning, it might have been a quarter of an hour or maybe longer before I found out what he was after.

Q Well he left there then did he? A. Yes sir, Mr. Ross told him he couldn't kill any more beaver, that it was a violation of the law.

Q That was in '69? A. Yes, that was in December, the latter part of December.

Q They had had a law then prohibiting the killing of those beaver? A. They didn't have the order whether there was any law or not, they had stopped at that time, the way he told me.

Q Vann's there an act of Council authorizing beaver killed, stray settled
 A I don't know anything about that, I got two orders from Mr. Downing
 in the summer of '66.
 Q Be you mean to say that the Chief just issued you orders to go out and
 kill cattle? A. I guess so, he told me.
 Q That is what you done? A. Yes sir, got an order from Chief Downing,
 and it was the custom.
 Q Well, Joe left then, did he, and went off? A. Yes, I guess he did; I
 seen him the next summer after that; I was up there and seen him, up to
 Spring creek in the Cherokee Nation.
 Q Where was he living? A. Living right on the old Military road that
 leads to Tahlequah.
 Q What place? A. Just the other side of old man Vann's between that
 and the mountain.
 Q How far from old man Vann's? A. Might have been a mile and maybe farther
 and maybe not quite so far.
 Q Don't make it so indefinitely can't you make it a little more definite
 than that? A. I think that is enough.
 Q Might have been a mile and might have been more and might have been
 less? A. It was in the neighborhood of a mile, more or less.
 Q Then you saw Joe there the next summer? A. Yes sir, the next summer.

FRANK ROSS, being duly sworn by Commissioner Needles, testified as follows—

(Mr. Mallette) What is your name? A. Frank Ross.
 Q What is your age? A. 55.
 Q Where did you live? A. Lightning creek.
 Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.
 Q On the 1880 roll? A. Yes sir.
 Q Do you know the applicant, Sarah Whitacre? A. Yes sir.
 Q What was her name before it was Whitacre? A. Rogers.
 Q Did you know her husband? A. Yes sir.
 Q What was his name? A. Joe Rogers.
 Q How long did you know Joe Rogers? A. Knewed him ever since he was a boy.
 Q How long have you known Sarah? A. Knewed her ever since she was a
 girl, raised together.
 Q Who was her master? A. Joe Vann.
 Q Is he a Cherokee Indian? A. Yes sir.
 Q Be you know when she and her husband, Joe Rogers, returned to this
 Nation after the war? A. I seen them in '66 on Spring creek.
 Q Where is Spring creek? A. East of Grand river.
 (Commissioner) Seen what? A. Joe Rogers and this applicant here.
 (Mr. Mallette) Where did they live after that? A. They moved up on
 Grand river after that and then moved over on Fryer creek and then they
 moved on Lightning creek where she is living now.
 Q What became of Joe Rogers? A. He got killed.
 Q Who killed him? A. Bill Pigeon, a Cherokee.
 (Mr. Bell) Where were you living at, Frank? A. Living down on the old
 Ten Rider place in '66.
 Q That the time you saw this applicant? A. Yes sir, I had been down to
 Tahlequah and I was coming back home, and I put them on Spring creek
 close to old Joe Vann's.
 Q What time of the year was that? A. In the fall of '66.
 Q How long had they been there? A. I don't know how long they had been
 there, it was in the fall when I saw them.
 Q Did you stop at their house? A. Yes sir, stopped there a little while.
 Q Was that house right on the road? A. It was close to the road, it wasn't
 right on the road.
 Q Vann's it half a mile from the road? A. I don't think it was quite a
 half mile.
 Q Didn't the old road go by old man Joe Vann's place? A. Not right along
 there; there is two roads, the Tahlequah road and the Fort Gibson road,
 the Fort Gibson road don't lead in the direction of Tahlequah, and it was
 the Tahlequah road I was on; there is two Tahlequah roads, one runs
 and runs up on Spring creek, and one comes and goes to this place.
 Q That is after you pass the old man? A. Yes sir, but Sarah lived below
 the road, under part of the Tahlequah road.
 Q Well, didn't you have any talk with them about when they were
 A. No, never had any talk about when they came, but I saw them there.

Q You were acquainted with the father of A. Joe Vann, I know Joe Rogers and know her when we were boys together.

Q And you just happen upon them there? A. I came from Falmouth and stopped in there.

Q How did you know they lived there? A Because I know they lived there, I heard, I had seen some of his folks and they said they lived there, some Joss Vann and a lot and they said there was a lot of them living up there on the creek, Bob and Hance Rogers, and a whole lot of them living up there.

KATIE VANN, being duly sworn by Commissioner Needles, testified as follows:

(Mr. Mallette) What is your name? A. Katie Vann.

Q What is your age? A. 54 years old.

Q Are you a recognized freedman citizen of the Cherokee Nation? A. Yes sir.

Q Where do you live? A. Live at Lohatch.

Q Do you know the applicant here, Sarah Whitacre? A. Yes sir.

Q How long have you been known her? A. Ever since she was a little child.

Q Did you know her name before the war? A. Yes sir.

Q Who was that? A. Joe Vann.

Q Do you have any knowledge as to when she came back to the Cherokee Nation after the war? A. She was back in '66.

Q How do you know? A. I saw them.

Q Where did you see them? A. On Spring creek, in Saline district.

Q Where has she lived since that time, what country? A. She moved off over there about the river, I don't know whether it was (unclear) district or Delaware district.

Q Have you known her from that time on? A. Yes sir.

(Mr. Hastings) Did you go to Kansas yourself during the war? A. Yes sir.

Q Who brought you back? A. My husband.

Q What was his name? A. Sam Vann, and Sam Vann his brother.

Q What time in the year did you come back? A. In the spring of '66.

Q Did you make a crop down there that year, your husband? A. No my husband didn't, but my brother in law did.

Q On whose place? A. Martha Vann's and Bere Vann's.

Q Did you know Mrs. Archer before the war? A. Yes sir.

Q Know her after the war? A. Yes sir.

Q Where was she living when you came down there? A. Living on Grand river on her old place where we left her when we moved out of the country.

Q This woman came back after you did? A. Yes sir.

Q Who brought her back? A. Her husband.

Q What was his name? A. Joe Rogers.

Q He was a colored man, was he? A. Yes sir.

Q Anybody else come back with them? A. Yes sir.

Q Who? A. William Fackler and his family is all I know of.

Q That is all you remember? A. That is all I can remember of coming back with them.

Q Where did they first live? A. Lived right across Spring creek east of where I lived.

Q How far was that from the old Vann place? A. Well about two miles I guess, or might be more.

Q What direction? A. East; kinder southeast.

Q How far was that from where Mrs. Archer lived? A. About four miles, as near as I can guess.

Q How long did Joe Rogers live there? A. I don't know, about a year or two.

Q Was he killed there? A. No sir.

Q Where was he killed? A. He was killed up in this district.

Q Bill Ficker, a full blood Indian, kill him? A. No sir.

Q He was indicted in Fort Smith? A. I don't know about that.

Q You know he was indicted and accused for it from the United States court authorities? A. Yes sir.

Q What Cherokee was living around there at the time that they first located there? A. Well Miss Constance.

Q Frank Constance's wife? A. His mother, he was with his mother, he wasn't married then, and the Clingens, and Blackbird or something.

Q Did you testify before the Rich Clifton Commission for this matter?

A. No sir, she had other witnesses.

Q Did they make a place there? A. Yes sir.
 Q And they lived there a number of years, did they? A They lived there about a year or two, I don't know which, they made a little field, small field, and lived there, and made a crop there.
 Q Did all the colored people on that place come back here in '66? A I don't know any other years about all of them, but then I don't know.
 Q Do you know any other years but '66? A Yes sir, I know some years.
 Q What year were you married? A. I don't know.
 Q What year were you born? A. I don't know.
 Q What year was your oldest child born? A. I don't know the year it was.
 Q What year was the Wallace court? A I have got it down in a book.
 Q What year was the Wallace court? A. I don't know.
 Q What year did the Kemp Clifton court sit? A. I don't know; I don't want to answer them questions, that is not the kind of I am want to answer on here for her, I don't.
 Q You don't know any dates? A. I am not telling any lies at all about it.
 Q Do you know one date from another? A Yes sir, I do, I know some.
 Q You don't know any of those dates? A. I know some but I don't know all, but I know '66 because they told us about '66 and sent for us.
 Q Have they told you about that year since? A. No sir, they sent for us in Kansas to come back here in '66 and the notice went out, and my husband carried the papers out.
 Q Was that after the treaty was made? A No sir, it was before.
 Q And the papers was carried on before the treaty? A Yes sir, for us to come home, that is how come we to know so much about '66, because they all said '66 was the year for us to come home and we would be citizens.
 Q Well, this woman didn't come with you? A. Well she came in the same year, I know one spring come to another in a year and one fall to another in a year, I always knowed that, and from one Christmas to another Christmas is a year.
 Q And you remember 35 years when you saw a person come in the neighborhood? A. I can remember when I saw a person where I saw them; I can't read and write.

WILLIAM WITHERS recalled, testified:

(Commissioner) Why isn't William Rogers here? A He is in the penitentiary
 Q Where at? A. Columbus, Ohio.
 Q He is living, is he? A. Yes sir.
 Q How long is he sentenced for? A Five years.
 Q How long has he been there? A. Four years, he hasn't been there four years.
 Q Why isn't Mary here? A. She can't come here, Mary is kinder mindless, something or 'nother, she has been that way ever since her father got killed.
 Q She hasn't got a good mind? A No sir, she hasn't got any mind at all, and it is a wonder I have any mind.
 Q Has she live with you? A. Yes sir, she stays with me.
 Q She wouldn't be competent to testify if she was here? A. No sir, she wouldn't.
 Q Did Mary come back with you when you come? A. No sir, Mary was born here.
 Q William was born here? A. Yes sir, after I come back.
 (Mr. Hartman) What is William Rogers convicted of? A It is cattle, if he did it.
 Q Stealing cattle? A. Yes sir, he denied he did it.
 Q Who from? A. Lewis Wright.
 Q This colored man Lewis Whiteire? A. Yes sir.
 Q He is a citizen of the Cherokee Nation isn't he? A. Yes sir,
 Q What was he convicted? A. It is going on four years now since he was convicted.
 Q For stealing from Lewis Whiteire, who is a citizen here of the Cherokee Nation? A. Yes sir.
 (Commissioner) You don't know whether Lewis Whiteire is on the 1860 roll or not? A Yes sir, he is, but of course the United States Court takes the case.
 Q Do you know Lewis Whiteire is on the roll of 1860? A Yes sir,
 Q How do you know that? A. Some always claimed to be 1860 Justice.

Commissioner Needles:— Sarah Whitwire applies for the enrollment of herself and William Rogers and Mary Rogers. She avers that she was the slave of Joe Vann, and that her maiden name was Vann; that she first married one Joe Rogers, by whom she had the two children for whom she applies. Since the death of Joseph Rogers, she has married to one James Whitwire, who is now living. She presents proof as to her citizenship and that of her husband. She also presents proof of the fact that she returned. She went out of the Cherokee Nation during the war between the United States and the Confederacy, and returned in the year 1866. She is duly identified upon the Kern Clifton and the Wallace roll, on the Kern Clifton roll as Sarah Vann, and on the Wallace roll as Sarah Rogers. She cannot be identified upon the authenticated roll of 1866, or the same roll of 1866. She applies for the enrollment of her son William Rogers, 26 years of age, and avers that he is confined in the penitentiary at Columbus, Ohio, and consequently cannot appear for himself. She avers that said William Rogers is her child by her husband Joe Rogers. He is duly identified upon the Kern Clifton and the Wallace rolls. He cannot be identified upon the authenticated roll of 1866. She also applies for the enrollment of her child, Mary Rogers, whom she claims is non compe, and not in a mental condition sufficient for her to testify; she is not married and lived with her, the applicant. Mary Rogers is duly identified upon the Kern Clifton roll. They are duly identified, but by reason of the fact that the said Sarah Whitwire is not on the roll of 1866, and the further fact of the protest of the Cherokee Nation, said Sarah Rogers Whitwire and her two children, Mary Rogers and William Rogers, will be listed for enrollment as Cherokee freedmen.

SARAH WHITWIRE, recalled, testified:
 (Mr. Hellette) Do you remember exactly when that boy was arrested?
 A Ask that man (indicating) he said, he knows.
 Q I say do you know? A. Yes sir.
 Q When was that? A. It has been three years ago since he was been arrested.
~~Q Where was he tried?~~ (By Mr. Hastings)
 Q Where was he tried? A He was tried in Vinita.

=====
 Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correct 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 G. Jones.


Sworn to and subscribed before me this the 28th of June 1901.

(Signed) T. B. Needles

Commissioner.

I, Chas. von Vaice, upon my oath state that the above is a true copy of the original.

Subscribed and sworn to before me this 28th of August, 1901.

(Handwritten signature)


Commissioner.

In the matter of the application of Augustus Rogers for entry as a character free man; as heard and taken as by Commissioner T. M. Needles testified as follows-

1907

What is your name? A. Augustus Rogers.
What is your age? A. 33.
What is your post office address? A. Haydon
What district do you belong to? A. Haydon.
Do you want to be enrolled as a character free man? A. Yes sir.
Do you also want to have your name on the list? A. Yes sir.

What is your father's name? A. Joe Rogers.
What is your mother's name? A. Sarah Phillips.
Who do you claim your citizenship through? A. My mother.
Has she been or is she by an alien? A. Yes sir.
Are you married? A. No sir.
Where were you born? A. Haydon.
In the character district? A. Yes sir.
Have you ever had any other? A. Yes sir.
Never went out? A. No sir.
And you are not married? A. No sir.
Have you ever been married? A. Yes sir.
Have you any children? A. Yes sir two.
Are they married? A. Yes sir by their mothers.

At least not signed on the same or had roll.

As the same district roll contains the name of Augustus Rogers as a character free man as follows-

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July, 2nd 1901.

In the matter of the application of Augustus Rogers for enrollment
as a Cherokee freedman; he being sworn to by Commissioner T. H. Needles
testified as follows:-

- Q What is your name? A. Augustus Rogers.
Q What is your age? A. 33.
Q What is your post office address? A. Hardon
Q What district do you reside in? A. Seewooscoowee.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Do also do you want to have enrolled besides yourself? A. Yes
myself.
Q Do you know of any other names of the Cherokee freedmen? A. William
and Kern Clifton.
Q What is your fathers name? A. Joe Rogers
Q What is your mothers name? A. Sarah Whitwire.
Q Who do you claim your citizenship through? A. My mother.
Q Has she been enrolled by us already? A. Yes sir.
Q Are you married? A. No sir.
Q Where were you born? A. Grand river.
Q In the Cherokee Nation? A. Yes sir.
Q Have you lived here all your life? A. Yes sir.
Q Never went out? A. No sir.
Q And you are not married? A. Not now.
Q Have you ever been married? A. Yes sir.
Q Have you any children? A. Yes sir two.
Q Are they enrolled? A. Yes sir by their mother.

Applicant not found on the 1886 or 1890 roll.

Kern Clifton roll examined and the name of the applicant
found thereon as follows:-

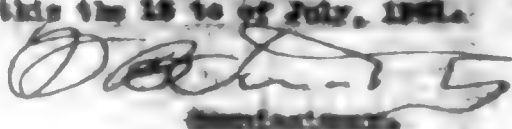
Page 139 No. 3233 Sam Rogers, Seewooscoowee district.

By Com'r Needles:-

Sam Rogers applies for himself; he is only identi-
fied on the Kern Clifton roll; he avers that he is the son of
Joe Rogers and Sarah Whitwire and the said Sarah Whitwire has
been listed for enrollment as a Cherokee freedman on doubtful
card and reference is hereby made to the testimony therein
and a copy thereof will be filed herewith. Now the said Sam
Rogers will be listed for enrollment as a Cherokee freedman on
a doubtful card and when the final decision is arrived at he
will be notified of the same by mail.

Chas. von Weise, being sworn states that as stenographer to the Com-
mission to the Five Civilized Tribes he reported in full all the pro-
ceedings in the above case in that the same is a full and correct
transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 15th of July, 1901.

Chas von Weise

Commissioner.

F. 10991

Proof of Service made
and original filed with the
DAVES COMMISSION.

SEP 28 1901

Proof of Service made
and original filed with the
DAVES COMMISSION.

SEP 28 1901

NOTICE!

IN THE MATTER OF the application of Augustus Rogers
for enrollment as Cherokee Freedmen:

Case No. F. D. 991

To Augustus Rogers Hayden 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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 18th 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L. B. Bell

W. W. Hastings
J. P. Dawnpfort
Attorneys for the Cherokee Nation.

File with Cherokee Freedman D-991, Augustus Rogers.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 11, 1901.

In the matter of the application of Sarah Whitman for enrollment as a Cherokee Freedman.

Testimony introduced on behalf of the Cherokee Nation.

Appreciations:
Mellette & Smith, attorneys for applicant;
W. W. Hastings, of counsel for Cherokee Nation.

MARY F. ARCHER, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Mary F. Archer.

Q What is your age, Mrs. Archer? A 67.

Q You mean 67? I believe you said 76 a while ago? A It is 76.

Q What is your postoffice? A Pryor Creek.

Q Mrs. Archer, what was your maiden name? A Mary Vann.

Q What was your father's name? A Joseph Vann.

Q What was your mother's name? A Katie Vann.

Q Was your father living at the time the war came up? A Yes, sir.

Q Where was he living at that time? A On Spring Creek.

Q How far is that from where you live now? A About eight miles.

Q That is across Grand River, isn't it? A Yes, sir, across Grand River.

Q On which side, east or west? A East of Grand River.

Q Your father living there, you say, when the war came up? A Living there when the war came up.

Q You were married when the war came up, were you? A Yes, sir.

Q Did you remain in, or did you go out of the Cherokee Nation during the war? A To come back in the Cherokee Nation after the war.

Q Did you ever come back in the neighborhood of your old home place on Spring Creek? A After the war, yes, came right back.

Q Well, when did you come there? A We came there just a year after the war.

Q Now which year was that, you mean in the year '65 or the year '66? A '66.

Q You came there in '66? A I came to my home. I lived on my father's place one year.

Q Where did you live during the year '66? A I lived on my father's place.

Q Now where did you move from there? A To my own home.

Q How far was that from your father's place? A Three quarters of a mile.

Q How long did you live there? A I lived there fifteen, twenty years right there on the same place.

Q Do you know a colored woman that claimed to belong to your father by the name of Sarah? A Yes, sir.

Q By way of identification, it is the same Sarah who claims to have married a Joe Rogers that Bill Fickett killed? A Yes, sir.

Q You know of the circumstances of her husband being killed?

A Yes, sir.

Q Then it is the same Sarah? A It is the same Sarah I suppose.

Q I will ask you if she came back and lived at your father's old place on Spring Creek in the fall of '66?

Mr. Mellette: I object to that question because it is leading.

Commissioner: You can ask her when she lived there; it is better to have asked when she came back; the question is leading, there is no question about it.

A No.

Commissioner: She has answered no.

Q Now Mrs. Archer, about what time did you move on this place, of your father's, after the war, what time of the year? A In the spring.

Q Of what year, I mean '65 or '66 or '7? A About '66.

Q And how long did you live on it? A About a year I think, and then I moved on my own place; it was right there though.

Q This woman belonged to your father did she when the war came up? A Yes, she lived with him when the war came up.

Q Now how long did you say you continued to live on that place within three quarters of a mile of your home place? A I lived there for about 15 years, maybe longer.

Q Did you ever see this woman, Sarah Ann, she afterwards Joe Rogers, after the war? A Never met her.

Q And yet you lived there within three quarters of a mile of the old place? A Yes, sir.

Q I will ask you the direct question whether or not she lived at any time during '66 or afterwards for ten or fifteen years on your father's old place? A No, I don't think she did, I certainly would have heard of her.

Q Could she lived on that place and you living on this adjacent place without your knowing it? A I certainly would have heard of it.

Mr. Mellette: Will Mrs. Archer, you say you moved in that neighborhood in '66? A Yes.

Q Well then you changed places in '66, is that the idea? A Yes, about that.

Q Did you travel over the country a good deal after you came there? A No, just around the neighborhood.

Q You didn't see this woman there at all? A No, never met her, never heard of her.

Q As a matter of fact you don't know where she was? A No.

Commissioner: This testimony will be filed with the original testimony in the case, and will also be made part of the record in D-932 and D-991.

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 25th of October, 1901.

W. H. ...

Commissioner.

Cher Fr D 992

Cher Fr D 992

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C., July, 1st 1901.

In the matter of the application of William Lynch for enrollment as a Cherokee Freedman; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. William Lynch
Q What is your age? A. 23.
Q What is your post office address? A. Hayden
Q In what district do you live? A. Coowescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Do also do you want to have enrolled? A. Just myself.
Q Is your name on any of the rolls? A. Wallace and Kern Clifton
Q Not on the 1880 roll? A. No sir.
Q What is your father's name? A. Joseph Lynch.
Q What is your mother's name? A. Caroline Sanders.
Q You are in your citizenship through whom? A. My father.
Q Has he been enrolled? A. Yes sir.

Kern Clifton roll examined and the name of the applicant found as follows:
Page 123 No. 3634, Will Lynch, Coowescoowee district.

Wallace roll examined and the applicant found thereon as follows:
Page 121 No. 3555, Wm. Lynch Coowescoowee district.

- Q Were you born in the Cherokee Nation? A. Yes sir.
Q Have you lived here all your life? A. Yes sir.
Q Have you ever married? A. Yes sir.
Q Are you married now? A. No sir.
Q Have you any children? A. Yes sir.
Q Where are they? A. At home.
Q Do you want to enroll them? A. No sir.
Q Why? A. My wife enrolled them.
Q Are you and she separated? A. Yes sir.
Q Did you ever keep house outside of the Cherokee Nation since you married? A. No sir.
Q Did you marry in the Cherokee Nation? A. Yes sir.
Q Is your wife a citizen? A. Yes sir.

By L. B. Bell, Cherokee representative-

- Q Is your father the Joe Lynch that lived on Grand river? A. No sir
Q Where does he live? A. On Lightning creek.

By Com'r Needles- William Lynch applies for himself; he is identified on the Kern Clifton and Wallace rolls but not on the authenticated roll of 1880 or the census roll of 1880; he makes satisfactory proof as to residence and avows that he is the son of Joe Lynch who has been enrolled on Cherokee Freedman B. card #33, and the testimony therein is hereby referred to and made a part hereof and ~~and~~ a copy of the same will be filed herewith. Now the said William Lynch will be listed for enrollment as a Cherokee Freedman on a doubtful card and when the final decision is arrived at he will be notified by mail.

=====
Chas. von Weise, being sworn states that as stenographer to 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.

subscribed and sworn to before me this 1st day of July, 1901.

[Signature]
Commissioner

R
SEP 20 1901

NOTICE!

IN THE MATTER OF the application of

Wm Lynch

for enrollment as Cherokee Freedmen:

Case No. F. D.

992

To

William Lynch, Hayden

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of

Vinita

Indian Territory, on

Oct 14 1901

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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this

SEP. 20 1901

D. Bell

M. M. Hastings

J. D. Davenport

Attorneys for the Cherokee Nation.

To be filed in C.F.-B. 4002, William Lynch.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 14th, 1901.

In the matter of the enrollment of Joseph Lynch et al, as Cherokee Freedmen, the following supplemental testimony is offered on part of the Cherokee Nation.

APPEARANCES:

Mr. Davenport, of counsel for Cherokee Nation.
Proof of service made and comes Cherokee Nation by Mr. Davenport, attorney; applicant three times called and answers not, or anyone for him.
(Witnesses called and sworn and placed under the rule.)

ANNA ELIZA CHANDLER, being duly sworn by Commissioner Needles, testified as follows:

- MR. DAVENPORT: What is your name? A Anna Eliza Chandler.
- Q Where do you live? A Vinita.
- Q How old are you? A 54 years old.
- Q What was your maiden name, before you were married? A Anna Eliza Gunter.
- Q What was your father's name? A C. E. Gunter.
- Q Where was your father living at the breaking out of the war? A In Arkansas.
- Q Near what town? A Near Silcox Springs, or High Cove.
- Q Did your father own any slaves at the breaking out of the war? A Yes, sir.
- Q Do you know whether or not he owned one by the name of Joe? A Yes, sir.
- Q What became of Joe, if you know during the war? A We carried him to Texas with us.
- Q How long did he stay with you? A We brought him back when the war ended, when peace was made.
- Q To what point did you return? A To Arkansas, High Cove.
- Q Were your father and family citizens of the Cherokee Nation at the breaking out of the war? A No, sir, never had applied for citizenship.
- Q After he returned to Arkansas after the war did they make application to be admitted as citizens of the Cherokee Nation? A Yes, sir.
- Q How long did Joe stay with you after you come back to Arkansas, if you know? A He stayed there until the winter of '63.
- Q Do you know what name he goes by now? A I have heard that he went by the name of Joe Lynch, I don't know that.
- Q You have just heard that? A Yes, sir.
- Q And your father was a resident of the state of Arkansas and citizen of the state of Arkansas before the war? A Yes, sir.
- Q And came back to Arkansas? A Yes, sir.
- COM'R NEEDLES: What was your father's name? A Calvine Gunter.
- Q At the beginning of the war you say he lived in Arkansas? A Yes, sir.
- Q How long had he lived there? A I can't tell you.
- Q Had he ever lived in the Cherokee Nation before? A No, sir.
- Q Were you born in Arkansas? A Yes, sir.
- Q He had a slave by the name of Joe? A Yes, sir.
- Q You understand now he goes by the name of Joe Lynch? A Yes, sir.
- Q You know whether he is the same Joe Lynch that applies to be enrolled here? A I guess he is; I have heard that was the name he went by.
- Q Well, your father during the war went to Texas? A Yes, sir.
- Q From Arkansas? A Yes, sir.
- Q Took Joe with him? A Yes, sir.

- Q How old was Joe then? A I can't tell you exactly how old he was; he must have been eight or ten years old, just small boy.
- Q And then after the war you returned to Arkansas? A Yes, sir.
- Q Brought Joe with you? A Yes, sir.
- Q About how long were you down there in Texas? A We went there in '63 and I think come back the fall after peace was made in '65.
- Q You came back to Arkansas? A Yes, sir, to our old home near High Cove.
- Q Brought this Joe with you? A Yes, sir.
- Q Then when did you come from Arkansas to the Cherokee Nation?
- A I never came to the Cherokee Nation until after I was married.
- Q Did your father move to the Cherokee Nation? A No, sir.
- Q Did he ever claim Cherokee citizenship? A No, sir, my mother does.
- Q Is she living? A Yes, sir.
- Q Well, did she claim citizenship while she was living with your father in Arkansas? A Yes, sir, she come down and was readmitted.
- Q Do you recollect what year? A It was in '79 I think.
- Q Do you know how long Joe stayed in Arkansas after you brought him back from Texas? A He stayed there until in '68.
- Q He come back to the Nation then in '68? A He never was in the Nation.
- Q He never had been in the Nation until '68? A No, sir, not while we owned him.
- Q He was born in Arkansas? A I don't know where he was born, my father bought his mother and two children.
- Q Do you know who he bought them from? A He bought them from Mr. Lodge.
- Q Was he a citizen of the Nation, the Cherokee Nation? A His wife was a citizen of the Cherokee Nation, claims to be.
- Q Now, your father didn't die until some years after the war?
- A He never died until three years ago.
- Q Died in Arkansas? A Yes, sir.
- Q Did your mother live there then? A Yes, sir.
- Q You don't know then what became of Joe you say he come to the Cherokee Nation in '68? A Yes, sir.
- Q What makes you think he came in '68? A That is the time he left home, run off.
- Q Well, he was a free man in 1868? A Yes, he was just a boy though.
- Q Have you anything that fastens the fact on your memory that it was '68? A Yes, sir, I think there is.
- Q You returned to Arkansas you say in '67? A Yes, sir.
- Q Well, did Joe remain with your family there three years, until he ran off? A I don't know whether it was three years or not, I know he stayed there until after I was married.
- Q When were you married? A In '67.
- Q In Arkansas? A Yes, sir.
- Q But you don't know that the Joe Lynch who now applies for enrollment is the same Joe Lynch that you have been testifying concerning, do you? A I have seen Joe here in Visits once since he left.
- Q Do you know whether he is married or not? A I have heard he was, I don't know whether he is or not, I have just heard that.
- Q Do you recollect Joe's mother's name? A Her name was Rachel.
- Q And she belonged to your father? A Yes, sir.
- Q Did you know a John Stever? A No, sir.
- Q Well, did you know Joe's father's name? A No, sir.
- Q But his mother's name as you recollect was Rachel? A Yes, sir.
- Q You never knew a man by the name of John Stever, then?
- A No, sir.

JOHN T. GUNTER, being duly sworn by Commissioner Beadles, testified as follows, on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A John T. Gunter.

Q Where do you live, Mr. Gunter? A Visits, Indian Territory.

Q How old are you? A 46 years old.

Q Where were you living at the breaking out of the Civil War?
A In Benton County, Arkansas.

Q What was your father's name? A Caldine Gunter.

Q Did your father own any slaves at the breaking out of the war?
A Yes, sir.

Q Do you remember any of their names? A Yes, sir, I remember several; he had one named Ada, and one was named Gran, blacksmith; he had one named Jake and another negro boy named Dick, and Bill and Mark and Rachel, Elias.

Q Did Rachel have any children? A Yes, sir, she had four children, her oldest child she had belonged to my father, his name was Joe, Joseph Lynch and another one named Horace.

Q Well, were they with your father at the breaking out of the war?
A Yes, sir.

Q Where was he living with reference to the war? A He was living in Benton County, Arkansas, little over the line.

Q Where did you or your family go during the war? A We refuged to Texas.

Q What became of this Rachel and her family? A I don't know what become of Rachel and the two youngest children, but the two older boys we took them to Texas with us, Joe and Horace, Hopkins County, Texas.

Q How long did you stay in Texas? A We stayed there from April '63 to '65.

Q Where did you go when you left Texas? A We moved back to Arkansas, some place.

Q Was your family citizens of the Cherokee Nation at the breaking out of the war, Mr. Gunter? A No, sir.

Q Were they when they returned to Arkansas?
A No, sir, didn't make application until in '79.

Q You made application to be admitted as citizens of the Cherokee Nation? A Yes, sir, we made application in '79 at the regular session of the Cherokee Council.

Q Did Joe Lynch and his family, or either of them, come back to the Cherokee Nation, to Arkansas? A Yes, sir, my father brought them back; they was just boys at the time he brought them home, and took care of them for several years after the war.

COM'R NEEDLES: Your family you say applied in '79? A Yes,

sir.
Q That includes your father? A Yes, sir, my mother, the petition was for her and children.

Q Nancy Gunter and children? A Yes, sir.

Q They were admitted in 1879? A 1880.

Q Was your father living at that time? A Yes, sir.

Q Was he admitted at that time? A I can't say, I don't believe the records say he was.

Q Did you know a man by the name of John Stover? A No, sir, I know a man by the name of William Stover.

Q Now, where was this Joe Lynch born? A I don't know.

Q There do you first recollect him? A At my father's house.

Q In Arkansas? A Yes, sir.

Q Your father bought his mother? A Yes, sir, and two children.

Q Do you know who he bought them from? A No, sir, only from hearsay.

Q Do you know whether he bought them from the Stovers or not?
A That is what I have been told, from Large, and Mrs. Large was a Stover.

Q Stovers were Cherokees? A Yes, sir.

Q Then you don't know where Joe was born? A No, sir, I don't know.

Q Your understanding then is that the mother of Rachel and the two boys were bought from the Stovers? A From Large.

Q And Mrs. Large was a Stover? A Yes, sir.

Q Is Mrs. Large living now? A I think, sir, she is dead.

Q Tell, where was Joe when your mother and you were admitted, was he still living in the family? A No, sir, he was not in the family at that time, he left there sometime in '68, latter part of '68.

Q Do you know where he went to? A No, sir, only hearsay, I heard he went to Bob Webbers on Barron Fork in Goingsnake district, Cherokee Nation, I never saw him there.

Q You never knew anything about Joe's father? A No, sir.

Q Well, now, the summary of your testimony is that your father owned Rachel, the mother of Joe, and carried them to Texas during the war and came back to Arkansas? A Didn't take the mother, took these two children Joe and Horace.

Q And brought them back to Arkansas? A Yes, sir.

Q Do you know what became of Rachel? A No, sir, I do not, I never saw her any more after the war.

MR. DAVENPORT: Your father also owned this boy when he went to Texas at the breaking out of the war? A No, sir.

COM'R NEEDLES: Did he sell these boys? A No, sir, he didn't sell these boys.

Q You know Joe Lynch now? A Yes, sir, I have seen him off and on for the last 12 or 15 years.

Q Do you know the Joe Lynch, about whom you have been testifying, is the identical Joe Lynch that applies here to be enrolled as a Cherokee freedman? A No, sir, I haven't seen him since he has been here; I don't know whether he is in the house or not; I don't see him here.

Q When you were admitted, you and your family were admitted, did you move to the Cherokee Nation? A Yes, sir.

Q Father and mother and the family? A Yes, sir, they moved across the line and went back to the state.

Q That was in '79 you say? A In 1880 when they were admitted.

Q Did you know anything about Joe at that time? A No, sir, he had been gone eight or ten years.

Com'r Needles: This testimony will be filed with the case at bar and will be made part of the record in D. #998.

John T. Gunter, recalled, further testified:

COM'R NEEDLES: How old was Joe Lynch when he went to Texas from Arkansas? A He was about eight years old.

Q And then when he returned how old? A About ten years old. He was just few months older than myself.

Q And then he was free? A Yes, sir.

Q It was after the Emancipation Proclamation? A Yes, sir.

Q He lived with you there until 1880? A Yes, sir; it was some time between the 14th of October and 28th of November he went away.

Q You don't know where he went? A No, sir.

Q How old was he then about? A That would make him something like 12 years old.

Q Now, then, how far from the line, from the Cherokee line? A About a mile and a half on the air line, straight line.

Q Your mother and family were admitted about '79? A '80.

Q Was she admitted, and the children, by virtue of her Cherokee blood? A Yes, sir.

Q Always did claim Cherokee blood? A Yes, sir, my mother had resided in the Nation and my father married her and took her away.

Q And then how long after 1880 did they move over in the Nation? A My father moved over that fall and bought his place, he didn't stay but a little while.

Q Do you know why your mother was not recognized as a citizen before 1880? A Never made any application for admission.

Q She always claimed the blood? A Well, she always drew money, she drew old settler money in 1881 and two of my sisters.

Q Did she ever draw any money between 1888 and 1890? A No, sir, I don't think, I don't think there was any payment made unless it was only, probably bread money payment, we didn't participate in that.
 Q But she was recognized as a Cherokee citizen by blood before that time? A Yes, sir.
 Q But never formally recognized by the council until 1890?
 A No, sir.

CON'R NEEDLES: Mr. ... then recalled further testified:
 CON'R NEEDLES: Mr. ... was born and raised in the Cherokee Nation? A Yes, sir.
 Q Was her father a Cherokee citizen? A Yes, sir, her father was a Cherokee by blood and her mother was a white woman, his name was Ward, James Ward.
 Q And she was considered a Cherokee citizen until she moved out into the state of Arkansas? A Yes, sir.
 Q Do you recollect when she went to the state of Kansas?
 A No, sir, I wasn't born before that time.
 Q You don't know how long they lived in the state of Arkansas? From the time she moved over there until she was readmitted?
 A Yes, sir, that was the first year that they were married, I have heard them say, my father made a crop with my grandfather and the next year he moved out to Arkansas.
 Q Your father claimed to be the owner of Joseph Lynch? A Yes, sir.
 Q By purchase? A By purchase.
 Q Do you know who he purchased Joseph Lynch from? A No, sir, I do not, but it has always been the talk that he bought Joseph Lynch from Hugh Tinnon, that he got him under a mortgage.
 Q Was Hugh Tinnon a Cherokee citizen? A No, sir, was a white man.
 Q You don't know John Stewart? A No, sir.

Con'r Needles: This testimony will be made a part of the record in D. 992.

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 October 16th, 1901.

(Signed) T. B. Needles,

Commissioner.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and that the same is a true and complete copy of the original transcript.

Arthur G. Croninger

Subscribed and sworn to before me this 5th day of December, 1901.

M. A. Green
 Notary Public.

Cher Fr D 993

Cher Fr D 993

2093

20

209

FILED

JUL 10 1901

COMMERCIAL

2093

2093

John McDonald et al 2

Q Wasn't you living there with her? A Yes sir.
 Q Where did you say "the eyes", wasn't you living there when the child was born? A Yes, I know it in her child.
 Q I didn't ask you if it was yours, you know? A Yes, that's all right, Judge; if I get wrong straighten me.
 BY R. W. BELL, Cherokee Deputy:
 Q Where did John Glass live? A Up in Flint district, pretty close to the Valley.
 Q Did you live there? A Yes sir.
 Q Did you say you were sent out of the nation with your owner during the war? A I was just around with different ones, working around.
 Q There wasn't much working around after '63? A Well I know, just about that.
 Q Where were you from '63 to '65? A I was around amongst the soldiers, working among them, making rails and farming.
 Q Where were you then? A They was living in the Nation in the Flint district.
 Q Where did you live now? A In Sequoyah District.
 Q Near what place? A Near Jacktown.
 Q How far is that from Vian? A It is about thirty miles.
 Q You was down in the land of the river, are you? A Yes sir.
 Q What is Smith? A Yes sir.
 Q How long have you lived down there? A About 22 years.
 Q How long have you been from when you went to Jacktown? A I went down there, I went from the Creek.
 Q In scouting around from '63 to '65 you were working for the balance of that? A Yes sir.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 126 #2640 John McDonald, Sequoyah District.

Q Was this woman of yours a citizen? A No sir.
 Q Was she a white freedman? A Yes sir.
 Q How long have you lived together as man and wife?
 Q Just took up? A Yes, old times, you know.

Wallace roll of citizens of the Cherokee Nation examined and applicant's son identified on page 126 #2641 John McDonald, Jr., Sequoyah District.

1880 identified roll of citizens of the Cherokee Nation examined and applicant not found;
 1890 census roll of citizens of the Cherokee Nation examined and applicants not found;
 Burn-Clifton pay roll of citizens of the Cherokee Nation examined and applicants not found.

COLUBUS MCNAIR, being sworn by Corrid and Woodles, or examined by him, testified as follows:

Q What is your name? A Colubus McNaair.
 Q What is your age? A 51.
 Q What is your post-office? A Vinita.
 Q Are you a Cherokee Freedman? A Yes sir.
 Q Is your name on the roll of 1880? A Yes sir.
 Q You know the applicant John McDonald? A Yes sir, I am slightly acquainted with him.
 Q How long have you known him? A I have been fairly acquainted

John McDonald et al 3

with him about 15 or 16 years, I reckon.

- Q You know where he was in '66? A No sir.
Q Know where he was during the war? A No sir.
Q Know whether he was a slave or not? A No sir.
Q Know his wife, Siney? A No sir.
Q Did you ever belong to the "know-nothings"? A (No reply.)

JERRY VANN, being sworn and examined by Commissioner Headless as follows:

- Q What is your name? A Jerry Vann.
Q How old are you? A About 47.
Q What is your occupation? A Farmer.
Q You know the applicant, John McDonald? A Yes sir, tolerable well.
Q How long have you known him? A Ever since about '78 I reckon.
Q You know whether he was a slave or not? A I do not.
Q You know whether he went out of the Cherokee Nation during the war?
A I do not.
Q Was the first time you ever saw him? A Yes sir.
Q You know his wife, Siney? A No sir, I don't.
Q You know his children? A Yes sir.
Q What children do you know? A John and Irving.
Q Has John McDonald been living in the Cherokee Nation ever since you knew him in '78? A Yes sir.
Q You don't know his wife? A No sir, I don't.
Q You don't know whether they ever lived together as man and wife or were ever married? A No sir.
(Note: Applicant is asked if he wants to examine the witness, and says no.)

Applicant, JOHN McDONALD, re-called and put on examination;

BY L.B. BELL, Cherokee Representative:

- Q Do you talk Cherokee? A No sir.
Q How? A No sir.
Q Did John Glass talk English? A Yes sir, he talked good English.
Q That is the John Glass you belong to? A Yes sir.
Q Where is it John Glass lived, in Seago? A In Flint District.

BY COMMISSIONER:

- Q Have you got any proof that you were married to your wife, Siney or that you lived with her as man and wife? A No sir, I haven't.

Com'r Headless: John McDonald applies for the enrollment of himself and 3 children; he avers that he was a slave of John Glass, and never left the Cherokee Nation during the war; he avers that he was married to one Siney in 1878; has three children, John Jr., Irving and Jane; he cannot be identified upon any of the rolls of the Cherokee Nation except the Wallace roll; he and his oldest child, John Jr., are identified upon the Wallace roll; he presents no testimony substantiating the assertions that he never was in the Cherokee Nation during the war, or that he was the slave of John Glass, or that he was married to his wife, Siney; because of the fact that his name does not appear upon any of the rolls of the Cherokee Nation except the Wallace roll, he and his three children will now be listed for enrollment as Cherokee Freedmen, on a doubtful card, awaiting further consideration of the Commission; it will be necessary for him to furnish satisfactory proof of birth of the 3 younger children, also satisfactory proof of marriage of his wife, and satisfactory proof as to his citizenship, which he will do.

John McDonald et al 4

failed to do.

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 as read.

M. D. Green

Subscribed and sworn to before me this July 15, 1901.



Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 27, 1901.

SUPPLEMENTARY TESTIMONY in the matter of the enrollment of JOHN McDONALD, et al., as Cherokee Freedmen; introduced on the part of Applicant and Cherokee Nation:

APPEARANCES:

Applicant present in person and by Attorney, J. F. Paulds;
Mr. James S. Davenport, of Counsel for Cherokee Nation.

GEORGE W. VANN? being duly sworn, testified as follows,
on the part of Applicants:

- MR. PAULDS: Your name is George W. Vann? A Yes, sir.
- Q Your post office is Vange? A Yes, sir.
- Q You will be 87 years of age the 27th day of December next?
- A Yes, sir.
- Q Do you know the applicant, John McDonald? A I do.
- Q When did you first know him? A I first knowed him about two years before the war.
- Q Where was he then? A He was sometimes in the Cherokee Nation, and sometimes I would see him in the state, I saw him here and saw him at Fort Smith.
- Q Do you know where he lived when the war broke out, 1861?
- A If he had a house of his own, I didn't know it; I never seed him at his house.
- Q Where did you see him in 1861? A I saw him at Fort Smith and I saw him at Fort Puren and Choctaw Nation and saw him at Fort Gibson, but I never saw his house, I never saw no house until here since.
- Q Do you know where he was during the war? A Not all the time.
- Q Do you know where he was at the close of the war? A He was down here in Sequoyah.
- Q In what year? A Well, he was down there in about-
- Q When did you see him? A I ain't going to say until I say the truth; let's see, that was, we was getting hay on the prairie the next time, cutting for the soldiers nine miles from Fort Smith,
- Q which way? A It was west, on this side of the river.
- Q In the Cherokee Nation? A Yes, sir; cutting for the soldiers.
- Q When was that? A I will tell you if you will give me time, I ain't going to say until I can tell the truth about it; we was cutting hay and John McDonald was up there where we was nine miles from Fort Smith on what is knowed as Gunter's prairie, and I think it was about the first of seventy, I know the war was winding up.
- Q About what? A It seems to me it was about the first of seventy.
- Q You didn't see him in '68? A Yes, sir, I did, I told you he was there backwards and forwards, I saw him before the war.
- Q I asked you if you saw him in the Cherokee nation at the close of the war? A I did, but he didn't stay there all the time.
- Q Where did he stay? A He was everywhere, John McDonald didn't have any family.
- Q Did you see you saw him in the Cherokee Nation in '68?
- A Yes, sir.
- Q Where has he lived ever since, do you know? A I ain't seed him until here long, that is to have a talk until along in '75, '76 or '76.
- Q Where has he lived since '75 or '8? A On his plantation.
- Q Where? A In Sequoyah District, Cherokee Nation, four miles from Fort Smith.
- MR. DAVENPORT: Now, George, where did you see this applicant here the first time you ever saw him? A The first time I ever saw John McDonald was he came to where we was cutting hay on Gunter's prairie.

Q How long was that before the war? A The war was going on.

Q You never saw him until after the war broke out?

A No, sir, I didn't.

Q When was it you saw him after the close of the war?

A Mr. Davenport I saw him three or four different times, I saw him up on Lees Creek.

Q When was it you saw him? A I am telling you up at Sam Barnes' on Lees Creek.

Q When was that? A That was after the war broke out.

Q What year? A Just to ~~come~~ come out I don't believe I can tell and tell you the truth just about when it was, there was fighting and running about.

Q Then you didn't see him in 1866? A Yes, sir.

Q I want to ask you this, didn't you know that this John McDonald yesterday in his application to be enrolled as a Freedman citizen testified that he came to this country and the first work he did after the war was for Jake Bartles and Charley Journeycake in Cooweescoowee district? A No, sir.

Q Well, if he did testify to that was it true or untrue?

A I can't tell because I never seed him working anywhere, I saw him staying at Sam Barnes after he left the prairie.

Q You don't know what year that was? A It was in time of the war was going on, they begin to dodge and I saw him at Sam Barnes and I don't know.

Q I am not asking you about the war going on; where was it you saw him after the war and what year was it? I don't ~~know~~ know I seed him until in Seventy, just what I think.

MR. FAULDS: I don't understand your testimony at all? A I do.

Q You said you saw him in '66 in the Cherokee Nation?

A And then I seen him in Seventy and he asked me when did you see him again and I said in Seventy.

Q Is it true or untrue you saw him in the Cherokee Nation in '66?

A Why, yes.

MR. DAVENPORT: Where was it you saw him in 1866 in the Cherokee Nation? A I saw him in '66 while we was cutting hay up from Fort Smith, about nine miles, what is called Parker's prairie sometimes called that.

Q Who was cutting hay with you there in '66? A Why great many, it was the government cutting it, and haul it to Fort Smith, it was not me.

Q Now, George, don't you know that in 1866 the international laws would not let anybody take anything off of these lands without special permit? A I know that we cut it and I can prove it 50 men here.

Q Can you prove it by any man who is not a claimant for citizenship that John McDonald was in the Cherokee Nation until 1870?

A I can tell you--

Q Don't you know that John McDonald was not in the country until 1870? A Yes, I do.

Q Don't you know you can't? A I can have proved several times I was, I can go to Fort Smith and get men that's worth ten thousand dollar and prove it.

Q Why don't you do it? A I did I got John Williams.

Q Yes, he is a spy, drunkard in Fort Smith?

A No, sir; I don't know it.

Q Well, now, George, you were helping to cut that hay the Government was cutting? A Yes, sir, I was there tending to the horses.

Q You were working for the government? A No, sir, I was working for one man, Quarter-Master.

Q What was his name? A His name was Judge Owsen.

Q Judge or Col Owsen? A Yes, sir.

Q Where has McDonald been living since you saw him there in '66?

John McDonald, et al.--3.

- A He has been living since '70, about two or three miles from me.
Q Who did you say you saw him working for before? A I didn't
saw he was working for anybody.
Q Didn't you say you saw him working at Barnes' on Lees Creek?
A I said I saw him there.
Q Where did you next see him? A The next place after I seen
him on the prairie I seen him at Sam Barnes'.
Q When was that? A That was while the war was going on.
Q Now, George, don't you know that Sam Barnes was never on Lees
Creek until in the latter part of the Seventies?
A Oh, well, yes and married his wife on Lees creek and Mrs. Collins
they lived there.
Q Just answer the question? A I done say he was.

HORACE S. NORMAN, being duly sworn, testified as follows
on part of the Applicants:

- Mr. Faulds: What is your name? A My name is Horace S. Nor-
man.
Q How old are you? A I guess I am about 42.
Q Do you know John McDonald, the applicant? A Yes, sir.
Q How long have you known him? A I could not tell you just
exactly how long, but I have been knowing him a good many years.
Q When did you first know him? A The first time I saw him was
here at Fort Gibson, I was small.
Q Well, have you any idea when that was? A It was about '66, I
saw him down here I know it was in that year because everybody
said it was '66, there was a great talk about '66.
Q Did you see him in Fort Gibson? A Yes, sir.
Q Well, have you known him off and on ever since? A Yes, sir,
I have.
Q Where is he living? A He lives down in Sequoyah district now.
Q How long has he lived there? A I guess about 22 or 3 years, I
am pretty certain it is along there somewhere.
Q Did you ever know him to live out of the Cherokee Nation?
A No, sir, not since I have known him.
MR. DAVENPORT: Did you ever know him to live in the Cherokee
Nation? A Sir?
Q Did you ever know him to have a home in the Cherokee Nation?
A I didn't know him anywheres else.
Q Where did you ever know him to have a home in the Cherokee Nation?
A Down in Secoyah.
Q Where is that home in Secoyah? A Down in Secoyah.
Q Where is that Secoyah? A About four or five miles from Fort
Smith.
Q How far from Wenge post office? A I never measured it.
Q Now, how long has he been living at that home near Secoyah?
A I don't know; it is five miles.
Q I don't care if its five miles or what; I asked you how long he
has been living there? A I said he was living there 22 or 3
years.
Q It is just supposition with you about how long he has lived
there? A No, sir, he has lived there about 22 or 3 years.
Q He has lived down there ever since you went there? A He come
in there before I did.
Q And you got in there about 1879? A I went from here down
there.
Q Just answer the question; didn't you get down there about '79?
A No, sir, we went away frok down there soon after the smallpox
broke out.
Q Where were you when the smallpox broke out here?
A I was here with my mother, and run away from here for fear of
taking it.
Q Was then the first time you ever saw John McDonald? A No, sir;

John McDonald, et al.--4.

I saw him here.

Q Where had he come from when he came to Fort Gibson?

A I don't know.

Q Where is John McDonald now? A He is here.

Q Point him out? A There he is right there (indicating.)

Q Now, don't you know, if you know a thing in the world about this case, that John McDonald was mustered out of an Ohio Regiment, the 65th Ohio and never was in this country until 1870?

A No, sir, I don't know that.

Q Don't you know he swore here ~~yesterday~~ that when he come to this country and the first work he ever did was for Jake Bartles and Charles Journeycake in Cooweescoowee? A Yes, sir.

Q Didn't you sit right over there and here him give his testimony?

A I heard him say he was here off and on.

Q Didn't you sit right there and listen to him testifying, in which he stated that the first work he did in the Cherokee Nation after he came back here was for Jake Bartles and Charles Journeycake on Big Creek, in Cooweescoowee district, and he came from there to Fort Gibson, the first time he came here after the war?

A I heard him say that I think I seen him after that down here, when I went from here down there I found him down there.

JOHN McDONALD, the applicant, re-called for additional cross-examination on the part of Cherokee Nation:

Mr. Davenport: You are the same McDonald that testified before the Commission at Nowata, July 1st, 1901? A Yes, sir.

Q And you also gave testimony here yesterday in a case?

A Yes, sir.

Q I will ask you in your testimony yesterday if you said that you first came to the Cherokee nation and worked for Jake Bartles and Charles Journeycake on Big Creek in Cooweescoowee district and that same year you came down here to Fort Gibson and saw Horace S. Norman at Fort Gibson? A No, sir, I told you I been in the Nation all the time, and the times was so hard and all I come here to Fort Gibson here for protection and from here I went to Big creek and helped around amongst the colored people and from there to Charley Journeycake's and helped around at Charley's; I came right here for protection.

Q Well, what year did you swear that was in that you came here for protection? A That was in the year of 1866.

Q Who do you claim to belong to before the war? A Old John Glass.

Q In Flint district? A In Flint district.

Q How many places had old John Glass before the war?

A I didn't know he had but one.

Q Well, how was it divided? A It was divided into different places, pretty large places was divided.

Q I will ask you if you made this statement before the Commission at Nowata on July 1st, 1901 'I was around amongst the Delawarees, working among them, making rails and farming'? A Yes, sir, I did.

Q And the following question was asked to which you gave the following answer: 'Where were they at, 'They was living in the Nation, here in the Cherokee Nation'? A No.

Q If you made that answer was it true or untrue? A For my part I said, no; it was not here.

Q When you didn't make it? A No, sir.

Q Now, who constituted John Glass' family that you claim to belong to before the war? A What do you mean by that?

Q I mean what were the members of his family? A There were different ones, there was the Glass and Fox Glass and Joe Glass; Joe Glass was my father and there was two Glasses, old Joe was my father and Betsey Glass was my mother, and old Joe Glass for his part, that is my father; you see there is two Glasses and Fox Glass.

- Q Were these Glasses Delawares or Cherokees? A They were Cherokees.
- Q Where did you get your Delaware blood? A I was mixed, my father was among the Indians, my mother was mixed with the Delawares.
- Q You were bred and born in the Cherokee Nation? A Yes, sir.
- Q How, where did your father mix with the Delawares? A There was a tribe of Delawares here and Creeks and everything else.
- Q Where did your father mix with the Delawares, here in the Cherokee Nation, or where? A Here in the Cherokee Nation.
- Q What kind of building did Glass have, residence where you lived? A He lived in a kind of a frame house.
- Q How many rooms? A I think there was about four rooms.
- Q Where did he get water? A Got water out of the Spring, right kinda east of the house.
- Q Were those slaves you were giving a while ago, the names of his boys you were telling? A Yes, sir.
- Q Which was it, the slaves? A Slaves.
- Q How, what were the names of his boys, his own family? A I do not know exactly.
- Q What was the name of his wife? A Pshaw! He had different women; he had concubines, my mother Betsy done the cooking and served my daddy.
- Q Did he have any girls? A I didn't know any girls.
- Q Did he have any boys? A I don't know anything about the boys.
- Q You were living there on his plantation before the war; you were living there with John Glass before the war broke out? A Yes, sir.
- Q And you claim to belong to him? A Yes, sir.
- Q And that was the John Glass that lived in Flint district? A Yes, sir.
- Q Now, do you pretend to say that you don't know who John Glass' wife was? A He didn't own none only Betsy.
- Q Don't you know that he had a woman that lived there with him as his wife? A No, sir, I don't.
- Q Don't you know whether he had any boys or girls? A No, sir.
- Q Did he or not have any? A He did not.
- Q Was anybody living near John Glass before the war? A Yes, sir.
- Q Who was it? A There was Painters and all of them, Jug Starr, Zeke Starr and all of them.
- MR. HASTINGS, Cherokee Representative:
- Q Zeke Starr lived right there when the war came up? A No, sir.
- Q How far from him when the war came up? Mr. Paulds: I object to different Attorneys.
- MR. DAVENPORT: John Glass talked english or Cherokee? A Talked English.
- Q How far did you say Zeke Starr lived from there when the war came up? A I don't know; about mile or two.
- Q Do you know? A I think so, I don't know.
- Q When did you first hear of Zeke Starr? (No response.)
- Q I am waiting to find out when you first heard of Zeke Starr? A Why, I knew Zeke Starr, knew him all my life.
- Q Whose son was he? A I didn't know anything about the sons; slaves of such men didn't know anything much about the relatives.
- Q Well, can you tell us anything more about the Cherokees that lived around near about John Glass? A There was Jug Starr and all of them.
- Q How far did Jug Starr live from John Glass? A East.
- Q How far? A I don't know.
- Q Were you ever at his place? A I don't know; yes, I do.
- Q Where did you get out of that country when you went from here to this to enlist in that army? A I went from there here.
- Q When did you go with? A I went by myself.
- Q Did you go horseback or how? A I went on the card.

John McDonald, et al.--6.

- Q Started from here on the cars? A Yes, sir; I worked around and got money.
- Q Where did you take the train? A I just traveled until I got to where I could get on the train.
- Q Don't you know where you got on the train? A I got on the train at Little Rock.
- Q How did you get to Little Rock? A I worked and made money.
- Q How did you get there? A I begged my way.
- Q Then you didn't work? A Yes, sir.
- Q What made you go back there to Ohio? A I got back there because I run away.
- Q What year was that you run away and went to Ohio? A That was about the breaking out of the war, I don't know anything about dates.
- Q Where did John Glass go during the war? A I don't know.
- Q Where did you go during the war? A For my part I run off and went to Ohio.
- Q Then you didn't go from John's to Ohio; where did you go when you left John Glass? A I went over there and stayed a while.
- Q Now, was the time; you came here and stayed a while, the time you came here for protection? A Why certainly. I come back here for protection.
- Q What year were you mustered out of the service? A I do not know.
- Q Where were you mustered out? A I was mustered out in Columbus, Ohio.
- Q Now, then, when you came back to this country how did you travel? A I got a little money and come back on the cards.
- Q Where did you get off of the train? A I got off at Little Rock.
- Q How did you get from Little Rock up to this country? A How do you think I got here?
- Commissioner: Answer the question.
- A I walked part of the way.
- Q When you got back here where did you meet up with Jake Bartles and Charley Journeycake? A I went up there working.
- Q Now, how long had you been back here after the war until you went up where Jake Bartles and Charles Journeycake was? A I don't know; I can't tell.
- Q Well, you know whether you stayed a month along the line? A Yes, sir, I made some rails along.
- Q Was it a month before you got into the Territory before you got to Bartles? A It was longer than that.
- Q About how long? A I could not tell.
- Q Can you tell whether it was a year or not? A I guess it must have been about a year.
- Q Was it any more than a year? A I do not know.
- Q Did you ever go up there where Bartles and Journeycake live? A Certainly, yes, sir.
- Q Now, do you know when you got up there? A Yes, sir, I went up there after-
- Q Now, what year did you go up there where Jacob H. Bartles lives? A I don't know, I could not tell.
- Q Was Jake Bartles living there when you got up there? A They was all getting ready to move, the Delawares commenced moving, but my stationery home was right here.
- Q Well, you know whether when you got up there whether Jacob H. Bartles was there or not? A No, sir; when I got up there after the war-
- Q Was Charles Journeycake living up there, the former Chief of the Delawares? A No, sir, he was not up there, but I went up there and worked.
- Q Who did you go up there and work for? A I went and worked for old Charles.
- Q Had you known him before that? A No, but I had heard he had lots of work to do.

John McDonald, et al.--7.

- Q How did you travel when you went up there? A I went afoot.
- Q You are a sort of school teacher? A I used to try to teach.
- Q You got some education while you were living over in Ohio?
- A I got my education from old Jim taught me, Lawyer Jim; didn't you know him?
- Q Where was it Jim taught you? A On Big Creek.
- Q When was that? A That was about, it must have been about '68, etc., '67 along in there when I commenced teaching, I don't know anything.
- Q Well, you learned to read and write? A Oh!
- Q You stayed with Henry Melton? A Certainly, I had been up there and come back down here traveling around all the time.
- Q You had been up to Bartles' and Journeycake's before you saw Horace S. Norman at Fort Gibson? A No, sir.
- Q Where did you leave Randolph white; did you know him?
- A Yes, sir, I brought him with me.
- Q Where did you leave him? A I don't know where he did.
- Q You brought him with you and don't know where you quit him?
- A Randolph came ahead of him, and I don't know where I left him.
- Q Did Randolph come on the train too? A I was traveling and had such a hard time. ~~Randolph came on the train~~
- Q Randolph came on the train that you did?
- A No, he hopped on and came on.
- MR. FAULDS: Do you know where he went? A Who?
- Q This Randolph? A Yes, sir, he came here in the Nation, up about Snow Creek.
- Q Did you come with him? A No, he came lectle ahead of us, my money give out.
- Q What you say is you came here to the Cherokee Nation in 1865, to Fort Gibson? A Yes, sir.
- Q And you went up around Bartlesville after that? A Yes, sir, Bartles.
- Q And you did work for this Journeycake after that time?
- A Yes, sir, I worked here a long time and I traveled up there.
- Q Well, now where were you from 1863 to 1865? A I do not know. I don't know anything about the dates, I work working backwards and forwards in the Nation.
- Q Now, you were aksed this question: 'Where were you from '63 to '65'; answer: 'I was around amongst the Delawares, working with them, making rails'; what do you mean by that? A I was around up there working.
- Q Do you understand what the dates '63 and 1865 refer to?
- A No, sir.
- Q Are you aware that ^{during} those dates between 1863 ~~the~~ and 1865 the war between the North and South was going on; did you know that when you answered it? A No, not exactly; first part is the time.
- Q Then you didn't know what they meant when they asked you the question 'Where were you from '63 to '65'? A Don't put so many cross-questions.
- Q You know that you went away from here after the war began and you went to Ohio? A After it broke out?
- Q Yes. A Oh, I come back here in 1866, I was right here working.
- MR. DAVENPORT: You said you were here in 1863 and 1865?
- A I was working around.

TOM HARRISON, being duly sworn and examined, testified as follows; on part of the Cherokee Nation.

- MR. DAVENPORT: State your name? A Tom Harrison.
- Q Where do you live, Tom? A Coocooscoos.
- Q How old are you? A 52 years.
- Q Well, Tom, were you a slave? A Yes, sir.
- Q Who did you belong to? A John Glass.
- Q Where did John Glass live before the war? A In Flint.
- Q Was there more than one John Glass in that district?

John McDonald, et al.--8.

- Q That is the only one I know of.
- Q How old were you when the war broke out? A Must have been about 14 years old.
- Q Were you old enough to know the slaves of John Glass?
- A Yes, sir, I knowed all of them.
- Q You were big enough to plow and farm? A Yes, sir.
- Q How you seen a man around here that claims to be named John McDonald? A Yes, sir.
- Q Tom, that is the applicant there, known as John McDonald, did you ever see him before? A No, sir.
- Q I will ask you if you are able to state whether or not at the breaking out of the war he belonged to John Glass, the man you belonged to, when the war broke out? A No, sir, he wasn't there because all the boys was there crowd up with me all the same size.
- Q Did John Glass have a family there? A Yes, sir.
- Q Any boys? A Yes, sir.
- Q Do you remember their names? A Yes, sir.
- Q What are their names, Tom? A The oldest one was Bill and youngest one Looney.
- Q Have any girls? A Yes, sir, Jizzie and Polly.
- Q That man didn't belong to him and was not on the place when the war broke out? A No, sir.
- MR. FAULDS: What is your name? A Tom Harrison.
- Q You say you are 47 years old? A I said 52 years old.
- Q Are you sure you are 52? A That is what my father said, sir.
- Q You say you were 14 years old when the war broke out?
- A I was big enough to plow.
- Q You were just 12 years of age? A I don't know.
- Q You were pretty big man at that time?
- A No, I was a boy, wasn't no man.
- Q How much do you weigh now? A I don't know, I never weigh.
- Q Well, how many slaves did John Glass have?
- A Well, I can name them if you want them.
- Q I asked you now many he had? A I will have to name them.
- Q I don't ask you to name them? A Joe Glass was one and Harry died ~~was~~ before the war.
- Q How long before the war? A Four years.
- Q Were you at his funeral? A Yes, sir.
- Q Helped carry him to his grave? A Yes, sir.
- Q That was four years before the war? A Yes, sir.
- Q And you were eight old then? A I was there.
- Q How many slaves did you say he had? A One was named Joe Glass and, I have to count them and tell you now many there was.
- Q How many were there about 25 to 15? A There was Joe Glass, and Helena and Bob, Fox, Fil, John, Dick and Henry, Sam and Jim and Rebe that was the biggest sized boys.
- Q Is that all? A That is all.
- Q You knew all these men at that time? A No, sir, all about age of me and some little older.
- Q How much older? A I guess some five or six years difference.
- Q There was not more than five or six years difference?
- A No was boys together.
- Q He had no grown up slaves? A Joe Glass and Looney and Harry were grown men.
- Q Didn't you say that none of them were men, that they were all the size of you? A They was all men.
- Q I asked you a while ago if he didn't have any slaves except these young ones and these five or six years older than you? A No, sir, I didn't say that.
- Q Didn't you say that? A No, sir.
- Q This all the slaves he had? A Yes, sir and women too.
- Q Did he have women too? A Yes, sir.
- Q You were quite an important man before the war?

John McDonald, et al.-- 9.


Q Three or four years before the war you were plowing?
A I don't know, I was plowing anyway.
Q You were plowing three or four years before the war?
A I plowed some anyway.
Q Before the war? A Yes, sir.
Q Do you say so or not? A I plowed before the war.
Q How many years before the war did you plow? A I can't count
sir.
Q Five years? A I can't count that.
Q Can you count five? A No, sir.
Q Can you count two? A I know I plowed before the war.
Q Was it long before the war or short time? A It must have been
about, I was at home in '61 and I was plowing in that year.
Q You were plowing before that were you? A Yes, sir, during
that year.
Q Were you plowing before that? A I don't know, but then I was
plowing in the spring of '61.
Q You remember it well do you? A Yes, sir.
Q Plow all day long? A Yes, sir.
Q Just did as much plowing as any man? A As soon as they told
me to go I went.
Q How many cattle did you own? A I didn't own any.
Q How many cattle did John Glass own? A I don't know.
Q Do you know how many horses he owned? A He had six mules and
I don't know really how many horses; he had some horses and six mules
I know he had.
Q Do you know how many slaves he had? A Yes, sir, I was with
them all the time.
Q And you remember them all these years? A Yes, sir.
Q Count them over every year don't you?
A Yes, sir, I count them over.
Q So you won't forget it? A Yes, sir.
Q You are an applicant for citizenship yourself are you?
A Yes, sir.
Q What do you claim as? A Claim as a Cherokee freedman.
Q Have you always lived in the Cherokee Nation? A Yes, sir, I
have.
Q You are a slave of John Glass? A Yes, sir.
Q And you were here in 1866? A Yes, sir.
Q And been here ever since? A Yes, sir.
Q Right along? A Yes, sir.
Q You are not on the 1880 roll? A No, sir.
Q Do you know why? A Yes, sir, I do.
Q Were you out during that time?
Mr. Davenport: I object; that does not make any dif-
ference.
Q Well, have you seen all these slaves you spoke of off and on
since the war? A Yes, sir.
Q Every one of them? A Yes, sir.
Q Any of them died? A Yes, sir.
Q Well, then you haven't seen those that died off and on ever
since the war? A I know what is died.
Q How many of them is dead? A John is dead and Zeke is dead
and Sam and Jim is dead.
Q Where did they die? A Jim and Sam died in Flint.
Q Have you ever been convicted of anything? A No, sir, never
was tried before any court.
Q Never were? A No, sir.

John McDonadl, et al.--10.

J. O. Rosson, being first duly sworn, states that he ~~is~~
~~is~~ 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 there f.

J. O. Rosson

Subscribed and sworn to before me this October 3d, 1901.



Commissioner.

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

209
W

In the matter of the application of John McDonald for the enrollment of himself and the minor children, John Jr., Irving and Jane McDonald, as Cherokee Freedmen.

DECISION.

The record in this case shows that on July 1, 1901, John McDonald appeared before the Commission at Nowata, Indian Territory, and made personal application for the enrollment of himself and the minor children, John Jr., Irving and Jane McDonald, as Cherokee Freedmen. Further proceedings in the matter of said application were had at Fort Gibson, Indian Territory, on September 27, 1901.

It appears from the evidence in this case that the said John McDonald was not a slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the rebellion. His name is not found on the 1880 authenticated Cherokee roll.

The minor children herein applied for claim the right to enrollment through the said John McDonald.

It is, therefore, the opinion of this Commission that the application for the enrollment of John McDonald, John McDonald, Jr., Irving McDonald and Jane McDonald, as Cherokee Freedmen, should be denied 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)

Jame E. King

Chairman.

(SIGNED)

T. B. Needles

Commissioner.

(SIGNED)

C. R. Bronkbridge

Commissioner.

(SIGNED)

W. E. Stanley

Commissioner.

Dated at Muskogee, Indian Territory,

this

JUL 10 1901

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Tahlequah I. T. May 14th 1904.

In the matter of the application for the enrollment of John McDonald et al
as Cherokee Freedmen.

Cherokee V. D. 993.

Brief of the Cherokee Nation.

The Commission to the Five Civilized Tribes on July 10 1903 being familiar with all of the testimony and the reputations of the several witnesses in this case unanimously rejected the applicants finding:

"it appears from the evidence in this case that John McDonald was not a slave of a Cherokee Citizen or a free colored person residing in the Cherokee Nation at the commencement of the rebellion."

The Honorable Commissioner of Indian Affairs reporting upon this case (Land 47815-1903) on February 11th 1904, after slightly reviewing the testimony finds that the preponderance of the evidence seems to conclusively show that John McDonald returned to the Cherokee Nation in 1866; but there was certainly no evidence in this case that John McDonald ever belonged to a citizen of the Cherokee Nation before the war, that that they were free colored persons residing therein. Upon investigation of the testimony of John McDonald himself it will be seen that it is extremely unsatisfactory and evasive all the way through.

His name is only upon the Wallace Roll and not upon the Kern & Clifton roll or on any of the Cherokee rolls. He claims to have belonged to John Glass a Cherokee citizen prior to the war, who lived in Flint District but he knows little if anything of his owners surroundings and knows nothing whatever of the members of John Glass's family. He does not know his wife, neither does he give the names of his children but he does give the names of two or three of his slaves which he evidently found out afterwards. His original witnesses to substantiate his case were

Columbus McHair and Jerry Wain neither of whom saw him prior to 1876, and McHair at even a later date. McDonald testifies at first that he stayed

around in the Cherokee Nation during the war, in and out and around and about working for the Delawares. Now it is an historical fact, and the treaty between the Cherokee Nation and the Delaware Indians shows that the Delawares acquired no rights in the Cherokee Nation until April 8, 1867 and that the Delawares lived in Kansas at the time and came to the Cherokee Nation in 1868 or 1869. These historical facts flatly contradict the testimony of McDonald in his own behalf. Besides McDonald testified when on the stand again in his own behalf that he left the Cherokee Nation about the beginning of the war and in a very unsatisfactory manner claims that he made his way to the distant state of Ohio where he joined the army and served to the end of the war. We do not see how this can be reconciled with his other statement of having been in the Cherokee Nation working around and about during the whole of the war.

Again, this contradicts his other witness George W. Vann who claims in a very unsatisfactory manner to have seen him around and about at different times during the war and finally when pinned down was not certain as to having seen him prior to 1870. The other records in the possession of this Commission show that the two witnesses George W. Vann and Horance S. Norman are freedmen applicants for citizenship and they have both been rejected upon the ground that neither of them belonged to citizens of the Cherokee Nation at the commencement of the war nor were they free colored persons residing therein at that time.. Norman was not born according to his testimony until 1859 and was certainly too young to have testified to the things which he attempted. As above observed both of these witnesses have themselves been rejected by the Commission. But neither of them attempts to know McDonald when he was a slave of John Glass and therefore there is not a single witness who testified before the Commission to the fact that the applicant was a slave of a Cherokee Citizen or free colored person residing within the Cherokee Nation. The applicant admits that he joined the Army in Ohio and it is indeed difficult to imagine how an ignorant negro, without any learning; with no knowledge of geography of the country could have found his way to the distant state of Ohio and we therefore contend, and submit, that the fact of his joining the army in the distant state of Ohio together with all the other circumstances in this case that it is conclusive of the fact that he must have been residing in the State of Ohio at the commencement of the war and not in the Cherokee Nation. If this applicant had belonged to John Glass

Glass, there are hundreds of witnesses he could bring forth to prove this. Upon the other hand the Cherokee Nation introduced Tom Harrison who was fourteen years of age when the war broke out and he testifies that he was a slave of John Glass and that the applicant John McDonald was not. Upon this point Tom Harrison is positive and his testimony shows that he was familiar with John Glass; with John Glass's Children; he gave the name of his wife and the names of his children, boys and girls, and the slaves owned by John Glass and he shows a thorough familiarity with John Glass's family and surroundings.

The Representatives of the Cherokee Nation as the preliminary judgment of the Commissioner in the field shows, thought that there was no satisfactory proof that John McDonald was ever a slave of a Cherokee citizen or that he resided in the Cherokee nation as a free colored person at the beginning of the war and therefore felt confident that the testimony of Tom Harrison was entirely sufficient to rebut the conflicting, unsatisfactory and unsupported testimony of John McDonald in his own behalf and for this reason did not introduce any more witnesses in this case but in view of the fact that the Honorable Commissioner of Indian Affairs thinks differently about this case and disagrees with the members of the Commission to the Five Civilized Tribes who are on the ground and know the reputations of the witnesses who testified for applicant, the representatives of the Cherokee nation now move that this case be reopened and remanded and that the Nation be permitted to introduce additional testimony upon both points namely:

First To the fact that the applicant was not a slave of a Cherokee citizen at the commencement of the rebellion nor a free colored person residing therein at that time.

Second: That he did not return to the Cherokee Nation in time to qualify under the treaty of 1866 or prior to February 11, 1867.

And in support of this motion attention is called to the fact that this slave claims to have been a school teacher in 1867 when it is a well known fact that no slave within the limits of the Cherokee Nation was sufficiently educated to teach school at so early a date after the war and attention is further called to the fact that McDonald does not account for his name not being that of his owner John Glass and that he testifies that he is of part Delaware blood and he further testifies that he was born in the Cherokee nation when it is a well known historical fact that

4
no woman of Delaware blood lived or resided in the Cherokee Nation prior to the Cherokee-Delaware Agreement entered into April 8th 1867.

Attention is further called to the fact of the very unsatisfactory evidence all through this case on part of the applicants and of the well known fact that the Commission here upon the ground is very well acquainted with the disreputable reputations of both Vann and Norman who in an evasive and unsatisfactory manner attempt to testify for the applicant.

We are earnest in our belief that a great injustice will be done the Cherokee people, and honest freedmen, rightfully entitled to enrollment, if this applicant and his children are enrolled as citizens of the Cherokee nation. And we therefore most respectfully ask that our motion to reopen this case be granted and that the representatives of the Cherokee Nation be permitted to introduce additional testimony along the lines hereinabove indicated.

Respectfully,

W. W. Hastings
Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., AUGUST 31, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JOHN McDONALD ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicant, No appearance.
For Cherokee Nation, W. W. Hastings.

On August 8, 1905, this case was remanded by the Secretary of the Interior to the Commissioner for further hearing. On August 17, 1905, the principal applicant, John McDonald, and his attorney, A. S. Mokea, Muskogee, Indian Territory, and the attorneys for the Cherokee Nation were notified that the case would be taken up for further hearing at nine o'clock A. M., on August 31, 1905. The applicant is neither present in person or by attorney.

FOX GLASS, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Fox Glass.
Q What is your age? A 50 or 55.
Q Were you born before the war? A Yes sir.
Q And you are about 55 years old? A Yes sir.
Q About how old were you when the war came up? A I expect I was about 12 or 13 years old.
Q Are you a freedman citizen of the Cherokee Nation? A Yes sir.
Q Are you on the 1860 roll? A Yes sir.
Q Who was your owner before the war? A John Glass.
Q In what district did he live? A Lived in Flint, I reckon.
Q Near what town, what town was his trading point? A Evansville, Arkansas.
Q Was John Glass living when the war came up? A Yes sir.
Q He was a Cherokee by blood, was he? A Yes sir.
Q Do you know this applicant, John McDonald? A Yes sir, I got acquainted with him about 25 years ago at Webbers Falls in Canadian.
Q What was he doing at that time? A He come in there as a school teacher and taught school there awhile, and he claimed he was part Delaware.
Q Did he make any claim then as being a Cherokee freedman? A He had never said anything to me about it, that he was claiming to be a Cherokee freedman at all.
Q How long did you know him around Webbers Falls at that time? A I guess two or three years around there, and then he went on off and I never saw him no more, and the next time I seen him he was claiming to be a Cherokee freedman then.
Q How long was it afterwards before he claimed to be a Cherokee freedman? A I couldn't tell just how long, I had done moved away from there you know, Webbers Falls, I lived in Illinois then.
Q When you first saw him about 25 years ago as you said at Webbers Falls did he then claim to be a slave of John Glass? A He sir.
Q You belonged to John Glass in Flint, did you? A Yes sir.
Q Well did this fellow say he was a slave of John Glass? A No sir, he never was.

--2--

Q Did you know John Glass's slaves? A Yes sir, I knowed all of them

Q Now commence first with the women and we will just take their children in consecutive order and see how many of them you can name? A Called one Hester, one called, -----

Q Did Hester have any children? A Yes sir.

Q Name those you can remember? A Well, Sam, Joe, Josh, Lewis and there was one named Zeke.

Q Did Hester have one named Linda? A Yes sir.

Q Did she have one named John? A No sir.

Q Did John Glass have any other women? A Yes sir, there was mother.

Q What was her name? A Sukie.

Q How many children did Sukie have? A Three.

Q Name them? A Fox Glass, that's me, and Phil and John.

Q Now what became of John? A He died here along about 1890 I think.

Q And he was your brother? A Yes sir.

Q Is that the only John who was the slave of John Glass? A Yes sir.

Q Did he have any other slave by the name of John except your brother? A No sir, he was the only John.

Q And he died in 1890? A Yes sir.

Q He was a man of a family? A Yes sir.

Q Is his wife and children living? A Yes sir.

Q Where did he die? A At Vian, at home.

Q You live at Vian? A Yes sir.

Q How far from your place? A He lived just about a half mile of me.

Q What other women slaves did John Glass, the Cherokee John Glass, have? A He had Betsy.

Q What children did Betsy have? A Two.

Q What were their names? A The oldest one named Austin.

Q What was the next ones name? A The baby, I don't suppose it had a name, it was so little when it died.

Q When was the baby born? A In time of the war.

Q Then Betsy only had the one child, Austin, when the war came up, what became of Austin? A He got killed in a fight in Illinois District.

Q About how long ago? A About 10 or 12 years ago.

Q What became of Betsy, Austin's mother? A She died.

Q When? A In time of the war.

Q Did John Glass have any other women slaves by the name of Betsy except this one? A No sir.

Q Was she or did she have any child by the name of John when the war came up? A No sir.

Q The only child she had when the war came up was Austin, and that is the only you said was killed? A That is the one.

Q Did John Glass have any other women slaves? A Millie.

Q Did she have any children when the war came up? A No sir.

Q Is she living now? A No sir, she is dead.

Q Was there any other women? A No sir, that was all. Bob's mother there.

Q What was her name? A Susie.

Q Did she have any children? A Yes sir.

Q What were their names? A Bob, Henry, Tom and Dick.

Q Did she have any girls? A Yes sir, one named Cynthia.

Q Is Bob the witness who just stepped in the room and announced he was here? A Yes sir, he was the one.

Q Is Tom called by any other names? A He calls himself after he left ever home Tom Garrison.

Q Does he live at Lanapah? A Yes sir.

Q It is the same Tom that has testified in this case? A Yes sir.

Q What became of Dick? A He got killed.

Q Is Henry living? A I suppose so, I haven't seen him for a good while.

- 3-
- Q Did John Glass have any men slaves? A Yes sir.
- Q What were their names? A Two named Joe, and young one named Harry.
- Q Was Harry alive when the war came up? A No sir, died way before the war.
- Q Is either of the two Joes living? A One died in time of the war in Fort Smith, and the other one died just here about 4 or 5 years ago.
- Q Are those all of the slaves both old and young that John Glass had when the war come up? A Yes sir, those are all the men he had, them three.
- Q Did John Glass have any others except those you have named?
- A Yes sir.
- Q You say you didn't see John McDonald until 25 years ago? A Yes sir.
- Q You swear positively John Glass didn't own him? A Yes sir.
- Q Did he ever try to get you to swear for him? A Yes sir, he come to me at Fort Gibson one time and tried to get me to witness for him, but I told him I didn't know anything about him and couldn't do it.
- Q That was the first time he ever claimed to you that John Glass owned him? A Yes sir, that was the first time.
- Q Did you ever know a free colored person by the name of McDonald that lived around John Glass? A No sir.
- Q Was there such a man as that in that vicinity before the war?
- A No sir.

ON BEHALF OF THE COMMISSIONER:

- Q Your mother was named Sukie? A Yes sir.
- Q Did she live with John Glass when the war came up? A Yes sir.
- Q Did Baster live with him? A Yes sir.
- Q Did all these other slaves whose names you have called live with John Glass when the war came up? A Yes sir.
- Q How many of these slaves lived at his house? A I can count how many but then all of those names I called.
- Q Did they all live at his house when the war came up? A Yes sir.
- Q Did he let out any of his slaves to work for other people? A Joe Glass, he stayed at Fort Smith, all the time, one of the Joes did, my uncle one named Joe, he was my uncle, he stayed home, this Joe Glass he kept him in Fort Smith I think all the time, and when the war come up he still remained there and just died there.
- Q How about the women, did he rent any of them out? A No sir.
- Q If he had any slaves who he let out other than those whose names you have called, you don't know anything about it? A Well I know he didn't let out none only him.
- Q About how old were you then? A About 12 or 13, may be more.
- Q You remember distinctly do you the names of all the old slaves?
- A Yes sir, I remember as good as I know he never let any out.
- Q And you remember all these young children? A Yes sir, we were children together, and this fellow come in here awhile ago, and we were all raised up in one yard.
- Q Betsy had a child named Austin and a child that died? A Yes sir.
- Q Do you know the name of the child that died? A No sir, I don't know whether they had named it or not, I don't know, Austin, Betsy's children were half Cherokees. A fellow by the name of An-ta-gee-skee, a Cherokee, lived with her, they were half Indians, Austin was and I suppose the baby was too.
- Q Did the baby die after the war come up? A The baby was born in time of the war, I suppose it didn't live very long after it was born.

- 4-
- Q Where did your mother go when the war came up? A We stayed there all the time until, we didn't go no place until the soldiers come to Fort Gibson, then we goes over there.
- Q To Fort Gibson? A Yes sir.
- Q Did John Glass leave the Cherokee Nation during the war? A Yes sir, he went north and I think they arrested him some place and carried him south.
- Q Did he take any of his slaves with him north? A No sir.
- Q Where did all his slaves stay during the war? A They stayed at home a good while.
- Q Did all of his slaves leave the Cherokee Nation during the war? A Some of the slaves did, the rebel army taken them, but they came back. Tom was one of them, and lets see, who else, and Zeke is another, and a girl, I forgot now what her name was, she never did come back that girl.
- Q Where did Petsy go during the war? A She didn't go anywhere, she stayed at home.
- Q Did she go over to Fort Gibson with the others when the soldiers came down there? A I think she went to Fort Smith when the soldiers all come down in here.
- Q Did John Glass have more than one slave named Petsy? A That is all, just one, that is me knowing, Petsy.
- Q The first time you saw John McDonald was about 25 years ago? A Yes sir.
- Q Do you know how long he had been in the Cherokee nation at that time? A No sir, he just in there to webbers falls where I lived as a school teacher and then he taught school there awhile and after he went away, I didn't know what became of him until I saw him again at Fort Gibson, he wanted me to help him before the Commission while they were taking census, but I told him I couldn't do it.
- Q You don't know whether he returned to the Cherokee nation in 1866 or not? A No sir.

W I T N E S S E X C U S E D.

POLLY MUSKRAT, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Polly Muskrat.
- Q What is your age? A 58.
- Q What is your post office? A Evansville, Arkansas.
- Q Flint District? A Yes sir.
- Q Who was your father? A John Glass.
- Q Your fat her was John Glass? A Yes sir.
- Q Was he a Cherokee? A yes sir, he was a Cherokee.
- Q Are you a full blood Cherokee? A yes sir.
- Q Were you living with your father when the war come up? A Yes sir.
- Q Living at home? A Yes sir.
- Q Did your father have some slaves? A Yes sir.
- Q You never saw this applicant, John McDonald? A No sir, I haven't.
- Q He isn't here this morning? A I aint seen him, never did.
- Q Now lets commence the names of the slaves and name them that your father Jehn Glass had when the war came up. Being with either the men or women, either one? A Well the men that lived with us was two Joe Glasses.
- Q Did he have any other men? A Harry, he died before the war.
- Q Did he have any other grown men? A No sir, only the young boys.
- Q You will name them under the heads of their mothers? A Easter was the name of one of them.

- Q Now Easter, did she have some children? A She had children named Sam, Josiah, Zeke, Lewis, and young Joe Glass, the son of old Joe Glass.
- Q Did she have a girl? A She had a girl named Linda.
- Q Is that all the children Easter had? A Yes sir.
- Q Were they born before the war? A Yes sir.
- Q Well did John Glass have some other colored women? A Sukie had three children.
- Q What were their names? A One was Fox Glass and Phil and John Glass.
- Q What became of that John? A He is dead, that is Fox's brother, young John, he is dead.
- Q Is the Fox you mentioned the witness who was here on the stand awhile ago? A Yes sir.
- Q And this John you mentioned is his brother? A Yes sir, his younger brother.
- Q And he is dead? A Yes sir.
- Q How did he die, get killed? A No sir, just died in disease, he was living at Vian.
- Q Did John Glass have any other colored women? A Yes sir, he had one named Betsy.
- Q Did she have some children when the war came up? A She had two, the oldest boy born before the war was about 3 years old.
- Q What was its name? A Oscar or Austin was one, and the baby died just a little infant.
- Q Was that baby born when the war come up or during the war? A During the war.
- Q What became of Oscar or Austin? A He got killed at Illinois.
- Q About how long ago? A I just can't tell how long ago it has been.
- Q Since the war? A After the war.
- Q Killed in a fight? A Yes sir, just there among the boys.
- Q Did Betsy have any other children except Austin that was killed, and the baby born during the war? A That is the only children she had.
- Q What did you say became of this baby? A It died an infant.
- Q What became of Betsy? A She died at Fort Smith during the war.
- Q You mean before the war? A Yes sir, during the war.
- Q Now did John Glass have any other slaves by the name of Betsy, except this one? A No sir.
- Q He had a colored woman named Susie? A Yes sir.
- Q Did she have some children? A Yes sir.
- Q Name them? A The girl was named Cynthia, and the boys, Robert, Dick, Henry, Tom.
- Q Is Tom living? A I think he is living somewhere, at Coffeyville, I don't know.
- Q Does he sometime go by the name of Tom Harrison? A No sir, I never heard him called Tom Harrison.
- Q Is he a brother of Bob? A Yes sir.
- Q Did you see Bob come in here awhile ago? A No sir, I didn't.
- Q Well did John Glass have any other women? A Millie, that is the young girl.
- Q Did she have any children? A No sir.
- Q Now have you mentioned all of the slaves of John Glass including the men, women and children when the war came up? A Yes sir.
- Q Now you have mentioned one John and that was the brother of Fox you say, did at Vian since the war? A Yes sir.
- Q Was that the only John who was the slave of John Glass? A Yes sir.
- Q Did you ever hear of a free colored person about John Glass's before the war by the name of McDonald? A No sir, I never did.
- Q Who had this Betsy for a wife before the war and who is the reputed father of Austin and that baby? A It was a Cherokee man, named Au-gee-cha.

- Q Did anybody named McDonald have her for a wife? A No sir.
- Q You never heard of a free colored man, or white man named McDonald?
- A No sir.
- Q You said you never saw this fellow applying here, John McDonald?
- A No sir, never did.

ON BEHALF OF THE COMMISSIONER:

- Q Betsy Glass died during the war? A Yes sir.
- Q The only children you ever knew of her having were Austin and this infant that died? A Yes sir.
- Q If she had any children older than Austin you don't know it?
- A She didn't have any, I know she didn't.
- Q Did all these slaves live on your father's place? A Yes sir.
- Q Did he have any slaves he let out to work anywhere else? A No-sir, only Joe Glass.
- Q Before the war did he ever have any other slaves by the name of Betsy besides the one who is the mother of Austin? A No sir, she is the only one.
- Q Did he sell any slaves before the war? A I think he did, but he just let me know of one.
- Q What was that one's name? A Hannah.
- Q Did he sell any others? A No sir.
- Q He only had one slave he sold? A Yes, that is the only one.
- Q Didn't any of these slaves have a child named John besides Sukie? A No sir, that is the only one, Sukie had her youngest, the baby.
- Q Do you think there could have been a free colored man there in that country by the name of McDonald and you not know it? A No sir, I never did see him, never heard of him.
- Q Did just a few people live around there? A Yes sir, where we lived they were just all full bloods.
- Q Were there any free colored men up in there? A No sir, only Ike, but he is dead.
- Q Were there any free colored persons around your father's place at the time the war came up? A No sir.
- Q Had therebeen any around there before that? A No sir.

WITNESSES EXCUSED.

The taking of the testimony in this case was here continued until one o'clock P. M.

At one o'clock P. M. pursuant to continuance heretofore had in this case, the taking of testimony was resumed and concluded.

APPEARANCES:

For Applicants, Neal & London, by John London.
For Cherokee nation, W. W. Hastings.

LIZZIE PETTIT, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Lizzie Pettit.
- Q How old are you? A About 63 years old.
- Q What is your post office? A Briggs.
- Q Who was your father? A John Glass.
- Q Where did he live before the war? A In Flint District.
- Q Was he a Cherokee? A Yes sir.
- Q Did John Glass have any slaves before the war? A Yes sir.

- Q Do you remember the names of any of them? A Yes sir.
- Q Commence with the men, what are their names? A Two Joes, and Harry.
- Q What was the other ones name, did he have any more but those when the war come up? A No sir, had some young boys.
- Q Did he have any women? A Yes sir.
- Q What were their names? A One named Easter.
- Q Did she have some children? A Yes sir.
- Q What were their names? A One named Sam, Lewis, Josiah, and young Joe, one named Zeke.
- Q Did she have any girls? A yes sir, one girl, Linday they called her.
- Q Any more women? A Sukie.
- Q Did she have any children? A She had three boys.
- Q What were their names? A One named Fox.
- Q Is that the Fox here, the witness? A Yes sir, one named Phil and John, the youngest one.
- Q What became of John? A He died.
- Q When? A About 5 or 6 years ago.
- Q He was a brother of Fox? A Yes sir.
- Q Did John Glass have some more colored women? A Yes sir.
- Q What was the next ones name? A Susie.
- Q Did she have some children? A Yes sir.
- Q What are their names? A One named Rob, this witness here, and Tom, Dick, and Henry, and a girl named Cynthia.
- Q Did he have any more women? A Betsy.
- Q Did she have some children? A Two boys.
- Q What were their names? A One Austin, the oldest one.
- Q What was the next ones name? A I couldn't tell you, some kind of curious name in Cherokee.
- Q What became of the second one? A He died on the way to Gibson
- Q When did he die? A In time of the war.
- Q Which died first the baby or the mother? A The mother died first.
- Q And she died at Port Smith? A First, yes sir, then they brought the baby and it died.
- Q Did Betsy have any other children born other than this boy Austin and this baby? A No sir.
- Q Did John Glass have any colored woman named Betsy other than this Betsy? A No sir.
- Q What became of Austin? A He got killed.
- Q After the war? A Yes sir.
- Q Who was the reputed father of Austin and this child? A Cherokee man called Au-gee-chee.
- Q Now you have said she had one more colored woman? A That is Millie.
- Q Did she have any children when the war commenced? A No sir.
- Q Now you have mentioned all of the slaves of John Glass? A Yes sir.
- Q Including the men, women and children? A Yes sir.
- Q You have mentioned one John which is the brother of Fox? A Only one John.
- Q Was there a free colored man or white man or Cherokee that stayed about John Glass's place by the name of McDonald? A No sir, not that I knew of.
- Q Were you single and living with your father when the war came up? A Yes sir.
- Q Were you living there at home? A Yes sir.
- Q Did you ever see this applicant John McDonald? A No sir, I don't know him, I never did hear of him until the first time they wrote to me.
- Q And your father owned no man nor child by the name of John other than this brother of Fox's? A No sir, that is the only one.

Q And that one died down at Vian? A Yes sir.
Q And he lived to have a family down there? A Yes sir.
Q Wife and children? A Yes sir.
Q Was your father the only John Glass who owned slaves in Flint before the war? A Yes sir.
Q And he had but one Netsy? A Just one.

BY MR. LONDON:

Q How old you say you are? A I expect I am about 63.
Q How old were you at the commencement of the war? A I think I was about 20 or 21.
Q How many slaves did your father have? A I couldn't remember, all what I named.
Q You named all he had? A Yes sir.
Q Did he keep them all at one place? A Yes sir, but Joe Glass, he was hired out at Fort Smith, he died there.
Q Was that the only slave he ever hired? A Yes sir.
Q How you say whose children were Lewis, Joe, Josiah, and Zeks?
A Baster's children.
Q Baster was Joe Glass's wife? A Yes sir.
Q How Joe Glass and Baster had one boy named Joe, one named Josiah, Zeks and Lewis? A Yes sir.
Q What other boy did she have? A Sam, the oldest one.
Q That was Baster, the oldest one named Sam? A Yes sir.
Q How many boys did Baster have? A 5 I believe.
Q Did Sam, Lewis, Joe, Josiah, and Zeks? A Yes sir, and one girl.
Q How many boys did Sukie have? A 3 boys.
Q Was her name Sukie or Sim? A Sukie.
Q How old was Sam at the commencement of the war? A I couldn't tell you, I don't remember, a big boy.
Q Well study and see if you can't remember how old he was? A I guess about 17 or 18.
Q How old was Lewis? A He was about 8 or 9.
Q How old was Joe? A Joe was about two years old.
Q How old was Josiah? A He was about 13 I reckon.
Q How old was Zeks? A He was about 11.
Q How you are sure these are the children of Baster, are you?
A Yes sir.
Q You are sure that these children, Lewis, Joe, Josiah, Zeks, and you are not the children of Sukie? A No sir, they are Baster's.
Q What are Sukie's children named? A Named Fex, Phil and John.
Q How old is Fex? A I couldn't tell you.
Q How old is Phil? A About 30 now.
Q How old was he when the war come up? A I guess about 17 to 20.
Q Well, how old is he now? A I guess he must be,-----
Q What did Fex do, what was his job around the place? A Farm.
Q What did Phil do? A Farm too.
Q What did John do? A He didn't do much he was a little boy.
Q You say John died? A Yes sir.
Q Who told you he died? A His brother here.
Q What ever become of Joe? A This young Joe?
Q No Joe, Baster's boy? A He died at Fort Smith.
Q When did he die? A During the war.
Q Did you see him after he was dead? A Yes sir.
Q What become of Josiah? A He died too.
Q Where did he die? A In Flint.
Q How old was he when he died? A This young Josiah.
Q Yes, Baster's boy? A I guess he was about 14.
Q Soon after the war? A Yes sir.

- Q John died how long ago? A 5 or 6 years ago.
 Q What became of Bob? A He is here.
 Q And hat other one is here? A Fox.
 Q Is Dick here? A Dick is dead, he got killed.
 Q Where is Henry? A I don't know where Henry is living, I haven't seen him.
 Q You are sure that he kept all his slaves at home? A Yes sir.
 Q None of them hired out? A No sir, none but that Joe.
 Q You say you were 20? A Yes sir.
 Q What did you do before the war? A Just stayed there at home and worked.
 Q You are sure that your father never had any slaves hired out to anybody except old Joe? A No sir.
 Q How come him to have one named Joe and one named Josiah? A That is what they called him.
 Q You never saw John McDonald, this applicant? A No sir, I don't know him.
 Q Would you know one of these boys if you should see them now you reckon? A Yes sir, I know Fox.
 Q How is there any one of these boys alive that you don't know now where he is at except Henry? A Yes sir, except Henry and Tom.
 Q Now you are positive that Easter didn't have a boy named John?
 A Yes sir.
 Q And you are positive Sukie's boy named John is dead? A Yes sir.
 Q You didn't see him when he died? A No sir.
 Q Who told you? A His brother Fox.

W I T N E S S E X C U S E D.

BOB GLASS, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Bob Glass.
 Q How old are you? A About 56 or 57, I don't know exactly how old I am.
 Q Were you the slave of a Cherokee citizen before the war? A Yes sir.
 Q Who was your owner? A John Glass.
 Q Where did he live? A In Flint District.
 Q Did John Glass have some other slaves besides you? A Yes sir, a good many.
 Q Now name them, begin with the men if he had any? A Joe Glass, and my father called, Joseph Glass, and Harry.
 Q Was Harry alive when the war come up? A No sir.
 Q Then he had two? A Yes sir.
 Q Did he have any women? A Easter.
 Q Now give us her children? A Linda, Sam, Jim, Lewis, Joe.
 Q Did Easter have any other children? A Them were all I know of.
 Q Did she have one named Zake? A Yes, Zake, I forgot him.
 Q Do you know whether she had one named Josiah? A That is the one I called Jim.
 Q Now what as the next one? A Sukie.
 Q Did she have any children? A Yes sir.
 Q What were their names? A Fox, Phil and John.
 Q Is Fox one of these witnesses out there? A Yes sir.
 Q Is John a brother of Fox? A Yes sir.
 Q What became of John? A He died.

- Q Where did he die? A Right back here near Vian.
Q How long ago? A I couldn't tell you exactly.
Q The last few years? A A few years back.
Q Was he a man of a family when he died? A Yes sir, they say he was.
Q What was the next woman's name that John Glass had? A Betsy.
Q Did she have any children? A Yes sir.
Q How many? A Two.
Q What were their names? A Austin and a little baby.
Q What became of Betsy? A Died in Fort Smith.
Q When? A In time of the war.
Q What became of this baby of hers? A We come from Fort Smith and the baby died on the road close to Fort Gibson.
Q How do you know it died? A I had the child when it died, we were in a wagon.
Q Had its mother died at Fort Smith before the child died? A Yes sir, I took care of the child, she was my aunt.
Q This Betsy? A Yes sir.
Q Did John Glass have any other slaves named Betsy other than this Betsy? A Not that I know of.
Q Did he have any? A No sir.
Q What became of Austin? A He got killed down at Illinois some place since the war.
Q Did John Glass have any other slaves? A That is all I know of.
Q Did he have your mother? A Yes sir.
Q What was her name? A Her name was Susie.
Q What was her children's names? A Cynthia, Bob, that's me, Tom, Dick and Henry.
Q What became of Tom, is he alive? A Yes sir, he is up the river there near Snapah.
Q He is also known as Tom Garrison? A Yes sir.
Q What became of Dick? A He got killed out west somewhere.
Q Where is Henry? A He is here in town some place.
Q Where is Cynthia? A She is dead.
Q Did John Glass have any other women? A No sir, not that I know of.
Q Do you remember one named Willie? A That is right, she didn't have any children, she was the youngest one.
Q Did John Glass have any other other than those you have mentioned? A No sir, not that I know of.
Q Did you know them all? A Yes sir.
Q Were you living there with John Glass when the war came up? A Yes sir.
Q About how old were you? A About 13 or 14 years old.
Q Do you know this applicant, John McDonald, have you see him? A I saw him when I went up to Cooseneck.
Q That is when you moved up there? A When I moved up there I saw him up there.
Q Is that the first time? A First time ever I saw him.
Q About how long ago was that? A About 20 years ago.
Q What did he claim at that time? A He was a school teacher at that time.
Q Did he claim to be a slave of John Glass at that time? A No sir, I think not.
Q Did he ever talk to you about his being a slave of John Glass about his being his slave? A Never did.
Q Did he ever try to get you to be a witness for him? A No sir.
Q When did you find out that he claimed to be a slave of the same man that you belonged to? A Not until right lately.

BY MR. LONDON:

- Q How old did you say you were? A About 56 or 57.
- Q Where did you say you first saw John McDonald? A Up in the Gooseneck.
- Q How many children did Master have? A She had 5 I think.
- Q What were their names? A Linda, Sam, Jim, Zeke, Lewis and Joe, she had six.
- Q What became of Linda? A She died in time of the war.
- Q What became of Sam? A I guess he is dead too.
- Q How long has it been since you saw Sam? A I never saw him since peace.
- Q What sort of looking boy was Sam? A Kind of a brown skin.
- Q Just a common brown looking negro was he? A Yes sir.
- Q Would you know Sam if you should see him? A I think he is dead.
- Q Who told you Sam is dead? A I don't know now, I haven't seen him.
- Q When did you see him last? A I haven't seen him since peace.
- Q How old was he when you saw him? A He went back in Flint and I went up where I live now.
- Q How old was Sam the last time you saw him? A He was a little younger than I am.
- Q He about 52? A I just couldn't tell you, I can't tell my age myself.
- Q How many slaves did John Glass have? A He had good many.
- Q Did you know them all? A I know them all.
- Q How old were you when the war come up? A About 13 or 14.
- Q Could you read and write then? A I can't read and I can't write yet.
- Q Did John Glass own any farm besides the home farm there? A That is all I know.
- Q He might have owned some other farm? A I couldn't tell that.
- Q You don't know whether John Glass owned a farm ever on this side of the river or not? A No sir, I don't.
- Q You don't know whether he owned one near Fort Smith or not?
- A No sir.
- Q You don't know how many slaves he owned? A I named them.
- Q How many horses did he have? A I just couldn't tell.
- Q How many times were you ever arrested Bob? A Near time.
- Q You never saw John McDonald but once? A Never did see him, only when he was up there.
- Q You never saw him since 1901? A I guess not, he lived up there, he had a fellow to take him to Fort Smith and he never did come back.
- Q That is the applicant here that you saw 30 years ago? A What did you say.
- Q I asked you if this applicant that you saw 30 years ago? A I guess it is.
- Q How do you know whether it is or not if you haven't seen him?
- A Glass didn't have a John McDonald.
- Q Well there might have been another John Glass? A There might have been, I couldn't swear to that.
- Q Can you swear that this applicant was not the slave of John Glass? A Not the one I belonged to, I can swear he didn't belong to that man.
- Q Yet you say you don't know how many slaves he had? A I told you I knew them and I can name them.
- Q How Bob who has talked to you about this case? A No one what I know.
- Q Who has talked to you since you have been summoned here? A I got a letter, it is here somewhere.

- Q Bob did any of the balance of these negroes have two names? A No sir, we all talked the Cherokee, we couldn't understand English.
- Q None of them had two names? A No sir.
- Q You never called Jim Josiah sometimes and Josiah Jim? A That there is his name in Cherokee, Josiah.
- Q What did they call Joe, call him John sometimes? A No sir.
- Q What makes you remember they called Jim Josiah? A That was his Cherokee name.
- Q Josiah a Cherokee name? A Yes sir.
- Q And his English name was Jim, is that it? A That is the way I call it.
- Q What did they call Henry, Hank sometimes? A What Henry.
- Q You just now swore there was one named Henry? A That is all the name I know Henry.
- Q What did they call Fox? A Just call him Fox.
- Q What is his Cherokee name? A Chug-la.
- Q What is Joe's name in Cherokee? A Just Joe.
- Q You are sure Jim's name was Josiah? A That is all.
- Q What was your name in Cherokee? A La-wa-nun.
- Q What did they call John in Cherokee? A Aw-gwa-a-nun.
- Q You say there was only one John Glass in the Cherokee nation? A That is all I know.
- Q Might have been another? A Might have been, I couldn't tell.
- Q And there was only one John of all his slaves? A That was all.
- Q Might there been a Sam, Zeke, George or some of them, might they have been called John? A I don't know, I couldn't tell.
- Q You saw John McDonald, the applicant here, 30 years ago? A Yes sir.
- Q Haven't seen him since? A No sir.
- Q You don't know whether this is the fellow, are you willing to swear the applicant here is the man you saw up there? A I haven't saw him, I can't tell just whether it is him or not.
- Q You have never seen this applicant here that you know of since he made this application? A No sir.
- Q Then you don't know whether he is John Glass's slave or not, unless you could see him? A I don't know nothing about it.

BY MR. HASTINGS:

- Q Was there any man named McDonald in Flint District before the war? A No sir.
- Q No free colored man or white man by that name? A No sir, not that I know of.
- Q Wasn't any other John Glass a Cherokee citizen except that one John Glass? A Not that I know of.

BY MR. LONDON:

- Q You wouldn't swear positively that there wasn't another John Glass? A Not that I know of.
- Q How old were you when the war come up? A 13 or 14.
- Q You don't know whether this applicant is the slave of John Glass or not, do you? A I couldn't tell you.

BY MR. HASTINGS:

- Q Was this John McDonald you saw up there a slave of John Glass? A No sir.
- Q Did he have any other Johns except this John the brother of Fox? A No sir.
- Q He had no other John? A No sir.
- Q Had one named Betay? A Yes sir.
- Q And she had two children, Austin and a baby? A Yes sir.

- Q And Betsy died at Fort Smith? A Yes sir.
Q And the baby died while you were keeping it? A Yes sir.
Q That was all you know about it? A Yes sir.

BY MR. LONDON:

- Q Did John Glass ever move you around? A No sir.
Q Stayed right there? A Yes sir.
Q Never got off the place? A No sir, not until the war come up,
got off then and in a hurry.

WITNESS EXCUSED.

DAVE MUSKRAT, being first duly sworn, testified as follows,
through TUXIE O. REESE, who was first duly sworn to correctly in-
terpret the proceedings;

BY MR. HASTINGS:

- Q What is your name? A Dave Muskrat.
Q How old are you? A 59.
Q What is your post office? A Evansville, Arkansas.
Q Where did you live before the war? A Up there in Flint District.
Q That was in the Cherokee Nation? A Yes sir.
Q Are you a full blood Cherokee? A Yes sir.
Q Did you know John Glass before the war? A Yes sir.
Q How far did you live from John Glass? A About 4 miles.
Q Were you at his house frequently? A Yes sir.
Q Is your wife a daughter of John Glass? A Yes sir.
Q Did John Glass own some slaves? A Yes sir.
Q Did you know them? A Yes sir, I knew them.
Q Can you mention the names of them? A Which ones.
Q Did he have any men? A Yes sir, had a good many, I think, but
I don't know how many, there was.
Q Did you know their names? A Joe and Joseph.
Q Did he have some women, colored women? A Suki.
Q What children did Suki have? A One named John, one named Fox and
Phil.
Q What became of John? A He died.
Q When, since the war? A Yes sir, he died since the war a short
time ago, I couldn't tell just when exactly.
Q Was that the only slave by the name of John that John Glass had?
A Yes sir.
Q Did he have some other women besides Suki? A Bester.
Q Did she have some children? A Yes sir, Sam, Josiah, Zeke, Lewis,
and Joe.
Q Did she have a girl? A Yes sir.
Q What is her name? A They called her Linda.
Q Did John Glass have some other colored women? A Betsy.
Q Did she have some children? A Yes sir, she had one, that is all
I knew.
Q What was its name? A Austin.
Q Do you know where Betsy died? A I just heard she died.
Q Where? A Fort Smith.
Q Did you hear she had a baby when she died? A She died and the
baby died.
Q She did have a baby but it died? A Yes sir.
Q Did John Glass have any other colored women slaves? A Susie.
Q Did she have some children? A Robert, Tom, Henry and Dick.
Q Did she have any girls? A One.
Q What was its name? A Cynthia.

- Q Did John Glass ever have a woman named Willie? A Yes sir.
Q Did she have any children when the war come up? A No sir.
Q Now have you mentioned all the slaves of John Glass's? A Yes sir.
Q Was there any other John Glass up there that had any slaves except this John Glass to whom you refer? A No sir, that is all.
Q You never saw this applicant John McDonald, did you? A No sir.
Q Was any free man or white man or Cherokee or anybody up there by the name of McDonald before the war? A Not that I know of.
Q You never heard of him? A No sir.
Q Did this John Glass have any other woman but this one Betsey that you mentioned by that name? A Just one.
Q And that is the one you have mentioned? A Yes sir.
Q Did she have any boy by the name of John McDonald born to her before the war? A No sir.

BY MR. LOWDON:

I don't care to cross examine this witness.

WITNESS EXCUSED.

LIZZIE PETTIT RECALLED:

BY MR. HASTINGS:

- Q Was your father John Glass, the only John Glass who was a Cherokee that owned slaves in Flint District before the war? A Yes sir, that is all.

ON BEHALF OF THE COMMISSIONER:

The attorney for the applicant files a written motion that the case be continued for 30 days in order that he can produce witnesses in this case.

COMMISSIONER BIXBY:

The motion is denied.

-----OO-----

George H. Lesley, 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.

George H. Lesley

Subscribed and sworn to before me this 8th day of September, 1905.

W. B. White

Notary Public.

2702

COPY.

Charlotte Freeman B 995

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

In the matter of the application for the enrollment of
John McDonald Sr., et al., as Charlotte Freeman.

-2-

DECISION.

THE RECORD IN THIS CASE SHOWS: That, on July 1, 1901, John McDonald Sr., appeared before the Commission to the Five Civilized Tribes, at Nowata, Indian Territory, and made application for the enrollment of himself and minor children, John Sr., Irving and Jess McDonald as Charlotte Freeman; that further proceedings in the matter of said application were had on September 27, 1901, at Fort Gibson, Indian Territory; that on July 10, 1902, the said Commission rendered its decision herein, saying said applicants the right to enrollment as Charlotte Freeman, and that the proceedings in this case were duly forwarded to the Department; that on April 8, 1904 (I.T.N. 1200-02), the Department notified said Commission that the attorney for the Cherokee Nation would be allowed thirty days within which to file any argument in this case which he might desire, and the applicant ten days within which to answer same, and that on June 18, and 24, 1904, said argument and reply were filed with the Commission and forwarded to the Department; that thereafter, on August 6, 1904 (I.T.N. 1200-04), on motion of the Cherokee Nation, the proceedings in this case were resumed by the Department for further testimony; and that on August 21, 1904, supplemental testimony in the matter of said application was taken at Muskogee, Indian Territory.

THE FINDINGS IN THIS CASE SHOW: That the principal applicant, John McDonald Sr., claims the right to enrollment as a Charlotte Freeman in virtue of his marriage with the two widows of Article 17 of the Treaty of 1802, and that the said application herein claims the same right in his descendants.

-3-

The following points are fully established by the evidence, no attempt having been made to disprove them:

That the principal applicant, John McDonald Sr., was born prior to the commencement of the rebellion, is identified on the Wallace roll, and is the father of the minor applicants herein; and that said minor applicants' mother was one Siney McDonald, now deceased, and she was a non-citizen of the Cherokee Nation.

In support of their application for enrollment applicants herein introduce George W. Vann and Horace S. Norman as witnesses, neither of whom were able to give any satisfactory testimony relative to material points at issue in this case, and both of whom have been denied enrollment, by the Commission to the Five Civilized Tribes, on the ground that they were neither the slaves of Cherokee citizens, nor free colored persons residing in the Cherokee country, at the commencement of the rebellion.

The testimony of the witness George W. Vann, is, by this office, considered worthless, and that this opinion is shared by the Department, see Departmental letter of January 19, 1908, (I. T. D. 240-05). The matters at issue in this case of which the witness Horace S. Norman, testifies, happened, according to his own testimony, when he was but seven years old.

The testimony of the principal applicant, John McDonald Sr., indicates that he was never in the Cherokee Nation prior to the time the Delaware Indians removed from Kansas to the Cherokee Nation, which, under the treaty of April 8, 1867, must necessarily have been subsequent to the time specified in the Executive decree for the return of freedmen to said Nation.

In behalf of the Cherokee Nation it is shown by testimony practically conclusive, that John McDonald Sr., was never at any time the slave of John Glass, whom he claims was his master at the commencement of the rebellion; and it is further shown, by testimony equally conclusive, that the said John McDonald Sr., was not a free colored person residing in Flint District (the District in which he claims to have resided prior to 1863), Cherokee Nation, at the commencement of the rebellion.

Excepting that John McDonald Sr., is identified on the Wallace roll, neither the applicants herein nor any ancestor through whom by any possibility they might obtain rights to Cherokee freedman citizenship, can be identified on any roll of the Cherokee Nation in the possession of this office.

FINDINGS OF FACT AND CONCLUSION: It is considered that after ample opportunity having been afforded, the applicants herein

have failed to establish by satisfactory evidence that they possess any rights to enrollment as Cherokee freedmen, consequently, their application for enrollment comes within the ruling of the Department in the cases of Eliza Bryant et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I. T. D. 1470-04), Samantha Chambers (I.T.D. 2296-04) Ed Williams (I.T.D. 4230-04), and Koss Ross (I.T.D. 6056-04).

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), John McDonald Sr., John McDonald Jr., Irving McDonald and Jane McDonald, are not entitled to enrollment as Cherokee Freedmen, and their application for enrollment as such is accordingly denied.

SIGNED: Jamc Bixby.
COMMISSIONER

Dated at Muskogee, Indian Territory,

this OCT 7 1905

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

McGOWAN & SERVEN,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, considering the applications of:

John McDonald, et al. Jr., ✓

John McDonald, et al. gr.

993

NOTICE FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1868.

That applications were made for their enrollment prior to September 1, 1868.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this _____ day of _____, 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

Paterson

John McDonald

75
902

Ans
6/22 -

Copies

Interior Department

The Commissioner to the 5 civilized tribes:

In the matter of the application for the enrollment of John McDonald and his minor children Jennie and Ervin McDonald as Cherokee freed men.

The Hon. B. B. By Commissioner to the five civilized tribes, Muskogee, etc. Your petitioner John McDonald would represent and show:

That the decision of the Interior Department rejecting the petitioner's application for enrollment as a Cherokee freedman works a great injustice upon the applicants.

And the petitioner have recently made a discovery of sufficient new evidence to clearly and conclusively show that this case should be reopened for reconsideration

which the following allegations set forth;

Petitioner that in accordance with the provisions of the Curtis bill passed by the present session of U.S. Congress and approved April 26th 1906 he is entitled

to enrollment as a Cherokee freed
man

and That petitioners have by continued
diligent been able to discover and
secured the new evidence of C. D.
Hardin, and two disinterested

witnesses by the evidence of these
persons will be shown that your
petitioner was the slave of a
citizen of the Cherokee prior to
the commencement of the war of
the rebellion 1861-5

And that your petitioner was a
resident of the Cherokee nation
in the year of 1866 and petitioner
did not know of this evidence at the
original hearing of this case

and this motion is not made to delay and
pretend, but motion is made in good
faith, and copy of this motion upon
the attorneys for the Cherokee nation:

Therefore petitioner Prays the commission
to the 5 civilized tribes resound the
opening of this case for the intro-
duction of newly discovered evidence
in support of his claims this day of
June 1900

J. D. McDonald

written

J. D. McDonald

C. D. Hardin being duly sworn
according to law; upon oath depose
and says he is a resident of the
Cherokee nation and he have been
residing in said nation during the
war of the rebellion 1861-5 and he is
now about 65 years old
and he have been acquainted with and
have known the whereabouts of John
McDonald all the time since the said
war I became acquainted with John
McDonald about the year of 1866 at Frank
L Gibson I learned then that said John
McDonald was the slave of John Glass
who was a Cherokee citizen the same
was never disputed until now,
witness being a minister had good
opportunity get acquainted these facts
C. D. Hardin

Copy

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

In the matter of the application for the enrollment of John McDonald, et al., as Cherokee freedmen, F. D. 993.

Reply of Cherokee Nation to Motion to Reopen.

The records show that John McDonald is the principal applicant and the others are his children and that they applied on July 1, 1901, for enrollment as freedmen citizens of the Cherokee Nation and that John McDonald claimed that his owner's name was John Glass. The record further shows that he was rejected by the Commission on July 10, 1903, but that upon his application the same was remanded on August 8, 1905, by the Department and that the applicants were notified, additional testimony taken in the case, and that he was again rejected on October 7, 1905, and his rejection affirmed by the Secretary of the Interior March 23, 1906.

There is no merit whatever in this case. He does not set up a thing in his motion entitling him to a new trial; the copy of the motion filed with the Cherokee Nation is not sworn to, neither is the statement of C. B. Hardin, his witness, sworn to, and besides C. B. Hardin only claims to have known John McDonald since 1866, whereas the Cherokee Nation introduced a number of witnesses conclusively showing that he was not the slave of John Glass as claimed by him in his testimony and among these was Tom Harrison or Glass, who belonged to the said John Glass, who testified most positively that the applicant did not belong to him and Fox Glass, another witness for the Cherokee nation, testified that he was a slave of John Glass and that the said John McDonald did not belong to John Glass, but they got acquainted with him about 25 years prior to that time in the neighborhood of Webbers Falls and he claimed to be a Delaware. Polly Musrat was a daughter of John Glass, and she is a fullblood Cherokee, and she testified that she knew her father's slaves, that John was not one of them, and that she had never seen him before. Lizzie Pettit was another daughter of John Glass; she knew her father's slaves and she

testifies positively that the applicant John McDonald was not one of them. Bob Glass was a slave of John Glass and he lived with him when the war broke out and he tells the names of all of Glass' slaves and he says that the applicant did not belong to him. Dave Muskrat, the husband of Polly Muskrat, testifies to practically the same thing. The testimony is so conclusive in this case that the applicants did not belong to Cherokee citizens prior to the war that we hesitate to comment upon the testimony at any very great length. The Commissioner of Indian Affairs on December 19, 1905, said:

"From the testimony it does not seem that John McDonald, Sr., ever lived in the Cherokee nation prior to April 8, 1867, which is subsequent to the time within which he should have returned in order to be entitled to enrollment as a Cherokee freedman, nor does it seem from the record that he was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the beginning of the war."

In other words, he is denied both on the question of ownership and of return.

This case was remanded once before upon the motion of these applicants and we submit that there is nothing in this motion that would show that applicant is entitled to have the same remanded again, and we submit that the motion should be denied.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

7-6-06.

COMMISSIONERS
TAMM 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 Freedmen
D-993

Muskogee, Indian Territory, July 24, 1903.

W. W. Hastings,

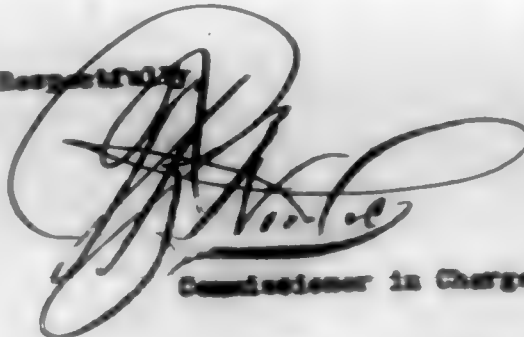
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 10, 1903, rejecting the application of John McDonald for the enrollment of himself and three minor children, John Jr., Irving and Jane McDonald, as Cherokee freedmen.

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,



Commissioner in Charge.

Enc. D-78

Refer in reply to
the following:

LAND
47515-1903.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, Feb. 11, 1904.

(COPY)

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a report from the Commission to the Five Civilized Tribes, dated July 24, 1903, transmitting the record relative to the application of John McDonald, for the enrollment of himself and his three minor children, John, Jr., Irvin and Jane McDonald, as Cherokee freedmen.

July 10, last, the Commission held that the applicants were not entitled to enrollment as Cherokee freedmen. The Commission held that John McDonald was not a slave of a Cherokee citizen or of a free colored person residing in the Cherokee Nation at the commencement of the Rebellion; that for this reason he was not entitled to enrollment as a Cherokee freedman; and that the father not being entitled to enrollment, the children were not entitled to enrollment.

John McDonald testified that at the commencement of the Rebellion he belonged to John Glass, who was a citizen of the Cherokee Nation; that he left the Nation during the war, but returned in 1866. Columbus McHair did not know where the applicant was in 1866. Jerry Vann testified that the first time he saw McDonald was in 1878, and that he did not know whether said McDonald was a slave or not at the commencement of the war. George W. Vann testified that McDonald was in the Cherokee Nation in 1866, and that he saw him there. Horace S. Norman testified that he saw the applicant in the Cherokee Nation in

1866, and that he "never knew him anywheres else."

The evidence as to John Glass being a citizen of the Cherokee Nation appears to this office to be undisputed, and the preponderance of the evidence seems to conclusively show that John McDonald returned to the Cherokee Nation in 1866.

In view of the record this office believes that the applicant and his minor children are entitled to enrollment and it is respectfully recommended that the decision of the Commission be not approved, and that the Commission be directed to enroll the applicants as Cherokee freedmen.

Very respectfully,

A. C. Tenner,

Acting Commissioner.

G.A.W.-L.C.

WCP

DEPARTMENT OF THE INTERIOR, THE
WASHINGTON.

April 8, 1904.

D C 11277-1904

I.T.D. 1252-1904.

IMS

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

Gentlemen:

On July 24, 1903, you transmitted the record in the matter of the application of John McDonald, for the enrollment of himself and his three minor children, John Jr., Irving and Jane McDonald, as Cherokee freedmen, including your decision of July 10, 1903, rejecting the applicants.

Reporting February 11, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be reversed.

You will notify the applicants and the attorney for the Cherokee Nation of the recommendation of the Acting Commissioner, and allow said attorney thirty days within which to file any argument in the matter which he may desire, and the applicants ten days within which to answer same. A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

signed

Thos Ryan
Acting Secretary.

1 inclosure.

mdg

COMMISSIONERS

TAMM BERRY,
THOMAS B. NEEDLES,
C. E. BRICKERIDGE,

W. O. BRALL,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D 993.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

The Commission is in receipt of Departmental letter of April 6, inclosing a copy of Commissioner of Indian Affairs' letter of February 11, recommending the reversal of the Commission's decision of July 10, 1903, rejecting the application for the enrollment of John McDonald, et al., as Cherokee freedmen, case No. F. D. 993.

In accordance with the Department's instructions you are advised that you will be allowed thirty days from this date in which to file with the Commission for transmission to the Secretary of the Interior any argument you may desire to submit in this case, a copy of which argument you will be required to furnish the applicant.

Respectfully,



Commissioner in Charge.

(COPY)

Refer in reply
to the following

Land.
42146-1904

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON,

July 8, 1904

(Copy)

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of April 8, 1904, (D. I. D. 1222) there is enclosed herewith a report from the Commission of the Five Civilized Tribes, dated June 20, 1904, containing argument in behalf of applicants in the matter of the enrollment of John H. Smith, et al., as Cherokee Indians. This argument was forwarded to the Department by the applicant and by the Department referred to the Commission for appropriate action.

The case is now pending before the Department, and the Commissioner was advised of the recommendations of this office that the applicants and the attorneys of the Cherokee Nation of such recommendation and to allow the Attorney for the Cherokee Nation thirty days within which to file any argument he might desire, and the applicants ten days in which to reply to the same.

Very respectfully

A. U. Tenner,

Acting Commissioner

DEPARTMENT OF THE INTERIOR,

WCF
LIS JP

WASHINGTON,

August 6, 1905.

I.T.D.1252-1904.

IRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 11, 1904, the Indian Office transmitted a report from the Commission to the Five Civilized Tribes dated July 24, 1903, transmitting the record in the matter of the application of John McDonald for the enrollment of himself and his three minor children, John, Jr., Irving, and Jane McDonald, as Cherokee freedmen.

July 10, 1903, the Commission held that the applicants were not entitled to enrollment, it appearing that the said John McDonald was not a slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the rebellion.

The Indian Office in its letter of February 11, 1904, stated that "the preponderance of the evidence seems to conclusively show that John McDonald returned to the Cherokee Nation in 1865," and recommended that the decision of the Commission be reversed, and that the Commission be directed to enroll the applicant as a Cherokee freedman.

On April 8, 1904, you were directed to notify the attorney

for the Cherokee Nation and the applicant of the recommendation of the Indian Office, and allow sufficient time for said parties to submit arguments in the matter.

Brief has been filed by the attorney for the nation, also by the applicant.

The attorney for the nation requests that the case be reopened and the nation be permitted to introduce additional testimony.

The evidence is conflicting and unsatisfactory. The Department considers that before the case should be finally adjudicated both sides should be given an opportunity to present further testimony. The case is hereby remanded and it is desired that you allow the applicant and the attorney for the nation reasonable time within which to submit further evidence in the matter.

The record and the briefs filed in the case are enclosed, also copy of the Indian Office letter of July 2, 1904.

Respectfully,

(Signed) Theo. Ryan

Acting Secretary.

4 inclosures.

REFER TO FILE IN THE FOLLOWING:

Cherokee
F-D-992.

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

BJP
Muskogee, Indian Territory, August 17, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of John McDonald, et al, as Cherokee Freedmen, you are advised that this office is in receipt of Departmental letter of August 8, 1906, (I.T.D., 1252-1904), remanding the case to this office for further evidence. Further testimony is desired as to whether or not John McDonald was a slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the Civil war, and as to the date of his return to the Cherokee Nation. John McDonald has this date been notified to appear before the office of the Commissioner to the Five Civilized Tribes, at nine o'clock A. M., on Thursday, August 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce any testimony it desires in this case.

For your information there is enclosed herewith a copy

B. H. & D. ----2

of Departmental letter referred to.

Respectfully,

W. O. Beall

Acting Commissioner.

JEM

Enc. N-4

CHEROKEE
F. D. 225.

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

JH

Muskogee, Indian Territory, September 12, 1905.

Ball, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on August 31, 1905, in the matter of the application for the enrollment of John McDonald et al., as Cherokee freedmen.

Respectfully,

W. O. Beall

Acting Commissioner.

Incl. 61-275.
CERL

CHEROKEE FREEDMEN
Cherokee Freedmen

D-995.

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

Muskogee, Indian Territory, October 7, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 7, 1905, rejecting the application for the enrollment of John Sr., John Jr., Irving and Jane McDonald as Cherokee freedmen.

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.

Incl. 3-51

(Copy)

Land.
61,044-1905.

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

Dec. 19, 1905.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated October 7, 1905, transmitting the record relative to the matter of the application of John McDonald, Sr., et al., for enrollment as Cherokee freedmen.

McDonald applied for the enrollment of himself and his minor children, John, Jr., Irving, and Jane McDonald.

July 10, 1903, the Commission to the Five Civilized Tribes denied their applications for enrollment as Cherokee freedmen.

April 5, 1904, the Department notified the Commission to the Five Civilized Tribes that the Attorney for the Cherokee nation would be allowed thirty days within which to file any argument which he might desire, and that the applicants would be allowed ten days within which to reply.

August 8, 1905, on motion of the Cherokee nation, the case was remanded by the Department for further testimony, and on August 21, 1905, additional testimony was taken.

The Commissioner to the Five Civilized Tribes, under date of October 7, 1905, held that under the provisions of section 21

of the Act of June 28, 1898, the applicants were not entitled to enrollment as Cherokee freedmen, and denied their applications.

The principal applicant, John McDonald, Sr., claimed the right to enrollment as a Cherokee freedman by virtue of his compliance with the provisions of Article 9 of the treaty of 1866, and the minor applicants claimed the same right as his descendants.

The record shows that John McDonald, Sr., was born before the beginning of the war; that he is identified on the Wallace roll; that he is the father of the minor applicants, and that Siney McDonald, now deceased, a non-citizen of the Cherokee Nation, was their mother.

From the testimony it does not seem that John McDonald, Sr., ever lived in the Cherokee Nation prior to April 8, 1867, which is subsequent to the time within which he should have returned in order to be entitled to enrollment as a Cherokee freedman, nor does it seem from the record that he was the slave of a Cherokee citizen or a free colored person residing in the Cherokee nation at the beginning of the War. He claims to have been the slave of John Glass, and that he resided in Flint District.

From the testimony this Office does not believe that the applicants are entitled to enrollment, and the approval of the Commissioner's decision adverse to them is recommended.

Very respectfully,

C. E. Larrabee,

Acting Commissioner.

(G.A.V.) P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Y.P.
LLB

I.T.D.17802-1905.
8653- "

March 23, 1906.

LRS

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

Sir:

October 7, 1905, you transmitted the record in the matter of the application of John McDonald, Sr., for the enrollment of himself and his minor children, John, Jr., Irving, and Jane McDonald, as Cherokee freedmen.

Reporting December 19, 1905, the Indian Office recommended that your decision, adverse to the applicants, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision dated October 7, 1905, is hereby affirmed.

The motion for "review" filed by attorneys for the applicants September 7, 1905, of which you were advised January 15, 1906, presents no reason why your decision should be reversed or modified, and it is accordingly denied.

Respectfully,

(Signed) Thos. Ryan.

First Assistant Secretary.

2 inclosure.

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
B-993.

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

Muskogee, Indian Territory, April 3, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of Departmental letter of March 23, 1906, in which the motion filed September 7, 1905, for a review of Cherokee freedmen enrollment case of John McDonald, Sr., et al., is denied, and the decision of the Commissioner to the Five Civilized Tribes, dated October 8, 1905, adverse to the applicants, is affirmed.

Respectfully,

Acting Commissioner.

Incl. 3-4

(COPY)

Refer in reply to the following:

Land DEPARTMENT OF THE INTERIOR,
26344-1906.
111596-1906. OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of March 23, 1906 (I.T.D. 17802-1905), affirming the decision of the Commissioner to the Five Civilized Tribes in rejecting the application of John McDonald, Sr., et al., for enrollment as Cherokee Freedmen, I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes dated December 19, 1906, enclosing a motion for rehearing this case, filed by John McDonald, Sr., June 19, 1906, together with a reply of the Cherokee attorney filed July 5, 1906, and the applicant's reply thereto filed July 19, 1906. The motion to re-open is based on the ground of newly discovered evidence and supported by the affidavit of one C. D. Harden. No showing is made as to why the testimony of C. D. Harden could not have been secured at the original hearing. Even the affidavit is meager and alleges that he became acquainted with John McDonald "about the year of 1865", and that he learned at that time that John McDonald was the slave of one John Glass, a Cherokee citizen.

The testimony of a number of witnesses at the original hearing was conclusive that John McDonald was not the slave of John Glass, this fact being established in part by the testimony

of the children of John Glass, who would certainly have known the names of their father's slaves. The testimony in the original case tended strongly to show that John McDonald was not in the Cherokee Nation prior to the time that the Delaware Indians removed thereto under the treaty of April 8, 1867; that he served in an Ohio regiment during the Civil War and was mustered out in Columbus some time in 1865.

The motion appears to be without merit, and the Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

JF Jr.

DEPARTMENT OF THE INTERIOR, LRS
WASHINGTON.

I.T.D.1872-1906.

February 4, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 111396-1906), the Indian Office transmitted your report dated December 19, 1906, with regard to a motion for rehearing in the matter of the application of John McDonald et al. for enrollment as Cherokee freedmen.

You state that upon a reexamination of the record it appears that the motion is only made for the purpose of delay and that there is no satisfactory reason presented why a rehearing in the case should be granted. You recommend that the motion be denied.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

The Department has examined the motion in connection with the original record, and considers that it was not shown that John McDonald was ever the slave of one John Glass, a Cherokee freedman, whom he claims was his owner, neither is it shown that said John McDonald was a free colored person in the country at the commencement of the rebellion.

The affidavit in support of the motion is merely hearsay in regard to the ownership of this applicant.

The motion sets forth no evidence which would warrant a rehearing of this case and is accordingly denied.

The Motion, record, and accompanying papers are returned for the files of the Indian Office.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 4 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
P R 694.

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

Muskogee, Indian Territory, March 7, 1907.

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

Dear Sir:

You are hereby advised that the motion for a rehearing in the Cherokee freedmen enrollment case of John McDonald, et al., was denied by the Secretary of the Interior, February 4, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,



Commissioner.

Encl. HJ-77.
HJC

Cher Fr D 994

Cher Fr D 994

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C., July 1, 1901.

In the matter of the application of Amanda Gaskins for the enrollment of herself as a Cherokee Freedman; being sworn and examined by Cornish Needles, she testified as follows:

Appearances:

Louis Brown, for the applicant, as attorney;
W. Bell, for the Cherokee Nation, as attorney.

- Q What is your name? A Amanda Gaskins.
Q How old are you? A I forget my age entirely, mamma has got my age.
Q About how old are you? A About 50.
Q What is your post-office address? A Bartlesville.
Q What district do you live in? A Coowescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q What do you want to enroll besides yourself? A Just myself.
Q What is your father's name? A Ben Alberty.
Q Your mother's name? A Mary Joe.
Q Mary Joe what? A Mary Joe Bell.
BY THE COURT:
Q Where were you born? A On Snow Creek.
Q You live in the Cherokee Nation all your life? A Yes sir, my mamma is.

NELSON MURRELL, being sworn by the Court, testified as follows:

BY THE COURT:

- Q State your name? A Nelson Murrell.
Q Your age? A 77.
Q Your post-office address? A Coffeyville.
Q You know the applicant, Amanda Gaskins? A Yes sir.
Q How long have you known her? A About 50 years.
Q What was her father's name? A Ben Alberty.
Q What was her mother's name? A Mary Alberty.
Q Was Ben Alberty a slave citizen of the Cherokee Nation at the beginning of the war? A Yes sir.
Q What was his owner's name? A John Alberty.
Q Was John Alberty a Cherokee Indian by blood? A Yes sir.
Q You know whether or not Ben Alberty left the country during the war? A I do not.
Q When did you see him the first time after the close of the war?
A I saw him in the spring of '65.
Q From the time you saw him in '65 until his death where did he live?
A On Snow Creek, Coowescoowee.
Q You know whether or not Ben Alberty and his wife Mary were ever married? A I do not know.
Q Did they live together as man and wife? A Yes sir.
Q Were they living together as man and wife when this child Amanda Gaskins was born? A Yes sir.
Q So recognized in the community? A Yes sir.
BY THE COURT:
Q When did Ben Alberty settle on Snow Creek? A He settled on the creek in the spring of '65.
Q Where did he make his improvement? A On Snow Creek, right on the public road leading from Ft. Gibson to Ft. Scott, or towards Ft. Scott, on a traveled road.
Q How far above the mouth of Snow Creek is that? A About a mile and a half or two miles.
Q Where did you first see him? A I first saw him at Neesho River, Trotter's Ford.

Amanda Gaskins 2

- Q Did you come with him to that place? A No sir.
Q Who got there first, you or him? A We got there one evening and camped together that night.
Q On Snow Creek? A No, you mean on Snow Creek?
Q That's what I am asking you, if you and him came there to Snow Creek? A No sir, he came there himself; I was there first and I met him when I was going back from there.
Q Did he have improvements in '08? A Yes sir.
Q Make a little crop? A Yes sir.
Q Corn and beans &c? A Yes sir.

Applicant, AMANDA GASKINS, re-called and further examined;

BY CON'R NEEDLES:

- Q Are you married? A I have been married.
Q What is your husband's name? A Jim Gaskins.
Q You and him not living together now? A No sir, he is dead.
Q You are not married since that? A No sir, he aint been dead but two months.
Q Too soon to marry again? A Yes sir.

MARY JOE, being sworn by Con'r Needles, testified as follows:

BY MR. BROWN:

- Q State your name? A Mary Joe.
Q What is your age? A I don't know, my mother died when I was a baby.
Q What is your post-office? A Bartlesville, Indian Territory.
Q Do you know the applicant, Amanda Gaskins? A Yes sir, that's my daughter.
Q What was her father named? A Ben Alberty, he is the father and I am the mother of her.
Q Were you and Ben Alberty ever married? A No sir.
Q At the time Amanda Gaskins was born were you and Ben Alberty living together as man and wife? A Yes sir, we wasn't lawfully married at all; in that time we didn't have to marry, it was the Indian time.
Q But you lived together as man and wife? A Yes sir, until death parted us.
Q When did Ben Alberty die? A I can't remember, it has been so long.
Q About how old was Amanda when he died? A (Hands attorney paper and attorney hands it to Commissioner.)

BY CON'R NEEDLES:

- Q Was Amanda a little girl when Ben died? A Yes sir, she was a little girl when Ben Alberty died.
Q What nationality are you? A I am a white woman; I was born and raised in Iowa.
Q You been living in the Cherokee Nation ever since that? A Yes sir.
Q Are you married again? A Yes sir.
Q What is your husband's name now? A Henry Joe.
Q He a colored man? A Yes sir, he is a colored man.
Q How long did you live with Ben Alberty? A I came with him in '06 and been from '06 with him ever since.
Q You came here with him in '08? A No, I came with my father on Snow Creek; he came from Iowa out to this country.
Q In '08? A Yes sir.
Q And you married him after you came here or before? A I married him after I came here.
Q Your father is dead? A My father and mother are both dead; I have got no kinfolks but myself.
Q How long did you live with Ben Alberty? A I have got no children and you have by him? A Three.

Amanda Gaskins 3

- Q Is this the youngest one? A That's the oldest.
Q Did you live with Ben until he died? A Yes sir.
Q The other children living? A No sir, they are both dead.

CHARLEY CHAMBERS, being sworn by Com'r Needles, testified as follows:

BY MR. BROWN:

- Q State your name? A Charley Chambers.
Q What is your post-office? A Hudson.
Q How old are you? A 70 years old.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Do you know the applicant, Amanda Gaskins? A Yes sir.
Q You know her mother, Mary Joe? A Yes sir.
Q What was Amanda Gaskins father's name? A Ben Alberty.
Q You know whether or not at the time Amanda Gaskins was born Mary Joe and Ben Alberty were living together as man and wife?
A They were living together, yes sir.
Q As man and wife? A Yes sir.
Q Were they so recognized in the community? A Yes sir.
Q Did they live together as man and wife until his death? A Yes sir.
Q You don't know when Ben Alberty returned to this country? A She says Not exactly.
Q When did you see him first time after the close of the war? A Up on Snow Creek.
Q In what year was that? A That was in '70, and he had made one crop and had another crop in when I found him there.

BY COM'R NEEDLES:

- Q Was Ben a slave? A Yes sir.
Q Who did he belong to? A John Alberty.
Q Colored man, was he? A Yes sir.

MR. BELL, waives examination.

MARY JOE, re-called and further examined;

BY MR. BELL:

- Q When did you and Ben Alberty take up? A Took up in the fall in '66.

BY COM'R NEEDLES:

- Q Were you married by a minister or a preacher or anybody? A No sir.
Q Just took up with each other? A Yes sir. That was time of the Cherokee, I can't call it.

BY MR. BELL:

- Q Where did you live when you and he took up? A Snow creek.
Q He was living there when you came there was he? A Yes sir.

BY COM'R NEEDLES:

- Q Were you ever married before you went with Ben? A Yes sir.
Q Where had you been married before? A In Iowa.
My husband died up in Iowa.
Q Your first husband died? A Yes sir.
Q You have married since that? A Yes sir.
Q This girl's name on any of the rolls? A She ought to be on the Wallace roll.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 181 #3320 Amanda Alberty, "No district" "New Amanda Gaskins, "Wife of James M. Gaskins," 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found; 1896 census roll of citizens of the Cherokee Nation examined and applicant not found;

Arianda Gaskins 4

Kern-Clifton pay roll of admissions of the Cherokee Nation examined and applicant not found;

Com'r Needles: Arianda Gaskins applies for the enrollment of herself; she cannot be identified upon any of the rolls of the Cherokee Nation except the Wallace roll upon which she is identified according to page and number of the rolls as indicated in the testimony; she avers that she is a child of Ben Alberty by Mary Joe, a white woman; she avers that Ben Alberty was a slave and belonging to one John Alberty. The testimony shows that said Ben Alberty returned to the Cherokee Nation in '65 or '66; applicant avers that her mother, Mary Joe and Ben Alberty were married; for the proof of marriage reference is made to the testimony. By reason of the fact that said Arianda Gaskins is upon the Wallace roll she will now be listed for enrollment as a Cherokee Freedman upon a doubtful card; she will be notified at her post-office address of the action of the Commission in the premises.

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 July 15, 1901.

[Signature]

Commissioner.

F. D. 994

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in 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 *9th* 190
McCallister Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

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.

Handwritten signature and initials

NOTICE!

4
IN THE MATTER OF the application of Amanda Gaskins
for enrolment as Cherokee citizens:

Case No. D 804

To ~~Amanda Gaskins or Mellette & Smith her Attys.~~

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 Vinita Indian Territory, on Oct. 19th 1901 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 9 th 1901.

L B Bell
W. H. Hastings
Attorneys for the Cherokee Nation.

File with Cherokee Freedmen 3-224, Amanda Caskin.

Department of the Interior,
Commission to the Five Civilized Tribes,
Visita, I-3., October 19, 1901.

In the matter of the application of Nelson Murrell et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of Cherokee Nation.

Appearance:

McIlotte & Smith, of counsel for applicants;
J. S. Davenport, of counsel for Cherokee Nation.

R. M. ALLEN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Davenport: What is your name? A. R. M. Allen.

Q Where do you live, doctor? A I live north about a mile of Coody's Bluff, when I am at home.

Q What is your postoffice? A Coody's Bluff.

Q How long have you lived in the Cherokee Nation? A Ever since 1868.

Q Where did you live prior to coming to the Cherokee Nation? A I was in Barter Springs.

Q What year came to the Cherokee Nation in '68 to what point did you come? A Down on what is known as the Journeycake Prairie.

Q Are you a citizen of the Cherokee Nation? A Yes, sir, so recognized.

Q By blood? A By adoption, or marriage.

Q To a Cherokee? A To a Delaware.

Q How did you come to the Cherokee Nation before or after the Delawares came down here? A Afterwards.

Q Do you know the applicant in this case, Nelson Murrell? A Well I met the old gentleman to-day, that is the first acquaintance that I have with him.

Q Where were you in '68 after you came down to the Cherokee Nation, what section of the country? A I was on the Journeycake Prairie, boarding with old man Journeycake.

Q How far was Journeycake living south of the Kansas line at that time? A Said to be about 24 miles.

Q Well was you out over that country or back and forth to the Kansas line any in the neighborhood or vicinity of Snow Creek?

A Yes, sir.

Q Who was living along near Snow Creek at that time? A The last house going to Snow Creek from Journeycake's was like old Little Buffalo.

Q What was he? A He was a Delaware.

Q Where was the first one, or how many houses along there? A After you left old man Journeycake's, the first house would be the widow Cootraveler, and the next would be Jim Wilson, the next house a man by the name of John George lived there, and the last house right on the road was a man by the name of Little Buffalo.

Q Were you out over the country around Snow Creek during that year?

A What year, '68?

Q Yes, that is the year you said you came down? A No, I don't think I was any that year.

Q Well, was you the next year? A Yes, in the fall of '69 I made a trip to the Kansas line.

Q To what point in Kansas did you go? A Well they were going to build this town called Parkersburg, and I went up there, thought maybe I would buy some lots, so and old man Journeycake and one Daniel B. Sicks, and we went right up the Verdigris Valley.

Q On what side? A East side, and I crossed Snow Creek right

where it ran into the river, there was a man lived there, or was living there the last time I was there, by the name of Singleton, I didn't know him.

Q How far from the Kansas line to it to where Snow Creek empties into the Verdigris River, or about how far? A I don't know, four or five or six miles, I don't know how far, it is not a great way.

Q Do you know whether or not Snow Creek heads in the Territory or Kansas? A I have heard it said it did, but I never followed it.

Q You never saw the applicant, and have been acquainted with him? A I don't remember the old gentleman till to-day I met him and some man introduced me to him, Sam Yebber I believe.

Q Was there any colored people living there on Snow Creek? A I didn't see any on that trip.

Mr. Smith: What did you say your name was? A Allen.

Q Is that Allen? A Yes, sir.

Q Are you a physician? A Yes, sir.

Q Physician and surgeon? A Yes, sir, I followed it a while, I graduated at the Rush Medical College in Chicago in '65.

Q Well do you practice medicine out there now? A Well just a little, not much.

Q You went there when? A I landed at old man Journeycake's house on the 25th of July, 1868.

Q Is that on Snow Creek? A No, sir.

Q How far was that from Snow Creek? A Fifteen or twenty miles.

Q Then how long was it from that time until you were on Snow Creek? A I went on Snow Creek in the fall of '69.

Q How long is Snow Creek? A I don't know.

Q Well, did you go all up and down Snow Creek from one end to the other? A No, sir, crossed Snow Creek, didn't go up nor down it.

Q Then where were you going to? A I was going to the Kansas line where they were going to build that dam called Parkersburg.

Q Did they build it? A They did, afterwards.

Q How long afterwards? A The next time I was there they had quite a town there.

Q How long was that? A Might have been a year or eighteen months, might be not so long, I think I went up there, if I remember right, the 28th day of May, the next spring.

Q Well, did they have any town there when you went there the first time? A No, sir.

Q Did they have any town left but? A I saw some lumber along town there.

Q Did they have any building materials, plat, some plat? A I never heard of it.

Q Didn't you inquire? A Yes, I inquired about it, but I couldn't find any man that would give me sufficient news about it to purchase any lots.

Q Did you buy any lots? A No, sir, I didn't.

Q Did you ever buy any in Parkersburg? A No, sir, never did.

Q What did you go back for the second time? A Well sir, the next time next May I thought I would go back and buy my household utensils.

Q Did you buy them? A I did.

Q How far was it from Journeycake's where you started to Parkersburg? A Oh it is 25 or '6 miles.

Q And in what direction was Parkersburg from Journeycake? A Well I sir, it is north, and I believe a little west.

Q How far was Parkersburg from the Kansas line? A Well, they didn't know where the line was in that day.

Q They didn't know? A Not then they didn't.

Q How far is it from there the Kansas line is now? A Well I suppose three or four miles, I never heard anybody say.

Q How you started in the fall of 1868 from Journeycake's, did you?

A Yes, sir.

Q Where did you? A I started from Journeycake's.

- Q Where did you live? A I lived up at Goodys Bluff.
- Q How far was that from Journeycake's? A About four miles.
- Q In what direction from Journeycake's? A North.
- Q Then you started from four miles north of Journeycake's in the fall of '69 to go to Parkersburg? A Yes, sir.
- Q How did you travel? A I went horseback.
- Q And was there a road to travel? A No, there was no road.
- Q Wasn't any road? A No, I didn't follow any road.
- Q Then did you cross Snow Creek? A Yes, sir, I crossed it.
- Q Once or more than once? A I only crossed it once going up.
- Q And once coming back? A Yes, sir.
- Q Where did you cross it? A I crossed it going up tolerably close to the river at a place where a fellow named Singleton lived afterwards.
- Q Well, how far was that from the Kansas line? A I don't know, four or five miles I guess, I think Snow Creek is about that distance from the Kansas line.
- Q Well, it is not the same distance from the Kansas line all the way along, is it? A I don't know, I never followed up the Creek.
- Q You don't know anything about the community below where you crossed or above where you crossed? A No, sir.
- Q All you know is just the place you crossed? A Yes, sir, where I crossed at.
- Q Well traveling in the direction that you were going you came right into right angles with the Creek? A I kept right up the river valley on the east side of the river till I struck the creek.
- Q And crossed the creek? A Yes, sir.
- Q You didn't have to follow the Creek? A No, I didn't follow the Creek.
- Q You just simply crossed Snow Creek in 1869? A Yes, sir.
- Q Well now then you are not prepared to say that this applicant, Nelson Furrell, wasn't living on Snow Creek in '69? A I am prepared to say I didn't see any houses nor farms in the travel.
- Q But you say you only touched Snow Creek at one point? A That is all.
- Q And there wasn't any houses right there? A Wasn't any houses in sight, I didn't see any houses.
- Q Up or down the Creek? A No, sir.
- Q If there had been a house a quarter of a mile up the Creek or a quarter of a mile down the Creek you couldn't have seen it?
- A Yes, sir, if a house had been out on the Prairie a quarter of a mile from me then days I could have seen it.
- Q Under favorable conditions you could have seen it? A Yes, sir.
- Q That is all you know about this matter, is it? A Yes, sir.

SIMON LOVE, being duly sworn by Commissioner Needles, testified as follows:

- Mr. Davenport: What is your name? A Simon Love.
- Q Where do you live? A Claremore.
- Q How long have you lived in the Cherokee Nation? A Ever since '68.
- Q Are you a Cherokee or a Delaware Indian? A Delaware.
- Q Did you come to the Cherokee Nation before or after the treaty made with the Delawares and Cherokees? A After.
- Q What was your father's name? A My stepfather's name was Buffalo.
- Q Well, did he have any English name? A Little Buffalo they called him.
- Q Did your father move to the Cherokee Nation when you did, or was you a child at that time and came with him? A I came with my stepfather and mother.
- Q What was your stepfather's name? A Little Buffalo.
- Q Well, when you came to the Cherokee Nation, to what point in the Cherokee Nation did you come? A To come to Snow Creek, where

fifteen miles from Coffeyville, Kansas.

Q On what side of the Verdigris River did you locate? A The east side.

Q How far from what is known as Snow Creek? A Six or seven miles I should judge.

Q Do you know, and did you know at that time, where Snow Creek empties into the Verdigris River? A Yes, I don't know exactly where it empties, then.

Q Had you ever been on Snow Creek? A Yes, sir, I had been on Snow Creek, but I had not been to the mouth of the Creek.

Q When you located in '68 on Cedar Creek did you make any trips or anything up and around Snow Creek? A Yes, sir, we used to go up Snow Creek going to ~~branch~~ up there on Pumpkin Creek in Kansas, we did our trading up there, a man by the name of Lushbaugh kept a store.

Q Who was living on Snow Creek at that time? A I don't remember that there was anyone living there.

Q Was there any houses there? A There was one house there that I can remember, a carpenter that built our house lived there, a man named Baker, in the fall of '68 he built our house.

Q Do you know the applicant in this case, Nelson Murrell? A Yes, sir.

Q Well, how long have you known him? A I just can't tell how long.

Q Do you know where he lives now? A Yes, sir.

Q Well where does he live now in regard to where that fellow Baker lived at that time, how far? A I don't know. He was right south, right at the edge of the flat, Snow Creek and Verdigris flat is where Baker lived when I went after him to come and build our house; I think that was in the fall of '68.

Q Where does the applicant live with reference to that? A Right north of it.

Q About how far? A I can't tell you how far.

Q Do you know how far; that is what I am trying to get at; have you ever been to his house? A No, sir, never was at his place.

Q You don't remember then how long it has been since you knew this applicant, Nelson Murrell? A No, sir, don't remember.

Q Well, was there any colored people living around that section of the country that you saw when you went up to Baker's? A No, sir.

Q Did you ever get acquainted with a family of Littles, Steve Little's family? A Yes, sir.

Q Where were they living? A Living on Snow Creek.

Q What part of Snow Creek with reference to where it empties into the Verdigris River? A I should judge about three quarters of a mile or so I should judge of the mouth of course I have never been to the mouth of Snow Creek.

Q When did they come in there and locate, if you know? A I don't know when they come in.

Q Well, how long have you known that family? A Well I have known them quite a while.

Q Well, did you get acquainted with them immediately after you came in there? A Yes, sir.

Q Well, where were they living with reference to the locality of where Baker was living, when you got acquainted with the Little family? A They lived southeast of where Baker lived.

Q Well, did they live nearer the river than Baker did, or farther away from the river than Baker? A I think they lived a little farther away, a little farther east.

Q How long since you have been in that locality? A I haven't been in there quite a while, I don't know really.

Q I believe you stated you came down after the Delaware made the treaty with the Cherokees, or before, which was it? A Afterwards.

Q Did you come the same time the Delaware came, or did your father come the same time they came? A Yes, sir, his was the first train that came down.

Mr. Love, you did not really know where the first

Delawares that came to the Cherokee Nation after the Delawares made the treaty with the Cherokee Nation? A Yes, sir.

Q And you have lived in the Cherokee Nation ever since? A Yes, sir.

Q You are a citizen of the Cherokee Nation? A Yes, sir, only what time I have been out to school I didn't live here.

Q Well now at what place did you locate when you first came here, your family? A Right near the mouth of Cedar Creek.

Q How far was that from the Kansas line? A On a straight line about eleven or twelve miles.

Q What direction? A South.

Q Into what stream did Cedar Creek empty? A The Verdigris.

Q Into what stream did Snow Creek empty? A The Verdigris.

Q Were you ever at the place where Snow Creek empties into the Verdigris? A No, sir, I never was right at the mouth of the Creek.

Q About how far north of the mouth of Cedar Creek was the mouth of Snow Creek? A Well straight through, it is about seven or eight miles.

Q The way the roads ran how far was it? A I should judge about that, the road ran pretty straight through.

Q Well, did you have a house to live in when you first camp there?

A No, sir.

Q What season of the year did you come to the Nation? A February.

Q When did you get a house? A Got a house the next fall; that is, a man built our house.

Q How old were you when you came here? A I was about 15.

Q Where did you remain during the months from February until you got your house built the following fall? A Right there at home.

Q Now you know this old man Nelson Murrell? A Yes, sir.

Q And you have known him a long time? A Quite a while, I can't remember just what time.

Q A great many years? A I can't remember how long.

Q Been so long you can't remember when you first did know him?

A Been fifteen or twenty years.

Q Been longer than that, hasn't it? A I don't think it has.

Q How long has it been since you first came down here? A I came here in '68.

Q Well, how many years? A 55 years.

Q Well, now about how long have you been knowing old man Nelson Murrell? A I should judge about fifteen or twenty years; when my mother died I left there, went to old Mrs. Connor's.

Q How many years was that after you came down to the Cherokee Nation, that you went to Connor's? A About '71.

Q About that? A Yes, sir.

Q You had been in that Cedar Creek country then only two or three years when you left there? A Yes, sir, that was all.

Q You were still a boy when you did leave? A Yes, sir.

Q Now you didn't go, while you were up there, to the mouth of Snow Creek, where it empties into the Verdigris? A No, sir.

Q You know how long Snow Creek is? A No, sir.

Q You know how far it is from the mouth of Snow Creek to the point where Snow Creek enters Kansas, or the Territory from Kansas? A No, I have no definite idea, about five or six miles though.

Q You don't know; you never were all up the Creek then from the mouth of the Creek up to the Kansas line? A Only right there along the road where I crossed Snow Creek.

Q Now where would you be going when you would cross it? A Well, up into Kansas.

Q To what point? A A place they called Dismore, on Pumpkin Creek, a trading point, or post.

Q Now that was the nearest town or any place to you in the Cherokee Nation, store or postoffice, or anything of that sort? A There was none.

Q Now far did you live from the mouth of Cedar Creek? A About a

mile, not quite.

Q Then you were about a mile from the Verdigris? A Yes, sir.

Q And about a mile from the place where Cedar Creek enters the Verdigris? A West of where it enters the Verdigris, it makes a bend there.

Q When you had to go to Kansas, what direction did you travel?

A North.

Q In what direction did Snow Creek run? A Well I think it ran northeast, that is, it headed northeast and ran southwest I think.

Q Well, it was more or less of an east and west course, wasn't it now? A Yes, sir, southeast and northeast.

Q Well did you go anywhere else, have occasion during the time you lived there to go any other place except Clymore in Kansas?

A Well I went after that carpenter that built the house.

Q I mean outside of the carpenter and Clymore? A No, sir.

Q So when you went to Clymore you crossed Snow Creek? A Yes, sir.

Q Do you know how far you crossed it from the mouth? A I judge about a mile and a half, it is what they call now the Reed Crossing, Luman Reed Crossing.

Q How do you know how far that is from the mouth of Snow Creek?

A I should judge about a mile and a half or two miles.

Q Or two, and might be farther? A Might be, I don't know where the mouth is, I never was at the mouth of Snow Creek.

Q Now then when you were traveling from where you lived to Clymore, you just simply came to Snow Creek and crossed and when you came back you would come to it again and cross it? A Yes, sir.

Q Now then you can't swear Nelson Murrell didn't live on Snow Creek at the time you crossed it? A I didn't see any houses.

Q You can't swear he didn't live there? A No, I can't.

Q You can't swear there wasn't a house there? A I don't think there was a house there.

Q Except at the place you crossed? A There wasn't any houses there.

Q How about a mile up the creek or a mile down the creek? A That I can't tell.

Q You don't know, do you? A No, I don't think there was any houses.

Q Don't think, I want to know what you know; can you state upon your oath that there wasn't a house a mile up the creek or a mile down the creek? A No.

JOHN SECONDINE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Davenport: What is your name? A John Secondine.

Q Where do you live? A Up at White Oak.

Q What your postoffice? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A I believe I have lived here about 34 years, since '68.

Q What is your nationality, are you a Cherokee or Delaware? A I am a Delaware.

Q Did you come to the Cherokee Nation before or after the treaty was made with the Cherokee Nation and Delaware? A Well I came here a year before they moved down here.

Q Well, what year was that in? A When I first came here, that was in '67, in August.

Q Well, when you came to the Cherokee Nation in '67 in August, to what point did you come? A Well we came up there about Snow Creek.

Q Well, what part of Snow Creek? A I guess it was about three miles above the mouth of Snow Creek.

Q Who was living there at that time, if anyone? A Well I didn't see anybody living there at all.

Q How long did you stay there? A Well, we stayed there for some

as a week or ten days somewhere along there.

Q Was there any houses around there? A No, sir.

Q Well, were you up and down the Creek any, or did you just camp and stay in one place? A Yes, we looked all around the country there, we came down here to find locations to settle on, we went up and down the Creek, in fact we traveled all around the country there looking at the country.

Q Any houses at all that you found, if so, where were they and who was living in them? A No, sir, never saw any houses.

Q Were you down the Creek to where it empties into the Verdigris?

A Yes, sir.

Q You went up the Creek above where you camped, did you not, towards the Kansas line? A Went up pretty near the head of the Creek, it is pretty much all prairie up there.

Q Do you know the applicant here, Nelson Murrell, that old gentleman (indicating applicant)? A I have seen him.

Q Was he living there on Snow Creek when you were down there in '67? A I didn't see him, I didn't see anybody, there was no settlement there.

Q You went up and down the Creek you say? A Yes, sir, there was no settlements there.

Mr. Smith: You live out here close to Vinita now? A Yes, sir, I live at White Oak.

Q About how long have you been living there? A I have been living there 16 years I believe.

Q You related in any way to Journeycake? A Yes, sir.

Q That relation? A Second cousin I believe.

Q How far did you live, when the Delawares first came down in the Cherokee Nation, from Journeycake's? A I lived six miles above, north.

Q Six miles north of Journeycake's? A Yes, sir.

Q How far from the Kansas line? A That is about twenty miles, somewhere along there, I guess.

Q How far is it to the town they started up there in Kansas called Parkersburg? A Let's see, I guess it is close onto twenty or twenty-two miles I guess.

Q How far did you live from the Verdigris River? A Lived about three quarters of a mile.

Q What direction, west, or north? A East.

Q How far was that from the mouth of Snow Creek? A It must be about twenty miles.

Q Twenty miles from the mouth of Snow Creek? A Yes, sir.

Q Do you know a family in there by the name of Love? A Yes, sir.

Q Where did they live? A They lived up there below Goose-neck Bend, what they call now.

Q Up close to Verdigris River? A Well they were right there in the edge of the bottom, they lived right in the bottom when they first came down here.

Q How far from the Kansas line? A I guess it must be about ten or twelve miles.

Q How far from you? A Oh about 10 miles.

Q In what season of the year did you arrive in the Cherokee Nation?

A Well I think the 9th day of February.

Q Who did you come with, that is, I mean your own immediate family, your father? A No, my mother.

Q Well, where did you live when you first came here, did you have a house? A No, sir, I didn't build any house that spring, after we got here we stopped over until grass came up in the spring of '68.

Q And then built a house? A No, I didn't build any house then, we moved over to Grand River that spring and made a camp over there.

Q How far from this place on Verdigris? A This was on Grand River, it is about forty miles.

Q Now if I understood you, you came on the Verdigris River about 1867? A I want you to understand that we didn't come down in '67,

I came down here to look at the country.

Q Then what did you do? A I went back to Kansas.

Q How long did you stay? A Well, we stayed a year.

Q It took you a year to look at the country? A No, we stayed about two months here.

Q When, in '67? A Yes, sir, two months on the Verdigris.

Q About twenty miles below the mouth of Snow Creek? A No, we stopped up there about ten days and Snow Creek.

Q Well, when did you stop on Snow Creek? A In '67.

Q What time? A In August.

Q In August, '67? A Yes, sir, I don't remember the date, but it was in August.

Q Well, about what point on Snow Creek did you stop? A Well about three miles above the mouth of it.

Q And then you came on down about twenty miles below the mouth of Snow Creek on Verdigris? A Well, we camped on down, we would stop and camp a week or so and then move on down a piece.

Q Then you was coming how long altogether, about two months? A Two months.

Q Then you went back to Kansas? A Yes, sir.

Q How long did you stay in Kansas? A We stayed till - I left there in February, about the first of February.

Q What year, '68? A '68.

Q Where did you go? A Came down here.

Q To Grand River? A No, sir, we came on down the same route we came when we came the first time.

Q How long did you stay in that part of the country where you first came to? A Well about two months.

Q About what time was it when you moved out of that neighborhood?

A It was about along in the first of April, somewhere along there.

Q Then did you move to Grand River? A Yes, sir.

Q That was 35 or 40 miles away? A Yes, sir.

Q Were you back in there at any time soon? A I came back again before Christmas.

Q Back in there again? A Yes, sir.

Q Where were you then? A I was over there about Toddy's Bluff.

Q Up about Snow Creek? A No, below there.

Q Well, how far is it, do you know, from the mouth of Snow Creek to where Snow Creek enters the Territory, the Cherokee Nation? A Well I can't exactly tell, it is not very far.

Q Well not guessing at it, but stating it from your absolute knowledge, do you know? A How far from the Kansas line; well there used to be two miles, there was a two mile strip there a while back, and the last line they made was, I guess it must be about three miles I guess from the line.

Q You mean the mouth of Snow Creek? A Yes.

Q Then you camped right exactly on the Kansas line? A No, sir.

Q I thought you said you camped three miles from the mouth of Snow Creek? A Up Snow Creek.

Q Well there wasn't any more Snow Creek after it runs into the Verdigris, was there? A No, I guess not.

Q It has to be up Snow Creek if it was anywhere? A Yes.

Q Well you said you camped three miles from the mouth of Snow Creek?

A Yes.

Q Then you were right exactly on the Kansas line, weren't you? A No, I was right east; Snow Creek runs kinder east, kinder of a northeast.

Q Well, wasn't there anybody living on Snow Creek at all? A No, sir, I didn't see anybody to my knowledge, there wasn't anybody living there.

Q Well, there was a carpenter living there that built this fellow here a house? A The carpenter was moved here till '68.

Q You said you were back there in '68, what I am asking you about.

... were back there in '68, were you on Snow Creek then? A I think I was there.

Q Wasn't anybody living there? A I didn't see any; I didn't stop there, only just I was on the road, I didn't stop to look around like I did the year before.

Q Well you don't know when this carpenter that this other witness got up there to build his house, built his house up on Snow Creek, do you? A No, sir.

Q Can't say that wasn't there in '68 though, can you? A No, sir, can't swear it wasn't there.

Q Can't swear it wasn't there in '67? A Well sir I don't believe it was there.

Q You don't believe it was, but you don't know? A Because I didn't see them, there was no settlement there.

Q All you know is you didn't see any houses there? A It would have to be a pretty small house if I didn't see it.

Q Well, they didn't build brown stone fronts, five story houses up there in that time? A No, sir, they built cabins.

Q What was it along Snow Creek, timber or prairie? A There is some timber there.

Q You could stick a little cabin around there most anywhere, couldn't you? well that is all you know about it, Mr. Secondine, that you didn't see a house there; you can't say that Nelson Murrell didn't have a house there and you can't say he wasn't living there when you first went there, positive, upon that date? A I didn't see anybody and didn't see any houses.

Q But you can't say he wasn't there? A No, I can't say he wasn't there, but I didn't see any houses, and didn't see anybody, no colored people.

HENRY MELTON, being duly sworn by Commissioner Needles, testified as follows:

Mr. Davenport: What is your name? A Henry Melton.

Q Where do you live? A I live up on Snow Creek.

Q How long have you lived up on Snow Creek? A Well I don't know now, I had a man to figure up how long I had been on Snow Creek, I have been on Snow Creek 27 years; the way he figured it.

Q Do you know the applicant here, Nelson Murrell? A Knowed him all the days of my life.

Q Was he living up there when you lived up there? A Yes, sir.

Q Near what place, how far is he living from where Snow Creek empties into the Verdigris? A Go right straight through the flat, it is about two miles I think to the mouth of Snow Creek.

Q Where were you living when the war broke out? A Living on Bird Creek.

Q You know where Nelson was? A Yes, sir.

Q Was he there with you? A No, sir, he was down here to Park Hill.

Q Do you know of your own knowledge, or how do you know where he was when the war broke out? A Yes, sir, I know, because I used to go from Bird Creek down there.

Q How long before the breaking out of the war had you been down there? A I don't know, I can't tell.

Q Well, had it been a year or two years or six months; what do you think about it; I want to get the facts there, about how long it had been before the war came on? A I can't tell you.

Q You and Nels belonged to the same man, did you, before the war?

A My mistress' daughter married Uncle Nels' young master, John Nave.

Q Who did Uncle Nave belong to when he went by the name of Murrell? A George Murrell.

Q Is that the same George Murrell that lived in Virginia part of the time and here part of the time? A I guess that is the one;

I don't know it.

Q I will ask you if it is the same Murrell that lived near Park Hill at the spring, the big spring on the road there going out towards Wagoner from Park Hill? A Yes, sir.

Mr. Smith: I object to that, because it is leading.

Q Did you know Chlora? A Yes, sir.

Q Do you know whether or not she is the wife of Nelson Murrell now? A Yes, sir.

Q Who did she belong to? A Belonged to Lewis Melton, he raised both of us.

Q There was Chlora when the war came on? A I don't know where she was.

Q Was she there at home? A No, sir, she wasn't here when the war broke out, she went off.

Q Well, did she just go off of her own accord, or do you know about that? A No, she run off.

Mr. Smith: This Chlora Murrell was owned by the same man that owned you, you say? A Yes, sir.

Q What was his name? A Lewis Melton.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q And he was living in the Cherokee Nation at the time the war commenced? A Yes, sir.

Q And Chlora Murrell had run away from him and you don't know where she was? A Don't know where she was.

Mr. Davenport: Do you know who she run off with? A Yes, sir, my woman will tell you that.

Taking of testimony continued by Stenographer J. O. Rosson.

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 8th of November, 1901.



Commissioner.

October 19th, 1901.

Taking of testimony in matter of the enrollment of NELSON MURRELL, et AL., S.F. D. #548, continued. Former portion taken by Stenographer Bruce C. Jones.

APPEARANCES:

Mr. Smith, of Counsel for Applicants;
Mr. Davenport, of Counsel for Cherokee Nation.

MINTIE MELTON, being duly sworn by Commissioner Needles, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A Mintie Melton.

Q Where do you live, Mrs. Melton? A On the Verdigris.

Q How long have you lived in the Cherokee Nation? A Here in the Nation all my life.

Q You know the applicant, Nelson Murrell? A Yes, sir, I know him.

Q Do you know his wife? A Yes, sir.

Q How long have you known her? A I knowed her a little while, I knowed her in slave time, before the war.

Q Well, do you know where she was when the war broke out?

A No, sir, I don't.

Q Did she belong to the same parties that you belonged to?

A No, sir.

Q How far did she live from you before the war; you were slaves when you first knew her? A Yes, sir.

Q Was she a slave of the same parties you were? A No, sir.

Q How far did she live from you? A 12 miles I think.

Q Well, you say you don't know where she was when the war broke out? A No, sir.

Q Had she left that country or not? A I don't know where she went; I guess she went off I reckon, I don't know anything about where she went.

Q What was your father's name? A His name was Robert Vann was his name.

Q Where was he when the war broke out, do you know? A No, sir, I don't.

Q Well, did you ever see him after the war broke out? A I seen him after he come back from Kansas.

Q About when did you see him? A When did I see him?

Q Yes? A I can't tell exactly when it was.

Q Well, have you seen Nelson's wife after you came back after the war? A This lady he has got now?

Q Yes. A No, sir, they lived up here.

Q I mean since you have moved up in this country? A Yes, sir.

Q Is she the same woman you knew before the war? A Same woman.

Q And you say you didn't know where she was? A No, sir.

Q Was she with her owners that owned her when the war broke out? (No response.)

Q Was she at their home? A Well, I don't believe she was right at home.

Q Do you know where she was or what became of her? A I don't know where she was.

Q Do you know how she come here, what the circumstances of it was?

A I guess she went off.

Mr. Smith: I object to what she says.

Witness: She lives with Lewis Melton and I live on Casey.

Q Isn't it a fact that your father and she ran off and left this this country before the war broke out?

Mr. Smith: I object to the question, if the Court please, because it is leading, and the applicant says she does not know.

Gen'r Needles: Let the objection be entered.

A She was at home and I was at home; I don't know where she went

to and I never visited there.

Q Wasn't it understood by you that she and your father ran off together before the war and left the country?

Mr. Smith: I object to that.

COYNE HENKINS: You know whether your father and she went off together? A I guess so; they lived at Melton's and I lived at home.

MR. DAVENPORT: You don't know whether they were living at Melton's when the war broke out or not, do you? A No, sir. When the war broke out it wasn't no time to know where anyone lives.

MR. SMITH: How far was it from where Lewis Melton lived to where you lived? A 12 miles.

Q You don't know what took place when the war broke out? A No, sir. Q You don't know where she was when the war broke out? A No, sir.

HENRY MELTON, recalled, further testified:

MR. DAVENPORT: Henry, what was your wife's father's name, do you know? A Robert Vann.

Q Did he belong to the same man you did? A No, sir.

Q Did you ever know him before the war? A Yes, sir; he was living with Joe Vann.

Q Did Nelson Marshall's wife belong to the same party that you belonged to before the war? A Yes, sir.

Q Well, where was she when the war broke out? A I told you she was gone.

Q Do you know where Robert Vann was? A He must have been with that woman.

Q Was he there with you when the war broke out or was he in the country? A He had a ranch and he went and stole Flory from my Masters.

Q Where did they go? A I don't know where they went.

MR. SMITH: How do you know he stole her? A Wasn't I there when he brought her there to where I was.

Q Did you see him? A Yes, sir, and talked with him.

Q Did you? A Yes, sir, and hoped him get off that night.

Q What night? A The night he left, and then I met my old boss, Walk Vann himself, waiting for me to see if he could hear from that woman, and I told him that Lewis took Flory to Joe Vann's and got Mr. Joe Vann to buy her.

Q Where did Joe Vann live? A On Grand river, in the Cherokee Nation.

Q And you think he had Flory over about Joe Vann's? A I don't know.

Q What did you say about Joe Vann? A I said I was there when he brought her there.

Q Didn't you say a while ago that that is where she was when the war broke out? A No, sir.

Q Have you told now all you know about this case? A Yes, sir.

Q Have you had anything for your wife or her? A No, sir.

MR. SMITH: Just told the story? A Yes, sir.

MR. DAVENPORT: Help us the witness when you have been on the stand isn't it?

Q Very plain what she questioned the first time you were on the stand the day before the war, when you asked that question?

A Yes, sir.

Q Did she answer that question?

A No, sir. I didn't know she was there. I said I said.

Q Did you say I shall know?

A Yes, sir.

Q You didn't say that at all? A No, sir.

WALTER A. SMITH, being duly sworn, deposes that he is the father of the child...

- Q Where do you live, Mr. Caesar? A Muskogee.
- Q Where were you at the close of the war? A At the close of the war I was in the war, in the army.
- Q Where were you mustered out? A I was mustered out at Fort Leavenworth.
- Q Well, after you were mustered out where did you go? A After I was mustered out I came to the Territory.
- Q What part of the Territory did you come first? A First I came to Cherokee Nation.
- Q Near what point? A Here on the Verdigris somewhere about the Verdigris, little creek called Snow creek.
- Q How long did you stay in that vicinity there? A I stayed there only one season, one year.
- Q What year did you come to the vicinity of Snow creek, Mr. Caesar? A It was '67, Spring of '67 that I came.
- Q Well be it when it may when you came there, who were living on Snow creek? A Wasn't anybody.
- Q Was there any improvements made by anyone around there? A No, sir, only improvements I knowed of there at the time and they were little, and then I--not an improvement, but just fencing and put in a little crop of corn the year I came there.
- Q How far was the improvements that you made from where Snow creek empties into the Verdigris? A Well, now, I couldn't tell you; it was a very short distance; we stayed right in a flat near the mouth of Snow creek and Verdigris.
- Q Short distance away? A Yes, sir.
- Q Are you acquainted with the applicant here, Nelson Murrell, the gentleman who sits there, the old gentleman on the front seat? A No, sir, I am not personally acquainted with him.
- Q You are a citizen of the Creek Nation aren't you? A Yes, sir.
- Q Well, during the time you lived there did anyone come in there and settle on the creek, or near there; do you remember the names of anybody? A I don't remember the names of anybody. Before I left there they was a family started an improvement up the Snow creek above I and also one up the Verdigris; up the Snow creek from the mouth and up the Verdigris from the mouth of Snow Creek.
- Q That was before you left there? A Yes, sir.
- Q Was there any Indians in that part of the country before you left? A Yes, sir.
- Q Do you remember any of their names? A Oh, yes, I remember there was an Indian there that I did some work for, was by the name of Love.
- Q You did some work for him before you left there? A Yes, sir.
- Q Do you remember his first name? A The young man employed me at the time there was Simon, and Sam.
- Q Where did they live with reference to where you settled, or had they built their improvements at that time? A They had started their improvements, they was down across the Snow creek from where I was.
- Q Were you on the north side, what I would call the north side of Snow creek, or south side; I mean by that, were you in between the river and Snow creek? A Between the river and Snow creek.
- MR. SIMON: How far were you away, Caesar, from the mouth of Snow creek? A In about, I could not tell, it was a short distance it was just a flat.
- Q Five or ten miles? A About somewhere, a mile, might be a mile or mile and a half.
- Q From the mouth of Snow creek? A Yes, sir.
- Q Now Sir was that from the mouth of Cedar creek? A I don't know a creek by that name.
- Q How far was that from the line of Kansas? A The exact distance I could not tell; it was not very far.

- Q About how many miles, as near as you can come at it? A Well, if I would have to say according to my judgment, because at the time I never paid any attention whether it was half or 25 miles, but living there, to Chatopa it might have been four or five miles, that I would say that then it would be just according to my judgment.
- Q Well, when you left there did you leave for Chatopa? A When I left there?
- Q Yes? A Yes, when I left that section of country I went to Snow creek, when I left Snow creek I went to this man Love, and from Love's I went to Chatopa.
- Q How far did you live from Snow creek? A I raised some little crop on Snow creek.
- Q When did you get there? A Along in the spring, about February or March.
- Q Did you have a family? A No, sir.
- Q Where did you live? A I lived right in a house with a man by the name of Steve Little.
- Q Lived in Little's house? A Yes, sir.
- Q About a mile or mile and a half from Snow creek? A Yes, sir.
- Q Did you live right on the bank of Snow creek? A No, sir.
- Q How far did you live? A Somewhere about a mile from the river.
- Q Well, I know from Verdigris, how far from Snow creek? A About the same distance.
- Q Now, how long is Snow creek? A I don't know.
- Q How far is it from where you lived down there on Snow creek to the Kansas line, or where Snow creek enters the State of Kansas? A I don't know.
- Q Did you ever go up the creek? A I sometimes went up it, but I can't tell.
- Q You have been in the State of Kansas? A I have been, but I can't tell how long the creek is.
- Q Now you don't know then anything about how far it was from where you lived to the place where Snow creek enters Kansas? A No, sir; I could not tell you.
- Q Well, as a matter of fact you don't know anything about it then; you didn't see anybody living there except those you have mentioned? A No, sir.
- Q Timber along there wasn't it? A Yes, sir, timber on up and down the creek.
- Q You don't pretend to swear that man Nelson Hurrell wasn't living there? A No, sir; I said I didn't know that he was living there as Nelson; but there was just before I left there there was a family right in the mouth of Snow Creek where I lived; there was a family started a settlement up Snow Creek from the north and also a family started an improvement up the Verdigris from where we lived.
- Q You don't know how long these families had been there in that part of country? A No, sir.
- Q Where they came from? A No, sir.
- Q Don't know anything about it? A No, sir.
- Q How long were you in the army? A In the army about two years and two months.
- Q Where did you join? A I joined about the 9th of August.
- Q What year? A '63.
- Q And how long were you in the army you say? A I was in the army two years and two months somewhere about that.
- Q What time did that let you out? A I got out in September, well, in about, I was discharged in September, '65.
- Q Where were you when you were discharged? A Fort Leavenworth.
- Q How long did you stay in Fort Leavenworth? A I stayed in Fort Leavenworth until the spring of '67.
- Q Well, how many years? A Well, from '63 until '67.
- Q And then where did you go? A To the Cherokee Nation and from Cherokee Nation to the Creek Nation.

Q How long before you got into the Creek Nation? A I could not tell just how long, just back and forth, I was alone, single and I went to and fro from the one country to the other.

Q When did you first go to the Creek Nation after the war? A I went to the Creek Nation the first year I came and left from the Creek Nation, then back to the Cherokee Nation at the settlement called the Big creek settlement.

Q Don't you know when it was you first went to the Creek Nation?
A No, sir.

Q How did you get to be a citizen of the Creek Nation? A By Act, passage of Council acknowledging my arrival.

Q When? A I was in the Creek Nation in the limit, the 12 months.

Q Twelve months from when? A From April the 13th or 16th I suppose.

Q April 16th, what year? A From the passage of the treaty.

Q when was that? A '67, April, '67.

Q When you worked for Love where did he live? A Cherokee Nation.

Q Have a house to live in? A Oh, yes, he had a little, just little place started and I worked for him.

Q Just started; well, was it a house or not? A House I suppose.

Q Don't you know, don't you know a house when you see it?
A Yes, sir.

Q Was it a house or not? A Yes, sir.

Q Now, what year was that? A That was the year of '68, it seems to me it was the year after I left Snow Creek.

Q How early in '68 and how late? A Now, the days of the year and so on, I could not tell; it was about the middle of the year.

Q Do you know who built his house? A No, sir, I don't know when I went there.

Q Do you know anything about a carpenter before that time that lived up on Snow creek and built Love's house?

A I don't know.

Q Wasn't any living up there? A I don't know.

Q You didn't see him? A I didn't see any, I wasn't acquainted with the people.

Q People lived around there that you didn't know anything about?

A I don't know; it might have been these people I am talking about.

Com'r Needles: This testimony will be made part of the record in the case at bar, and it will also be made part of the record in Cherokee Freedmen doubtful cases #550, #552, #758, #923, #788 and #994.

---00000000---

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 25th, 1901.

[Signature]

Commissioner

F. D. 994

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, | S. S.
NORTHERN DISTRICT. |

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 11 1902

NOTICE!

IN THE MATTER OF the application of Aranda Gaskins
for enrollment as Cherokee Freedmen;

Case No. F. D. 224

To Aranda Gaskins or Mellette A. Smith her attorneys.

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on February 24th, 1902, at 8 o'clock A. M. 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 8th day of February, 1902.

L B Bell

W. W. Hastings

Attorneys for the Cherokee Nation.

Cherokee Freedman D 994

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Amanda Gaakin for enrollment as a Cherokee Freedman.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for the applicant;
J.S. Davenport, of attorneys for the Cherokee Nation.

WALTER S. AGNEW, being first duly sworn, and being examined testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A Walter S. Agnew.
Q Where do you live? A I live here in Muskegee at present.
Q How long have you lived in the Cherokee Nation? A I was born and raised in the Cherokee Nation.
Q Where were you living the latter part of '60s or '70, and along in there? A I was living at Fort Gibson.
Q Where were you living during the war of the Confederacy? A My old home at the commencement of the war was up in Flint district, in the Cherokee Nation.
Q After the war then you was living at Fort Gibson, was you?
A Yes sir.
Q Did you know a colored man by the name of Ben Alberty? A I could not say I was personally acquainted with him, I met up with ~~an~~ a man by that name.
Q When did you first see a man by that name and where was he when you first saw him? A It was in November '79, I taken a bunch of cattle up to Kansas and I first found him on Snow Creek in camp, and I rode up there and asked him his name and something about the road and so on.
Q That was in November, 1879? A Yes sir.
Q Well did he have any house at that time? A No, it was a kind of camp; a camp I would call it.
Q Did he have any farm or fencing around his camp? A No sir, no fencing at all, not even around the camp.
Q Was there any family or any people there? A I ~~takaxitx~~ don't remember seeing but one person there besides himself, and that was a white woman.
Q Did you have any conversation with him? A I just simply rode up there and made inquiry about the road, how far it was to a little town of Westralia, just across the line.
Q That was in '79? A Yes sir.
Q And he had no farm or fencing around there, and was living there in camp? A Yes sir.
Q You never had seen this man Ben Alberty before? A No sir.
Q And you don't know what kind of family he had? A No sir, I don't even know that his name was Ben; he said his name was Alberty.

BY MR. MELLETTE:

- Q Where did you live at that time? A I lived at Fort Gibson.
Q How far from Fort Gibson was it to where you saw him? A It was something over a hundred miles, something like a hundred miles I reckon.
Q It was in the Cherokee Nation where you saw him? A Yes sir.
Q You don't know how long he had been there? A No sir.
Q Don't know what he was doing there? A No sir, I don't.

H. J. 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.

H. J. Green

Subscribed and sworn to before me this February 22, 1900.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of FREDY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Mallett & Smith, Cherokee Nation, by
W. W. Hastings.

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitacre, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F. D. 496, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be
deemed necessary that a copy of the said decree be filed in this
case and in the following cases, to-wit:

Annals Cousins, D 994;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning of
the war, nor that he returned within the time specified in the
treaty of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be
entertained and the decree of the Court of Claims filed in the
case of Mariah Hayden will be made a part of the record by reference
in all the cases above named with the exception of those which come
within the provisions of the temporary injunction recently granted
by Judge Gill of the United States Court, of the Northern District
Indian Territory.

Mr. Smith:

The applicant further moves that in the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed within thirty days to file any of the proof of
any or all of the record other than the decree already referred to

In the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Reichenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Feuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
Notary Public.

ATTORNEYS

L. B. HILL

W. W. HASTINGS

J. S. DAVENPORT

ATTORNEYS FOR THE CHEROKEE NATION

J. C. STARR, SECRETARY

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

MUSKOGEE, IND. TER.

190

994. This case in so far as proof is concerned is almost entirely without support. Nelson Murrell and the mother of applicant are his maternal witnesses. Charley Chambers one of his witnesses says that he first saw him on Snow Creek in 1870 & that he had made one crop. Murrell says that Ben came in the Spring of 1865 & made a crop. ~~Ben~~ Wife says that they ^{married} ~~came~~ in 1866.

Cher fr D 995

Cher fr D 995

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1901.

In the matter of the application of Mary Howell for the enrollment of herself and one child as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Appearances:

Mr. A.S. Moran, attorney for the applicant;
Mr. L.B. Bell, attorney for the Cherokee Nation.

- Q What is your name? A Mary Vann.
Q What is your age? A About 36.
Q What is your post-off or address? A Benge.
Q What district do you live in? A Sequoyah.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q You want to enroll anybody but yourself? A Myself and one child.
Q What is the name of your child? A Bent Howell.
Q How old is he? A About 20.
Q Are you married? A Yes sir.
Q What is your husband's name? A Bent Howell.
Q Is he a citizen? A No sir.
Q Is he living? A Yes sir.
Q How old is he, about? A I don't know, sir.
Q Your name upon any of the rolls of the Cherokee Nation? A Upon the Kiam-and-Clifton roll.
Q How does your name happen to be Mary Vann if your husband's named Howell? A My mother, belonged to the Vanns.
Q You are married to Howell? A Yes sir.
Q Your name is Howell now? A Oh yes sir, my name is Howell now.
Q What is your father's name? A I don't know sir.
Q What is your mother's name? A Rose Vann they called her.
BY MR. MORAN:
Q Mrs. Howell, where were you when you first had any recollection of yourself? A I was with uncle George Vann.
Q Where was that? A That was down here on the other side, down below the bridge, double log house.
Q In the Cherokee Nation? A Yes sir.
Q I believe you started that you have no recollection of your mother or father? A No sir, they said I was about a year old, but I don't remember.
Q Have you lived most continuously in the Cherokee Nation since your first had any recollection of yourself? A Yes sir, I have been out and in.
Q What is the longest that you have lived out of the Cherokee Nation at any one time? A About eight months.
Q Are you married? A Yes sir.
Q How long have you been married? A I have been married about 22 years, I reckon, as high as I can guess at it.
Q Where were you married? A I was married at George Vann's house, down on the river.
Q What district? A Sequoyah.
Q Cherokee Nation? A Yes sir.
Q After your marriage how long did you and your husband remain at the place where you married? A About one year, I reckon.
Q Did you move? A Yes sir, we went off up in Kansas and stayed there about six or eight months, then came back down here and stayed.
Q At what point did you come when you came back? A We came down here in Sequoyah District.
Q Have you lived continuously since that time to the present? A No sir, we went to Oklahoma.
Q How long did you live in Oklahoma? A About 9 months I reckon.
Q What kind of work were you and your husband following while in Oklahoma? A I wasn't doing anything well I did work a little around

Mary Nowell et al 2

the town, and he worked, street work, under the Commissioner.

Q What city town? A Oklahoma City.

Q How long did you remain there? A About nine months I reckon.

Q You afterwards returned to the Cherokee Nation? A Yes sir.

Q What place? A We then came down here on the, I can't call it the name of the place.

Q Near the present place were you now living? A Yes sir.

Q In Sequoyah District is it? A Yes sir.

Q Have you lived continuously where you are now living ever since you moved from Oklahoma? A Yes sir, often and so. I have worked in Ft. Smith and in Van Buren.

Q Did you move your effects out with you? A Yes sir.

Q How long did you work at Ft. Smith? A I didn't work there but a week, go backwards and forwards home.

Q You and your husband ever farm any in the Cherokee Nation? A Yes sir.

Q What is your present occupation, that of you and your husband? A Farming.

Q Where was the child that you have mentioned here born? A George Vann's.

Q Where is that at? A Down here below the bridge, in Sequoyah.

Q Is that in the Cherokee Nation? A Yes sir.

Q Does your name appear upon any of the rolls of the Cherokee Nation? A Kerns and Clifton roll.

BY COM'R HENKLEIGH

Q Did you get your strike money under the name of Howell? A Vann or Nowell, one or the two, I don't know which.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified on page 160 #3964 Mary Vann, Sequoyah District; page 160 #3965 Ben Howard, Sequoyah District.

BY MR. WELLS

Q You say you don't know who your father and mother was? A I don't know nothing about it.

Q You don't know anything about your parents at all? A No sir.

Q You don't know whether they were slaves or not? A No sir.

Q You don't know whether they ever lived in the Cherokee Nation or not? A No sir.

Q Where did you first find yourself when you can first recollect?

A At George Vann's.

Q This old George Vann, the old man that was seen here? A Yes sir.

Q How old were you when you were married? A I don't know sir, about 15 or 16 as near as I can guess at it.

Q Were you ever out of the Cherokee Nation before you were married?

A No sir, nothing more than just working around in town, Ft. Smith and Van Buren.

Q Well you was out of the Cherokee Nation? A Yes sir.

Q How far out did you ever go? A I just worked there in Ft. Smith and Van Buren.

Q Anywhere else? A No sir.

Q Were you ever down the Arkansas river in the direction of Little Rock? A No sir.

Q When did you marry your present husband? A I don't know the year it was, it has been about 22 years, though, I reckon.

Q And you have lived with him 22 years in here almost 18 months since you married? A I have been in and out.

Q How long do you think you was out the first time you went out? A About six or eight months I told you.

Q Where did you go when you went out that first time? A Went to Kansas.

Q Whereabouts in Kansas? A Kansas city.

Q You went to Missouri then didn't you? A They called it Kansas City, that's what I call it.

Q Did you live there in Kansas City? A Yes sir.

Q How long? A About 6 or 7 or 8 months I reckon, I can't tell you, I can't read or write, and I can't count.

Q Now you didn't live there any longer than 7 or 8 months at this one particular time, the first time you went there you didn't stay longer than 7 or 8 months? A No sir.

Q Then you returned to the Cherokee Nation? A Yes sir.

Q Can direct without stopping? A Yes sir.

Q Where did you stop at in the Cherokee Nation? A Went down to old man Vann's and stayed awhile.

Q How long? A I couldn't tell you just how long.

Q That's what you are up here for, to testify your witness about? A Well about 6 months, I reckon.

Q Then you went to Oklahoma City? A Went to Guthrie, Oklahoma.

Q How long did you stay at Guthrie? A About eight months.

Q Then you went from there to Oklahoma City? A Yes sir, I have been to Oklahoma City.

Q You went from Guthrie to Oklahoma City? A No sir, I came from Guthrie back down here.

Q When did you go to Oklahoma City? A I went there going backwards and forwards after I come here I went back.

Q You went back to Oklahoma city then did you? A Yes.

Q How long did you stay here when you came back from Guthrie before you went to Oklahoma City? A Stayed here 6 or 7 months.

Q How long did you stay in Oklahoma City? A Stayed there something inside of a year; I couldn't tell what year.

Q What other place in Oklahoma did you ever work at? A I ain't worked in any.

Q You came back after staying the year in Oklahoma, back to the Cherokee Nation? A Yes sir.

Q Made your ~~own home~~? A Yes sir.

Q When did you do that? A I couldn't tell you what year.

Q How many years ago? A Oh I don't know.

Q How many crops have you made there? A Ten or twelve I reckon.

Q Well which was it, 10 or 12 or 15? A I don't know, if I had knowed I would have told you directly.

Q You made ten crops did you? A I reckon it was that much.

Q Then those 12 years preceding that you was running around from Kansas City to Oklahoma was you? A Sir?

Q What did become of you during those 12 years of your married life? A I told you.

Q You have only accounted for about three or four years of it, one year in Missouri, 2 years in Oklahoma and 2 years in—

A I didn't say I went to Missouri.

Q Well it don't make any difference whether you said it or not, you said you went to Kansas City; we will call it Kansas if that will satisfy you better; you were a year in Kansas and 2 years in Oklahoma and 2 six month spells in old George Vann's, where were you the other eight years of this 12? A I told you I worked backwards and forwards.

Q You had no home for that 12 years? A Of course I did, I was running about the biggest part of the time, here and yonder, but most of it things were at old man Vann's.

Q You had no home at all? A No sir, I haven't got any home at all now.

Q You just now said you had a home? A I said we farmed.

Q I asked you the question direct and you said you had a farm and worked there 10 or 12 years? A I beg your pardon, we haven't got any farm; I said we farmed.

Q Whose farm did you live on those 10 years? A I lived on the old

Campbell and the Stedley place, and I lived on, I will call it directly.

Q How where did you farm the last time you farmed? A That's this where we are, on Andy Mayfield's place.

Q Where did you farm last year? A We farmed on the other place, I can't call her name, it's a widow woman.

Q You can't name her at all? A I can call her name, Miss, Oh I declare, Betta Norman place, we farmed on that last year.

Q I want to ask you if you want to be understood as saying that you only stayed 6 or 8 months at Guthrie and a little less than a year at Oklahoma and that includes all the time you have been in Oklahoma? A And then going backwards and forwards.

Q I want to know if that 6 or 8 months at Guthrie and little less than 12 months at Oklahoma includes all the time you ever stayed at Oklahoma? A Yes sir, outside of running backwards and forwards.

Q Then you have just been running backwards and forwards to Oklahoma nearly all the time since you have been married have you? A I have run around a heap, yes sir.

Q For the first 12 years you didn't have anything to do in the Cherokee Nation, you went backwards and forwards to Kansas City, around in Oklahoma, Guthrie, and ~~down~~ down to another, that what you done? A We dropped and done a little of everything.

Q You didn't drop none that first 12 years, you have done stated you commenced farming ten years ago, you married 22 years ago; that first 12 years of your married life was taken up in running about in Oklahoma and running about in Kansas City you said? A A heap of it was.

BY COT'R NEEDLES:

Q Where were you married? A Down here below the bridge.

Q In the Cherokee Nation? A Yes sir.

Q Where was Bent born? A Down there below the bridge.

Q ~~That's the Cherokee Nation, is it?~~ Where is the bridge? A In the Cherokee Nation.

Q Has he lived in the Cherokee Nation all his life? A Yes sir, well I don't say he has been here all his life, he aint at home now, just in and out.

Q He aint been living with you for a long time? A He aint been to say living at home, regular, at home, for 7 or 8 years.

Q Where is he now? A I aint heard from him in about two or three months.

Q You don't know whether he is alive now? A Last time I heard from him he was; he was up here at Coffeyville.

Q How you say you were married here in the Cherokee Nation to Bent Howell, and he was a non-citizen? A Yes sir.

Q You and him have been living around over the country everywhere? A Yes sir, we have bent to Oklahoma.

Q You kept house over there in Oklahoma? A Yes sir, we kept house over there while we was there.

Q Kept house in Arkansas? A No sir.

Q Van Buren? A No sir.

Q Ft. Smith? A No sir.

Q Kansas City? A No sir, of course we kept house in Kansas City while I was there, I had to stay in a house you know.

Q And Bent with you all this time? A Sometimes he was and some times he wasn't.

Q Have you any other children besides Bent? A No sir.

Q How many years of late years have you lived with your husband and kept house in the Cherokee Nation? A You mean here recently? A Yes, the last time, about how many years? A Between 8 and 9.

Q somewhere along there.

Mary Howell et al 5

BY MR. MORRIS:

- Q What is your name, Mr. Vann? A George W. Vann.
Q Your age? A 37 on the 27th day of December.
Q Are you acquainted with the applicant here, Mrs. Mary Howell?
A Yes sir.
Q What was her mother's name? A Her right name was Rose Vann.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A She used to belong for some years to Vann, and I don't know whether she did at the breaking out of the war, but she was with Ben Johnson at the breaking out of the war; she was mortgaged from Johnson to Vann.
Q Vann was her original owner? A Yes sir.
Q Was he a Cherokee citizen? A Yes sir.
Q Did he or the applicant go out of the Cherokee Nation during the war of the Rebellion between the North and the South? A No sir.
Q Did you ever see her in the Cherokee Nation after the war? A Yes sir, she was born in time of the war.
Q I am speaking of the mother of the applicant? A Yes sir. Stayed at my house until she died.
Q Do you know when the applicant here was born? A I just don't recollect the month; she was born, the war went on some two or three years and she was born at my house.
Q About how long was that old was the applicant when the mother died? A She must have been about 3 years old, something near that, to the best of my knowledge.
Q With whom was the raising and care of the applicant entrusted to after the death of the mother? A She was in my house when she died, and she stayed there until she got big enough to go out and work about, just like one of my children.
Q You raised the ~~applicant~~ applicant up as one of your own children? A Yes sir, she wasn't no kin to me, but I raised her up just like one of my children.
Q Has she lived continuously in the Cherokee Nation ever since you had care of bringing her up? A She did until she married.
Q When did she marry? A I think she must have been 16 or 17 when she married Bent Howard.
Q About how long ago has that been? (Con't Headless: She is 36, - nearly 20 years.) Right Answer of witness: A Yes sir.
Q Where were they married? A In my house.
Q Where is that? A In Sequoyah District, near Ft. Smith, Cherokee Nation? A Yes sir.
Q After their marriage how long to your knowledge did they live in your immediate vicinity? A Oh well they were around there sometimes in the Nation and sometimes in Ft. Smith and sometimes Van Buren, we never he took her and we never he went to work, sometimes I would see her and sometimes I wouldn't see in two or three months.
Q You know where they made their home? A At my house, they had a bed there and they always lived at my house, that's all the home I know.
Q What is the next the you have known them to live continuously in the Cherokee Nation? A What is the last time I knowed them living in the--
A Yes sir, continuously? A They were backwards and forwards right along, one days they were right over the river and some times come just across the river.
BY CON'T HEADLESS:
Q Where have you seen them in the last 7 or 8 or 10 years? A Right there in Ft. Smith and right there in Van Buren and in the Nation, living on the widow Hayfield's place now.
BY MR. MORRIS:
Q Were they living in Ft. Smith or Van Buren or the Cherokee Nation? A They were working there, but their home was there at my

house.

BY COM'R NEWBERRY:

Q Whenever they wanted something to eat they would come to your house? A No sir, they were making something to eat themselves.

BY MR. WOOD:

Q Has the applicant any children? A One.

Q Girl or boy? A Boy.

Q You know his name? A Ben is what they call him.

Q You know where he was born? A I do.

Q Where? A Born there in Cherokee Nation in Sequoyah District.

Q Where is the applicant living now? A Living down in the bottom there about Ft. Smith on the widow Hayfield's plantation; they are making a crop.

Q In the Cherokee nation? A Yes sir, Watie Hayfield's widow, she has got a plantation.

Q How long have they been living there? A They have been making a crop there about two years in the Hayfield place; this year I think is the second year.

Q You know where they lived before that? A Yes, they lived down on Charley Hettle's place two or three years ago, made a crop, in the Cherokee nation.

BY MR. JAMES DAVENPORT, Cherokee Deputy:

Q Where were you living when this girl was born? A In the Cherokee Nation, Sequoyah District.

Q Had you married the present wife that you now live with at that time? A No sir.

Q How long before you married this wife that you now live with was it that this girl was born? A This girl was born before ever I married this woman at all that I have got, my wife was named Narcissa when this girl was born.

Q That wife of yours died and these children were left with you before your second wife or third wife died? A Yes sir.

Q During the interim from the death of your second wife before you married this wife you now live with, what became of this child?

A She was with my children.

Q Where were you during that interim? A I had a house living right below where the bridge is now down there, double log house, right in the Cherokee Nation.

Q You was ~~some~~ couple of years in that time in what is known as Roach's Cove, in Alabama? A No sir, I don't know nothing about Roach's Cove.

Q You lived and know this girl lived there around Ft. Smith and Van Buren from the time her mother died up until the present time? A No sir.

Q Where has she been living? A I know she was gone once about 10 months, I didn't hear of her; I heard her husband say they was in Oklahoma.

Q About ten months? A Something near, I don't get right at it.

Q About what year was that, George? A Well it has been some 5 or 6 years, maybe, I don't know exactly what year it was.

Q What Vann did her mother belong to? A About 5 or 6 years, maybe more; she belonged to Jim Vann, and Jim Vann mortgaged her, and my wife to Ben Johnson, and when she was freed she was freed under Ben Johnson.

Q Where was Ben Johnson living at the close of the war? A Right there near Ft. Smith, about a mile from the bridge, right on the side of the river bank. Payne bought his place there after the war, from George, his son.

Q She has only lived at the Cherokee nation about 10 months? A I don't know that; she's gone at least that much, maybe more; I don't know.

Mary Howell et al 7

Gen's Hedges: Mary Howell applies for the enrollment of her self and son Bert; she cannot be identified upon the rolls of the Cherokee Nation, except the Kern-Clifton roll; she is identified upon the Kern-Clifton roll as well as her son, Bert Howell; reference is made to the testimony as to the facts in regard to her citizenship and red blood; she will now be listed for enrollment, her and her son, Bert, as Cherokee Freedmen on a doubtful card; she will be notified of the decision of 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 therein.

Subscribed and sworn to before me this July 18, 1901.



Commissioner

Not D. G. ...

**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. 1901

Given under my hand this
day of ... A. D. 1901.

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 ..., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a true copy of the within notice to

on the ... day of ... A.D. 1901

Subscribed and sworn to before me
this ... day of ... A.D. 1901.

Notary Public.

[Faint, illegible text at the bottom of the page]

NOTICE!

IN THE MATTER OF the application of Mary Howell
for enrollment as a Cherokee citizen:

Case No. D 998

To Mary Howell or A. S. McRae her Atty.

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 Fort Gibson, I. T. Indian Territory, on Sept. 26th at 8 o'clock A. M. from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, 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 SEP 16 1901

L. B. Bell
W. W. Hastings
Attorneys for the Cherokee Nation.

W.D. 455

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

NOTICE!

IN THE MATTER OF the application of Mary Howell
for enrollment as a Cherokee citizen:

Case No. D. 995

To Mary Howell or A. S. McRea her Attys.

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 Fort Gibson, I. T. Indian Territory, on Sept. 24th 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 on the respective days above named, 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 9 - 20 - 1900

L. B. Bell

W. W. Hastings
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 25, 1901.

In the matter of the application of Mary Howell et al. for
enrollment as Cherokee Freedmen.

Testimony on behalf of the Cherokee Nation.

Appearances:

A. S. McKee, attorney for applicants;
J. S. Davagport, of counsel for Cherokee Nation.

ALBERT JOHNSON, being duly sworn by Commissioner Needles,
testified as follows:

Mr. Davagport: State your name? A Albert Johnson.

Q Where do you live? A In Sequoyah.

Q What is your postoffice? A Benge.

Q How old are you? A I am 44.

Q How long have you lived in Sequoyah district? A I have been
there all my life nearly.

Q Were you living down there before the war broke out? A Yes,
sir, born there.

Q Were you a slave? A Yes, sir.

Q To whom did you belong? A Ben Johnson.

Q Well, did you go out of the Nation during the war? A I went
out of the Cherokee Nation and went into the Choctaw Nation.

Q Well, who went with you? A Well, all of us went.

Q I mean by that, did your former owner go with you? A Yes, sir.

Q Well, when the war closed did you come back to the Cherokee
Nation? A Yes, sir.

Q About what year did you come? A We came in '65.

Q What became of your former owner, Ben Johnson? A Why he died.

Q Where was he at the time he died? A He was in Kiamichi in the
Choctaw Nation.

Q He never did come back to the Cherokee Nation after the war?

A No, sir, he died.

Q Can you remember anything about the slaves Ben Johnson owned
before the war? A I can remember some of them, yes, sir.

Q Had he a woman down there they called Rose before the war?

A No, sir, not as I remember of at all.

Q Do you know this applicant, Mary Howell? A Yes, sir, I know her.

Q After you came back to the Cherokee Nation down there at the
Ben Johnson place after the war did you see a woman there by the name
of Rose Vann or Rose Johnson? A No, sir.

Q Was there any such woman there on the Ben Johnson place
after you came back? A There wasn't no colored people there at all
only as that come from Kiamichi that belonged to Ben Johnson.

Q He have such a woman, by the name of Rose Vann, Ben Johnson?

A Not as I know of.

Q Well now if you came back from there, when did you first get
acquainted with the applicant, Mary Howell, or Mary Vann, or Johnson,
or whatever name she went by before she was married? A I just can't
say just when it was when I first got acquainted with her.

Q Did you get acquainted with her before she married Howell?

A No, sir.

Q Well, how long ago has it been, or about how long, since you first
saw her? A The first time I ever saw her was just a while before
this Barn and Clifton Court, the first time.

Q Have you lived continuously in the neighborhood of the Ben John-
son place since you came back to the Cherokee Nation? A Yes sir.

Q Well, how far was it from the place where Uncle George Vann sits
settled? A Well, it was about a mile and a half I guess from below
that.

Q ~~Well, how far~~

Q Well when do you first remember seeing this woman, with reference to the time you remember Uncle George coming in there, Uncle George Vann I mean? A I believe I saw her at the church.

Q I mean with reference to the time you remember seeing him there? A That is what I am talking about.

Q Was it before or after he came, I mean do you remember seeing him in the locality? A It was after he came.

Q Well, you remember whether or not he was living there about the Ben Johnson place after you got back after the war? A He wasn't living there at all.

Q Where was this woman, Mary Howell, or Vann or Johnson, living, if you know, when you first saw her? A I don't know.

Q Well, about how long after you came back after the war was it before you first met her, have you got any idea at all? A I can't say that, it has been so long; that is, I was there so long before I saw her that I can't just say when it was.

Q About how old were you when you came back from the Choctaw Nation?

A I guess I was about ten years old.

Q Was you grown or not when you first saw this woman? A I was grown, yes, then.

By A. S. McRea: Mr. Johnson, you say the first time you ever seen Mrs. Howells was five or six years ago? A No, I didn't say five or six.

Q In 1896 was the Kern-Clifton? A Well, that was about the first time, I guess it was.

Q It has been about that period of time; how old were you at the breaking out of the war? A Well, I can't just go on to tell because I was so small I don't know.

Q You have no recollection of it? A No, sir.

Q When you first met Mrs. Howell, you say it was at a church?

A I think it was.

Q Was it in the Cherokee Nation? A Yes, sir.

Q Sequoyah district? A Yes, sir.

Q You have been there in that neighborhood since then continually?

A Yes, sir.

Q About her return though you know nothing about it you say? A I don't know nothing about that at all.

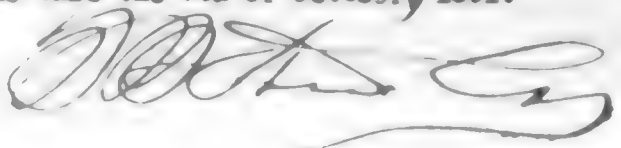
Q Neither her ownership? A No, sir, I don't know nothing about that.

Commissioner: This testimony will be filed with the testimony in the case.

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 7th of October, 1901.



Commissioner.

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

In the matter of the application for the enrollment of
Mary Howell and her minor child, Bent Howell, as Cherokee Freedmen.

D E C I S I O N .

The record in this case shows that on July 1, 1901, Mary Howell appeared before the Commission at Nowata, Indian Territory, and made personal application for the enrollment of herself and her minor child, Bent Howell, as Cherokee Freedmen.

The evidence shows that the said Mary Howell was born since the commencement of the rebellion and is the daughter of one, Rose Vann, deceased; and that Bent Howell is the minor child of said Mary Howell.

It does not appear that the said Rose Vann, at the commencement of the rebellion, was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation. Neither her name nor the names of any of the applicants herein are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the application for the enrollment of Mary Howell and Bent Howell as Cherokee Freedmen 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 Birby.

Chairman.

(SIGNED).

T. B. Needles.

Commissioner.

(SIGNED).

C. E. Breckinridge.

Commissioner.

(SIGNED).

W. E. Stanley.

Commissioner.

Dated at Muskogee, I. T.,
this JUL 1 - 1903

COMMISSIONERS
TAMM BIRBY,
THOMAS S. NEEDLES,
C. R. BRACKENRIDGE,
W. E. STANLEY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REPLY TO THE FOLLOWING
Cherokee I.D-986

ALLISON WYLBOROTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 10, 1903.

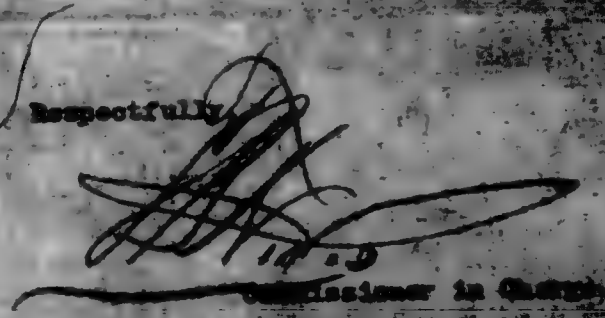
W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 1, 1903, rejecting the application of Mary Howell for the enrollment of herself and her minor child, Bent Howell, as Cherokee freedman.

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,



Allison Wylborth
Commissioner in Charge

Enc D-89
Register.

7209

COMMISSIONERS
TAMM BIXBY
THOMAS B NEEDLES
C R BRECKINRIDGE
WM O HEALL
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-995.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 20, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated July 1, 1903, rejecting the application for the enrollment of Mary and Bent Howell as Cherokee freedmen, was affirmed by the Secretary of the Interior on May 13, 1904.

Respectfully,



Commissioner in Charge.

Cher fr D 976

Cher fr D 996

To be filed in the case of Benjamin Beck, CFD-996.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 26, 1901.

In the matter of the application of Maryland Beck for the enrollment of himself and 2 children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, he testified as follows:

Appearances:

Mr. Smith, of Hellette & Smith, for the applicant;
Mr. W.W. Hastings, for the Cherokee Nation.

- Q What is your name? A Maryland Beck.
Q What is your age? A 58 or 9.
Q What is your post-office? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Myself and 5 children.
Q Are your five children under age and unmarried? A No sir.
Q Give me the names of those under age and not married? A Ida and Harvey.
Q Ida Beck? A Yes sir.
Q How old is Ida? A 12 years old.
Q How old is Harvey? A 10 years old.
Q Any others? A Yes, my other grown children.
Q You ~~just~~ have just two not grown? A Yes sir.
Q Are you married? A Yes sir.
Q What is your wife's name? A Minnie Beck.
Q Is she a citizen? A Yes sir.
Q Has she been enrolled? A Yes sir.
Q Is her name on the 1880 roll? A Yes sir.
Q Why didn't she enroll these children? A They are not hers.
Q She is not the mother of them? A No sir.
Q How many times have you been married? A 3 times.
Q What was your first wife's name? A Ibbie Mays.
Q Is she living? A No sir.
Q What was your second wife's name? A Mary Beck.
Q What was her name before you married her? A Mary Lett.
Q What is your wife's name? A Minnie.
Q What was her name before you married her? A Minnie Sanders.
Q Who is the mother of Ida Beck? A Mary Lett.
Q Who is the mother of Harvey Beck? A Mary.
BY MR. SMITH:
Q Mr. Beck, ~~what~~ who are your witnesses? A Sam Webber, Allen Lynch, Jack Landrum, John Baldrige.
Q Mr. Beck, were you a slave before the war? A Yes sir.
Q Where did you live? A I lived in the Cherokee Nation.
Q Where were you living when the war came up? A I was living in Delaware district in the Cherokee Nation.
Q Who was your owner? A Joseph Beck.
Q Was Joseph Beck a Cherokee Indian? A Yes sir.
Q Was he a Cherokee Indian by blood? A Yes sir.
Q Recognized citizen of the Cherokee Nation? A Yes sir.
Q Did you go out of the Cherokee Nation during the war or remain here? A I remained here.
Q Where were you in 1866? A I was at pt. Gibson.
Q Were you at pt. Gibson during all of the year of 1866? A No sir.
Q Where were you the rest of the time? A I was up on Big Creek, where I live.
Q Where did you stay during the war? A I stayed at pt. Gibson.
Q How much of 1866 did you spend at pt. Gibson? A -
Q By Com'r Needles; Pt. Gibson in the Cherokee Nation? A Yes sir.
Answer to Mr. Smith's last question: I spent there from the spring to fall.
Q What time did you go to Big Creek? A In the early part of the fall.

Maryland Beck et al 2

- Q ~~What is your name?~~
Where were you during all the time of the war? A I was at Ft. Gibson.
- Q What were you doing down there? A I stayed there.
- Q Did you do any kind of work? A Yes sir, I teamed some for the Government.
- Q How old are you now? A I am 58 or 9 I guess.
- Q Have you any children older than the ones you have applied for here, Ida and Harvey? A Yes sir.
- Q Who are they? A Oldest one is Lottie.
- Q What 's her name now? A Lottie Pack.
- Q Where does she live? A She lived here in the Nation.
- Q Where was she born? A She was born up on Big Creek.
- Q In the Cherokee Nation? A Yes sir.
- Q Where has she lived all the time? A Lived here in the nation.
- Q Any others except Lottie? A Next oldest is Bennie.
- Q Where does Ben live? A He lives with me.
- Q Married or single? A He is single.
- Q Well then who else? A Another boy lives with me, he is married.
- Q What is his name? A Dallas.
- Q Has he any children? A No sir.
- Q Who was the mother of these children, that is these that you have just mentioned? A Ibbie Mays.
- Q The mother of these three grown children? A Yes sir.
- Q Who is the mother of these you have just applied for? A Mary Lett, Mary Beck I call her.
- Q Mary Lett was her maiden name? A Yes sir.
- Q Were you married to Mary Lett? A Yes sir.
- Q Where were you married to her? A On Big Creek.
- Q Have you any certificate of your marriage to her? A No sir.
- Q Who married you? A Sam Webber.
- Q Did you have any license or did you just marry? A No sir, we just married.
- Q Well at that time what had become of your wife, Ibbie, or was Ibbie ever your wife, the mother of the grown children? A She was dead.
- Q Did she die before you married Mary? A Yes sir.
- Q Were you married to Ibbie? A Yes sir.
- Q Have any license? A No sir.
- Q When were you married to her? A I was married there on Big Creek
- Q When I said? A Late in the fall of '66.
- Q In the fall of '66? A Yes sir.
- Q Who married you and Ibbie? A Webber.
- Q Have any license or just married? A Just married.
- Q Who did you say is on the 1880 roll, your present wife? A Yes sir.
- Q What is her name? A Minnie.
- Q Where is Mary, the mother of Ida and Harvey? A She is in Missouri some where.
- Q You and she separated? A Yes sir.
- Q Your first wife was dead however before you married this woman Mary? A Yes sir.
- Q Where are these children, Ida and Harvey, with you? A Harvey is with me, and Ida is with her.
- Q Does your wife live in Missouri? A Yes sir.
- Q That is, your former wife, Mary? A Yes sir.
- Q Are you on any of the rolls of the Cherokee nation? A I am on the Kern-Clifton roll and the Wallace roll.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified on page 187 of the Maryland Beck, Cassessawee District. Wallace roll of citizens of the Cherokee Nation examined and applicants identified on page 188 of the same.

Maryland Beck et al

Page 99 #2112 Maryland Beck, Illinois District;
Kern Clifton pay roll of citizens of the Cherokee Nation
~~examined and approved by the Commission~~
page 137 #3415 Ida Beck, Cooweescoowee District;
page 137 #3416, Harvey Beck, Cooweescoowee District.

BY COM'R NEEDLES:

- Q Have you any children by your present wife? A No sir.
Q You say she is on the 1880 roll? A Yes sir.
Q You apply for her? A She has done applied.
Q Ibbie Mays was dead before you married Mary Lett? A Yes sir.
Q Mary Lett a citizen? A No sir.
Q She is a non-citizen? A Yes sir.
Q You don't apply for her then? A No sir.
Q Where do you understand you to say you were in the year '66? A Ft. Gibson.
Q You never went out of the Cherokee Nation thereafter '66?
A No sir.
Q And was here during that year at Ft. Gibson in the Cherokee Nation? A Yes sir.
Q Where was you in 1867? A I was here on Big Creek, in '67.
Q In the Cherokee nation? A Yes sir.
Q Have you lived continuously in the Cherokee Nation from that time until this? A Yes sir.
Q Never lived out of it? A No sir.
Q Why aint your name on the rolle of 1880? A They wouldn't put it on.

BY MR. HASTINGS:

- Q Maryland, what part of the Cherokee Nation did you live in before the war? A I lived in Delaware District.
Q Joe Beck have a wife? A Yes sir.
Q What was her name? A Cynthia.
Q He have any family? A Yes sir.
Q What are some of his family named? A Oldest boy was named Ed Dud, Luge, Polly, Ary.
Q Did you know Zeke Beck before the war? A Yes sir.
Q How far did he live from you? A About 2 miles.
Q You applied to the Rob Daniels Court in '71 for enrollment didn't you? A Yes sir.
Q You have your witness es there then? A Yes sir.
Q The court refused to enroll you didn't it? A Yes sir, it did not do it.
Q You applied to the Kern-Clifton Commission? A Yes sir.
Q At that time you said that you had been in Kansas during the war didn't you? A No sir.
Q Didn't you state at that time that you came from Ft. Leavenworth after the war to Ft. Gibson? A No sir.
Q Didn't you state that you came back from there, but was sent to Ft. Gibson from Ft. Leavenworth? A No sir.
Q You deny then that you had been in Kansas at all during the war?
A I stated that while I was driving a Government team I went on a trip up to Leavenworth and back to Ft. Gibson.
Q How long were you in Kansas? A Generally was a trip in about 60 days.
Q Did you live in the town of Ft. Gibson through the war? A Yes sir.
Q Right in the town? A Yes, well part of the time in the town.
Q And where the rest of the time? A Right out in the edge of town where my daddy lived.
Q You lived with him during the war? A Yes sir, when I wasn't at work I stayed there.
Q Did you tell the Kern-Clifton Commission that you had remained there with your father during the war? A Yes sir.

Maryland Beck et al 4

- Q Did you introduce any witnesses at all before the Kerns-Clifton Commission? A Yes sir.
- Q Who did you introduce? A I introduced Jack Landrum, Allen Lynch, Simon Lynch.
- Q They went in and made statements did they? A No sir, they wasn't called.
- Q They didn't testify before it? A No sir.
- Q You say Sam Webber married you to your first wife? A His father.
- Q That was in the fall of '66? A In the winter.
- Q Was it before or after Christmas? A Some time in January I guess.
- Q ~~What~~ Don't you know? A No, it was after, I don't know exactly.
- Q What was your first wife's name? A Ibbie Mays.
- Q Whose daughter was she? A She was David May's daughter.
- Q How long after you were married until your first child was born? A First child was born in October, I think, '67.
- Q What was that child's name? A Lottie.
- Q What is her present name? A Lottie Pack.
- Q Is she alive? A Yes sir.
- Q Was she born on Big Creek? A Yes sir.
- Q Where were you living at that time? A Living there on Big Creek.
- Q Had you a place there at that time? A Yes sir.
- Q Was that the first place you made on Big Creek? A Yes sir.
- Q When did you make that place? A I commenced it in the fall, early part of the fall of '66.
- Q Before you were married? A Yes sir.
- Q How far does Jim Martin live from you? A Jim Martin is living about, well I guess it must be a mile and a half, maybe 2 miles.
- Q Was he living there at that time? A No sir.
- Q About how long after you got there until he came? A I had been there I think about a year.
- Q How far are you from the Kansas line? A It is about 20 miles I guess to the nearest part.
- Q How far do you live from Sam Webber? A Now?
- Q No, then; how far did you live? A About 3 miles.
- Q You located within 3 miles of Sam Webber did you? A Yes sir.
- Q When did you first see Allen Lynch after the war? A I saw him first at Ft. Gibson right after the war.
- Q Who married you to your second wife? A Young Sam Webber.
- Q What was your second wife's maiden name, Lett? A Lett.
- Q You married her on Big Creek? A Yes sir.
- Q About what year? A I don't remember just about the year.
- Q You and she were separated? A Yes sir.
- Q How long did you live with her? A About three or four years.
- Q You had two children born to you? A Yes sir.
- Q How long until she moved out of the country after you separated? A It may have been 6 months, probably might be a year.
- Q You wasn't in the army during the war? A No further than a teamster.
- Q Was Sam Webber living up there when you first went up there from Ft. Gibson? A Yes sir.
- Q What time of the year did you go up there? A It was in the fall.
- Q About what time in the fall? A Pretty early.
- Q As early as September? A Between September and October, somewhere along in there.
- Q Who else was living around up in there at that time? A There was quite a lot of them, I don't know all of them.
- Q Peter Ward living up there at that time? A I don't know, I won't be positive whether he was or not.
- Q Name some of the rest of your neighbors besides Sam Webber? A Peter Neigs lived there and the Sanders and Whitaires.
- Q You say you have one child with your second wife in Missouri? A Yes.
- Q One child though still in Missouri? A Yes sir.

Maryland Beck et al 5

- Q It went with its mother? A Yes sir.
Q Been living with its mother? A Yes sir.
BY COM'R NEEDLES:
Q You say you are separated from Mary Lett are you? A Yes sir.
Q Get a divorce from her? A No sir.
Q Was Ida Beck and Harvey Beck born while you were living with Mary Lett? A Yes sir.
Q Were they both born in the Cherokee nation? A Yes sir.
Q Harvey is living now, in Missouri? A No, Ida.
Q With her mother? A Yes sir.
Q How long has she been living there? A She has been there about all the time her mother has.
Q Well how long has her mother been there? A She has been there about going on 12 years now.
Q She came very near being born there didn't she, she is only 12 years old? A No, she went since she was born.

ALLEN LYME, being sworn by com'r Needles, testified as follows:

BY MR. SMITH:

- Q State your name? A Allen Lynch.
Q What is your age? A 61 years old.
Q Where do you live? A I live in Vinita.
Q How long have you lived in the Cherokee Nation? A Well, I have been here all the time only when I was out in the army.
Q Lived here all your life? A Yes sir.
Q Are you a citizen of the Cherokee nation? A Yes sir.
Q Recognized citizen? A Yes sir.
Q Do you know this applicant, Maryland Beck? A Yes sir.
Q How long have you known him? A I knowed him 5 or 6 years before the war.
Q Was he a slave? A Yes sir.
Q Who did he belong to? A Joe Beck.
Q Was Joe Beck a Cherokee Indian? A Yes sir.
Q Citizen of the Cherokee nation? A Yes sir.
Q Were you out of the nation yourself during the war? A I was in the army, yes sir.
Q What year did you leave the Cherokee nation? A I believe I left here in July, '62, if I make no mistake.
Q When did you return after the war? A I come back here in February, '66.
Q Were you out of the Cherokee Nation all of the time from the time you went out until you returned? A Yes sir.
Q Were not back in the Nation at any time? A I was back in the Nation during the war when the army was here.
Q Where was this applicant when the war commenced? A He was on Long Prairie.
Q In the Cherokee Nation? A Yes sir.
Q Where did Joe Beck live? A Lived up on Long Prairie; this side of Long Prairie always.
Q When did you first see Maryland Beck after you returned here in '66? A First time I saw him was along in the spring of '66, I couldn't tell exactly.
Q You had been here yourself about how long when you saw him? A I come here in February, I guess it must have been May or June when I saw him.
Q Where did you see him? A At Ft. Gibson.
Q What did you next see him? A It was about a year.
Q Where did you see him then? A First time I saw him I believe I saw him on Grand river after I saw him at Gibson.
Q Have you seen him a few times or often since that time? A Yes sir I have seen him pretty often.
Q Where has he been living? A On Mt. Creek.

Q You know where he lives now? A Yes sir.

Q How long has he been living there? A I don't know just how long he has been living where he lives now, but he lived next to the Creek from where he is living now when I used to go to see him, when I used to be over in there, but he has moved about a mile or a mile and a half, maybe 2 miles further.

Q How long has it been since you first knew of his living on Big Creek? A It has been about 25 or 6 years, 25 years.

Q Do you know Mary Lett? A His wife?

Q Yes? A No sir, I didn't know his wife.

Q Have you ever been to his house during the time that he and Mary were living together? A No sir. I never went to his house while they were living together, I know where his house was, and passed by there, but I always made my stopping place at Dan Sanders'...

Q Did you ever see them together during the time he was living there? A Yes sir, I saw them together there at his place about 24 or 5 years ago, but I wasn't particular acquainted with her.

Q Do you know whether they were man and wife or not, or whether they lived as man and wife or not? A No sir, I don't.

Q How far was that from where you lived? A I lived then on Grand river.

BY MR. HASTINGS:

Q Where did you live before the war? A I lived on Grand river.

Q Where did this man live before the war? A On Long Prairie.

Q How far was that from where you lived? A It must have been nearly 30 miles.

Q What was his owner's name? A Joe Beck, or Jeff Beck; I was acquainted with his mother and his father and all of his folks.

Q Did you know which one owned this man? A Joe Beck is the one I think owned him.

Q Are you certain? A I am not certain whether it was Joe Beck or Jeff Beck, but I knew the folks.

Q Have you been to their house before the war? A Yes sir.

Q What sort of a house did they live in? A They lived in a hat, log house when I used to go there.

Q How long before the war was that? A 6 or 7 or 8 years; that used to be my route to go in to Hog Eye, what we called "hog Eye", to our whiskey.

Q It has been 6 or 8 years before the war the last time you were over there? A No, it wasn't the last time I was over there, I was there time the troops was over there.

Q Well you was before the war? A I think it was about 3 or 4 years before the war after that I was up there.

Q You know what his mistress' name was? A No I don't remember just what her name was.

Q You know any other members of the family? A There was Sutt Beck

Q Well some one of his young masters? A Yes sir, there was Sutt Beck and I believe Head Beck, I don't recollect just what their names was.

Q That was his young master? A That is the one he called his young master.

Q They were living there at that time? A Before the war?

Q Yes? A Yes sir, they was there before the war.

Q Sutt Beck and Head Beck brothers? A I couldn't tell you whether they are brothers or not, all of them Beck's lives right in there, we used to go up in there and I knowed them all by name.

Q Double log house was that? A I don't recollect just how how the house was made.

Q You don't know whether it was boxed up or not? A I don't think it was.

Q First time after the war where was it you saw this party, the applicant? A First time I saw him I met him right there at the river, him and his father right there at the foot of the river.

Maryland Beck et al 7

where they run the boat across the river at Gibson.

Q That Grand river? A Yes sir, that's the first place I saw him after the war.

Q How old was he at that time? A I couldn't tell you how old he was, he was big enough to do good work.

Q Was he grown? A He was a young man.

Q You know whether he was married at that time or not? A No sir, I don't.

Q Did you see his wife then? A No sir, I didn't.

Q About what time in the year was that? A Well, sir, it was, if I recollect right, it was either in May or June, along there. It was along in the spring.

Q He driving a team was he? A No sir.

Q What was he doing? A Him and his father was standing on the bank of the river, and some other parties when we come across.

Q When did you next see him? A Next time I saw him was about a year after that I reckon, or a year and a half.

Q Where did you next see him? A Up on Grand river at Simon Lynch's

Q You know where he came from at that time? A No sir, I didn't ask him.

Q You know where he was living at that time? A No, I don't believe I asked him where he was living.

Q You know whether he was married at that time? A No sir, I don't.

Q Was any one else with him and his father when you saw them?

A Yes sir, there was two or three women then with them, one of them was Sindy Beck, used to be Guff Buffington's wife, and Nancy Taylor, over here.

Q Who was with him at Simon Lynch's? A Let's see now who was with him? I don't remember who was with him; I don't remember only I saw him and two or three with him.

Q How long after that until you saw him again? A Well I didn't see him then for 6 or 7 years, it might have been longer an might not have been so long.

Q You wasn't a witness for him before the Kern-Clifton Commission?

A No sir, he didn't have any I don't think; he wasn't asked me to witness for him and I told him I would.

Q You didn't go in and testify? A I don't think I did.

Q You know whether he had any witnesses at all or not? A No sir, I don't know.

Q We had about the same sort of investigation as we have now, witnesses came in and testified? A Yes sir.

Q and took down what they said? A Yes sir.

Q You remember of seeing him down before the Rob Daniels Court?

A I wasn't there.

Q You wasn't there? A No sir, I didn't go.

Q Then it was 6 or 7 years after that that you next saw him? A Yes sir, I didn't see him until after we moved on Big Creek.

Q You wasn't at his house in Ft. Gibson? A No sir.

Q Who was with you at that time? A Me and James Ragsdale and Art Williams.

SAM WEBBER, being sworn by com'r Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Sam Webber.

Q How old are you? A About 35.

Q Where do you live? A 2 miles west of here.

Q Are you a citizen of the Cherokee Nation? A Yes sir.

Q Recognized citizen? A Yes sir.

Q Do you know this applicant, Maryland Beck? A Yes sir.

Q How long have you known him? A I got acquainted with him since the war.

Q Where did you first get acquainted with him? A On Big Creek.

Q When? A Along some time late in the fall of '66 he come there.

Maryland peck et al 8

Q Came to where? A Big Creek, Cherokee nation.

Q At what place did you see him on Big Creek, near what place was it, whose house or where was it? A He was to my house and around at other houses that was there, people lived there.

Q How long did he remain up there about Big Creek? A He just stayed there after he come back.

Q Who come with him? A An old fellow we used to call Uncle Coo-sack, goes by John Baldrige now.

Q You know where Maryland lives now? A He lives there on Big Creek.

Q How far from you? A It is about 12 or 15 miles, I guess, over there.

Q How long has he been living in the neighborhood? A Ever since he settled there.

Q Ever since the fall of '66? A Yes sir.

BY COM'R NEEDLES:

Q Do you know his wife, Mary? A Yes sir, I got acquainted with her.

BY MR. SMITH:

Q Did you know whether he and Mary were married or not? A Yes sir, I married them.

Q Where did you marry them? A Right at his house.

Q When, you know about how many years ago? A Not exactly, it has been a good while ago though.

Q You know whether he and Mary had any children or not? A They had one child when I was there last. Saw the child and the woman last.

Q One when you saw them last? A Yes sir, when I saw her last she had one child then.

Q Did she go away from here? A Yes sir, I heard she left, I aint saw her since.

Q How long before she left was it before you saw her? A It was quite a little bit before she left that I saw her.

BY COM'R NEEDLES:

Q Do you know how long they lived together as man and wife? A I don't know whether it was 2 years or 3 years.

Q You know how many children they had born to them? A I heard she had another one, I don't know.

Q You only saw one? A Yes sir, I only saw one.

Q You don't recollect about what year it was you married them?

A I couldn't tell exactly just what year it was.

BY MR. ASTINGS:

Q What was her maiden name? A I don't know what her maiden name was, she was a widow, her husband died there, she was a Lett.

Q Did she have some children by her first husband? A Yes sir.

Q How many? A I couldn't tell you that, I don't know, there was two or three to my knowledge, I don't know exactly.

Q You don't know whether they were boys or girls? A No sir, I don't; they was little things, small children, I couldn't tell you.

Q Was her first husband dead at that time? A Yes sir, he died there right on the Creek.

Q You know what year he died? A No sir, I don't; it was along in August though, we was holding association there when he died, but I don't know what year it was.

Q You don't know what year you married this man? A Can't tell exactly, it has been right smart little bit ago.

Q It has been a good while since he came up to that country too? A Yes sir.

Q But you have a distinct recollection when he first came there? A Yes sir, we was glad to see anybody come.

Q He was a stranger to you? A Yes sir.

Q What was his first wife's name, was that his first wife? A No sir.

Q What was her name? A Tbbie.

Maryland Beck et al 9

Q Ibbie what? A Maybe I guess her daddy was Mays.

Q What was her daddy's first name? A Dave Mays.

Q Was she living there when Maryland came up there? A I believe she was, I aint right certain, I don't know whether he got there first or they got there first.

Q Where did he marry her? A He married her there on Big Creek.

Q You know how long after he came up until he married her? A No sir, not exactly.

Q As much as a year? A I couldn't answer that, because I never paid much attention, I was working out a good deal right then, I had to make some thing.

Q Was you a witness for Maryland Beck 5 years ago, before the Clifton court? A No sir.

Q Were you down before what is known as the Bob Daniels court in '71? A Yes sir, I was down there.

Q Did you see Maryland Beck down there? A I think I did, and a whole lot more.

Q Did you witness for him down there before that court? A No sir, I don't think I did.

Q How far from you on Big Creek did he locate? A Some two or three miles.

Q Made a place there? A Yes sir, made a place.

Q How far was Jim Martin living from him at that time? A Little over a half mile, or nearly a mile I reckon.

Q Did he continue to live there? A Who?

Q Maryland Beck? A Yes sir, Jim Martin bought a place just below Beck's where he come in.

Q How long after that until Jim Martin came? A Jim Martin brought 31 head of cattle there in the fall of '67 and left them, and we put up hay for them, and left and moved back in '68.

Q And Maryland Beck was living there at that time? A Yes sir.

BY MR. SMITH:

Q You were asked about as to whether you testified for this applicant before the Bob Daniels court, did you see anybody testify for him before the Bob Daniels court? A No sir.

Q Do you know whether we ever had any trial at the Bob Daniels court or not? A He didn't have any as I know of.

Q You say you saw quite a number of people there at the Bob Daniels court? A Yes sir.

Q What were they doing there? A We saw piece in the papers where they was calling us down there and we made up a big crowd and went there.

Q What did you do when you got there? A My father and another one or two made applications there and of course they admitted them some way, I couldn't tell you how, I was admitted at the same time, but I can't tell you just how it was done really.

Q Do you know how many of these people made applications? A I believe Harry Still my father and Charley Campbell and my brother, Johnson, was admitted all at the same time, but they couldn't find his name on the roll though they say, over yonder.

Q So far as Maryland Beck is concerned, you don't know whether he had any trial at all or not? A They didn't try all of them I believe.

BY MR. HASTINGS:

Q You know whether they tried his case at all or not? A They didn't try all of them, they didn't try his case that dat.

Q Are you willing to say they didn't try his case? A If they did I didn't see them.

Q Well you don't know then? A No sir.

JOHN LANDRUM, being sworn by Com'r Needles, testified as follows

BY MR. SMITH:

Q State your name? A John Landrum.

Maryland Beck et al 10

- Q What is your age? A 59.
- Q Where do you live? A On Lightning Creek.
- Q How long have you lived in the Cherokee Nation? A All my life.
- Q Do you know this applicant, Maryland Beck? A Yes sir.
- Q How long have you known him? A Been knowing him before the war, when we was boys. Little children you might say.
- Q Did you go out of the Cherokee Nation during the war or not, yourself? A No sir, I didn't go out myself.
- Q Where were you during the war? A I went out with the soldiers.
- Q You didn't go out yourself, you just went out with the soldiers? A No sir.
- Q When did you get back to the Cherokee Nation? A I got back in '66 in the fall.
- Q When did you first see Maryland Beck after you got back? A I saw him in Gibson.
- Q When? A In '65.
- Q What were you doing in Gibson in '65? A I helped haul the Creek Indians from Kansas down to Gibson to their country, the Creek darkies I mean, some of them, a few that was left.
- Q Then where did you go after you made that trip? A Went back to Kansas.
- Q And then when did you come back to the Cherokee Nation? A In '66.
- Q Well how long after you came back here in '66 before you saw Beck? A After I come back from-
- Q From Kansas here, after you came back in '66 did you see him any time after that? A Yes sir.
- Q Where did you see him the next time? A I saw him up on Big Creek.
- Q When was that? A I think it was, yes it was in '67, if I aint mistake a, some where along there.
- Q You know where he lives now? A Yes sir.
- Q Where? A On Big Creek.
- Q How long has he been living there? A Ever since he moved there, he has never been away from there to my knowledge.
- Q When did he move there? A I don't know, when I saw him he was there.
- BY MR. PASTINGS:
- Q Where was he at in '65 when you saw him? A At Gibson. Right on the bank of the river, when we drove up and stopped to camp right at the boat landing.
- Q Just standing there? A Yes sir. By the side of his daddy.
- Q His father was right by him? A Yes sir.
- Q Was Allen Lynch down there at that time? A He wasn't with me.
- Q Did you see him in Ft. Gibson at that time? A He was there after we located to camp he came there in camp.
- Q And you saw him? A Yes sir, I saw him there.
- Q What time in '65 was that? A I couldn't tell you just what time it was.
- Q Spring or fall or summer? A It was along up in the summer.
- Q How many Creek darkies did you take down there? A I took down a couple of families, well I had a man and his family and 2 daughters.
- Q What was his name? A One of them was named Tecumseh Barnett.
- Q What was his wife's name? A I forgot his wife's name I wasn't acquainted with them good enough to remember from that time, it was so long.
- Q What was his daughters' name? A One of them I think was named Hannah, I think they called one of them, that's about all I remember of the occurrence.
- Q From what place in Kansas did you take them? A Leroy.
- Q When were you discharged as a soldier? A Why I wasn't a regular soldier, when they first got up the recruiting office, you know

Maryland Beck et al 11

when we first went from the Territory here and was turned loose, freed as they called it, they turned us loose there at Ft. Scott and then we vanished off to shift for ourselves and we went to Mound City.

Q Was that when you was discharged at Ft. Scott? A No sir.

Q Was you in the regular army? A No sir. When we was carried out of here by the soldiers, I mean we was turned loose there at Ft. Scott.

Q And you continued to work at Mound City did you? A That's where we went to make a living you know.

Q Were you at Mound City in the spring of '65? A No sir.

Q Where were you in the spring of '65? A I was at Leroy.

Q And these Greek darkies were all up there? A Yes sir, they was ~~at Leroy.~~ at Leroy.

Q And you turned them also so at Ft. Gibson? A Yes sir, that's where we left them.

Q Were you at this man's home in Ft. Gibson at that time? A No sir. He didn't have no place then; he was just a young boy, stopping I guess with his daddy.

Q About how old was he? A I couldn't tell you.

Q How old did he look to be? A I couldn't tell you anything about his age.

Q Was he 10 years old? A Oh he was over that.

Q What was his master's name? A Joe Beck.

Q Where did Joe live before the war? A He lived the other side of Long Prairie.

Q Was you ever at their house? A Yes sir, lots of times.

Q How long before the war was it? A I couldn't tell you, it was a long time.

Q As much as ten years? A Yes. We was just small boys then.

Q Was as much as ten years before the war? A I expect, may be more, it was a good while.

Q You hadn't seen him then up until '66? A Yes sir.

Q Next time you saw him was in '67? A Yes sir, on Big Creek.

Q Did he have a place up there then? A Yes sir.

Q How far was he living then from where he lives now? A I don't know, about half a mile, hardly that far.

Q You know whether he was married? A I guess he was married on Big Creek. He was married when I saw him there.

Q Was he married when you saw him at Ft. Gibson? A No sir.

Q Didn't have a wife at that time? A No sir.

Q You testified in the George Thompson case? A No sir.

Q Didn't you testify for Alfred Bell? A Yes sir.

Q You said you saw him in '66 here? A Yes sir.

Q What time do you think you saw him? A It was in '67.

Q What time in '67? A -

MR. SMITH: If the Court please, I object to this.

BY COM' R NEEDLES: Well it goes to test the witness I think.

Q BY MR. HASTINGS: About what time was it? A I think it was in January, it was so said to be January by the people who know better than I do.

Q You don't know about the months? A Not exactly, of course I know them, and I am getting old, I forget them; id I don't put down the dates I forget them.

Q How about the years, do you ever forget them? A I sometimes I have to take time to study for it though.

Q You didn't witness for this man before the Kern-Glifton court did you? A Yes sir, I think I did.

Q You came in and were sworn and made a statement before the Kern-Glifton court in his behalf did you or not? A Yes sir.

Q You told them that you saw him in '65 down there did you? A They never asked me nothing of that kind.

Q But you did make a statement? A Yes sir, but they never asked me any questions ardy at all, just asked me did I know him and who

Maryland Beck et al 12

he belonged to and what time he went out and how we went out.

Applicant, MARYLAND BECK, re-called and further examined;

BY MR. HASTINGS:

- Q How long did you and your second wife Mary Lett live together?
A So ewhres betwsen 3 and 4 years.
Q How many children did she have when you married her? A She had two
Q What are their names? A Etta and Quill.
Q She have any others? A No sir.
Q How long after you married her until this child for whom you make application was born? A Oh I don't know, it might have beens year probably.
Q Was that second child born while you were living together as husband and wife? A Yes sir.
Q How long did she re ain in the neighborhood after you separated?
A She stayed there pretty near one summer, winter.
Q And then she left? A Yes sir.
Q She take both of these children withher? A Yes sir.
Q Both of them are living with her yet? A No sir.
Q When did you get this child back for whom you make application?
A He has been with me a good while, the boy.
Q How long? A He has been with me a couple or three months.
Q How old is he now? A He is 10 years old.
Q Where did he come from? A Come from Springfield.
Q The other child is in Springfield now? A Yes sir.
BY COM'R NEEDLES:
Q Why didn't you get theother child when you got this one? A She wouldn't let us have it because it was a girl.
Q Did she willingly let you have this boy? A Yes sir.
Q Was her first husband a citizen? A No sir.
Q He was a non-citizen man? A Here? A Yes sir.
BY MR. HASTINGS:
Q How old is Lottie? A Lottie is 30 years old, according to my judgment.
BY COM'R NEEDLES:
Q Did you ever have any child by Ibbie Mays? A Yes sir.

Com'r Needles: Maryland Beck applies for the enrollment of himself and two children, Ida, 12 years of age, and Harvey 10 years of age; he avers that he was a slave of Joseph Beck, never left the Cherokee Nation during the war, and that he was at Mt. Gibson in the Cherokee Nation in the year 1866; he avers that he has resided in the Cherokee Nation from that day until this. He avers that he was first married to one Ibbie Mays, and that upon the death of Ibbie Mays, he married Mary Lett, a non-citizen, whom he avers is the mother of the children applied for whom he makes application. He makes proof of his marriage, by Elder Webber, who testified that he married him; said Mary Lett and the applicant separated and he has since married one Minnie Sanders, a Cherokee Freedman, whose name is on the roll of 1880. He avers that the oldest child, Ida, is now living with his wife Mary, from whom he has separated, in the State of Missouri; the youngest child, Harvey, is now in his custody and keeping. The fact that the name of Maryland Beck does not appear upon the authenticated roll of 1880 and the further fact that his citizenship is contested by the representatives of the Cherokee Nation, said Maryland Beck and his 2 children, Ida and Harvey will now be listed for enrollment as Cherokee Freedmen on a dual card; he will be notified by the Commission at his post-office address of their decision in the premises.

Exhibit Book of M. D.

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 copy of his stenographic notes taken thereon.

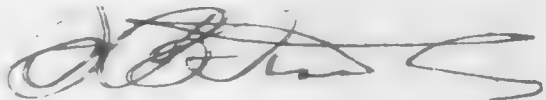
(Signed) M. D. Green,
Subscribed and sworn to before me this July 10, 1901.

(Signed) J. H. Hamilton,
Commissioner.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript

M. D. Green

Subscribed and sworn to before me this August 30th, 1901.



Commissioner.

30996

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUL 19 1901


ACTING CHAIRMAN

COMMISSION TO THE FIVE CIVILIZED TRIBES
JULY 1, 1901

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1901.

In the matter of the application of Benjamin Beck for the enrollment of him self as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Benmie Beck.
Q Benjamin, Benmie is no name for a man; how old are you Benjamin?
A 22.
Q What is your post-office address? A Ruby.
Q What district do you live in? A Coowescoowee.
Q Your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Just myself.
Q What is your father's name? A Maryland Beck.
Q What is your mother's name? A Tbbie, I believe.
Q You claim your citizenship through your father or mother? A
A father.
Q Where were you born? A Georgia Nation.
Q Have you lived in the Cherokee Nation all your life? A Yes sir.
Q Not married? A No sir.
Q Never been married? A No sir.
Q Did you draw what is known as the Vermo-Clifton money? A Yes sir.

Vermo-Clifton pay roll of citizens of the Cherokee Nation examined and applicant found on page 157 #3412 Ben Beck, Coowescoowee District.

- Q Always lived in the Cherokee nation have you? A Yes sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified;
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified;
Wallace roll of citizens of the Cherokee nation examined and applicant not identified.

Com'r Needles: Benjamin Beck applies for the enrollment of himself; he cannot be identified upon the authenticated roll of 1880, but is fully identified upon the Vermo-Clifton roll, and makes satisfactory proof as to residence; he avers that he is a son of Maryland Beck, listed on D card 864, and the testimony taken in the case of Maryland Beck will be read a part of the record in the case at bar, and a copy thereof filed herewith; said Benjamin Beck will now be listed for enrollment as a Cherokee Freedman, on a doubtful card, he will be notified by mail of the decision of 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.

Subscribed and sworn to before me this July 13, 1901.



Com'r Needles.

Q.F. 996

Proof of Service
and original filed with the
DAWES COMMISSION

SEP 30 1901

NOTICE!

IN THE MATTER OF the application of Benjamin Beck
for enrollment as Cherokee Freedmen:
Case No. F. D. 996

To Benjamin Beck Ruby I. T.

7 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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct 19th 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L B Bell

W. W. Hastings

Q. S. Davison

Attorneys for the Cherokee Nation.

Chet ...

CHET IR D 997

File with CED-

997, Luella Snaden.

RECORDED, as to wife, Matilda.

Department of the Interior,
Commission to the Five Civilized Tribes.
Winita, I. T., May 2nd, 1901.

In the matter of the application of George Weigs, Sr., for the enrollment of himself, wife and child as Cherokee Freedmen; said Weigs being sworn and examined by Commissioner C. R. Brockinridge, testified as follows:

- Q Give me your name. A George Weigs.
- Q How old are you? A I could not tell you.
- Q Well as near as you can come? A Well I guess I must be about 50 I guess.
- Q What is your post office? A Winita I believe.
- Q In what district do you live? A Coconino.
- Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Do you want to apply for anybody besides yourself? A Well, I guess I do, I have got a wife and two children that is under me yet.
- Q Do you apply then for yourself, your wife and two minor children? A Yes, sir.
- Q Are these children both unmarried? A One of them is.
- Q And one of them is married? A Yes, sir.
- Q That brings you down to one child you can apply for? A Yes, sir.
- Q In what child living now? A Yes, sir.
- Q How long have you lived in the Cherokee Nation? A Well, ever since '68.
- Q Did you live in the Cherokee Nation before that? A Yes, sir.
- Q Did you live in the Cherokee Nation at the time of the war? A Yes, sir.
- Q Where were you born? A Born in the Cherokee Nation.
- Q Have you lived in the Cherokee Nation all your life except a little while about the time of the war? A Yes, sir.
- Q Were you always in the Cherokee Nation at the time the war broke out? A Yes, sir.
- Q To whom did you belong? A Robin Daniel and Lila Daniel.
- Q Were they recognized citizens of the Cherokee Nation? A Yes, sir.
- Q Give us the name of your father? A Peter Weigs.
- Q Is he dead? A Yes, sir.
- Q How long has he been dead? A I could not tell you.
- Q Give us the name of your mother? A Elizabeth Weigs.
- Q She is alive isn't she? A Yes, sir, she was enrolled just now.
- Q Her name was Elizabeth Weigs? Give us the name of your wife? A Matilda Ward.
- Q Her name was Ward was it, Weigs now? A Yes, sir.
- Q How old is your wife? A I could not hardly tell you.
- Q Well as near as you can come. I I got a paper here.
- Q This paper says that your wife was 22 years old in '99, she is about 24 years old now, is that about right? A I guess it is.
- Q You say your wife's name is Matilda? A Yes, sir.
- Q It is not Maheda? A No, sir, Matilda.
- Q When were you and your wife married, in '99? A I guess it must have been.
- Q Is this the certificate and license of your marriage? A Yes, sir
- C. R. Brockinridge: The applicant presents a license issued by the Clerk of the United States Court, Northern District, Indian Territory, on June 26th, 1899, authorizing marriage between himself and his wife, as stated by him. The certificate shows that they were united in marriage on the 31st of July, of the same year, by the Rev. Shelton D. Brown. This is filed herewith.
- Q Does your wife claim to be a Cherokee Freedman of her own right?

George Meigs Sr., et al 2.

- A Her father was Cherokee raised and his owners was George Ward.
Q And what about her mother? A Well her mother wasn't.
Q She was an outsider? A Yes, sir, I guess she was.
Q As far as you know? A Yes, sir.
Q Give me the name of your wife's father? A Josh Ward.
Q Is he dead? A No, sir.
Q Give me the name of your wife's mother? A Madiline Ward.
Q Is she dead? A No, sir.
Q And have her father and mother applied for enrollment?
A No, sir, not yet.
Q Now, Josh Ward you think may be a Cherokee Freedman of his own right? A Yes, sir, I know he is.
Q How old is Josh Ward? A I could not tell you.
Q Is he an old man as you? A Yes, sir, he is.
Q Is he as old as you? A Yes, sir, he may be a little older.
Q How about Josh's wife, Madiline? A I could not tell you that.
Q She is a good deal younger than you isn't she? A I don't know.
Q Is she a woman of 45 or along there? A I expect she is.
Q Do you know anything about the marriage of Josh Ward to his wife, Madiline? A No, sir, I don't.
Q How long has your wife lived in the Cherokee Nation? A I could not tell you that.
Q Give me the name of this child for whom you apply? A George Meigs
Q Is that a child of this marriage? A No, sir.
Q Child of a former marriage? A Yes, sir.
Q How old is this child? A I guess he must be about 19 years old.
Q Give me the name of the mother of this child? A Cinda Meigs, she was then; before I married her she was Cinda Towers.
Q Is she dead? A No, sir.
Q When did you marry her? A I could not tell you that directly, after we come to Big Creek.
Q Pretty soon after the war? A I would not say, yes, sir, pretty soon after we come down here, about a year or two I think.
Q About how long did you and she live together, or about when did you separate? A Why, we lived together a good while, well we got five children.
Q Well, how long since you and she separated? A I could not tell you that.
Q Well, I want find out something from you. (No response)
Q How long after this child George was born; don't you remember how old he was, or how big he was? A He must have been, let me see, he must have been about seven or eight years old when we and her parted. I am just guessing at that now.
Q Well, you have been parted something like ten or twelve years, something like that? A Yes, sir.
Q Is that far from it? A Well, that's it, I think he was just about eight or nine years old when we and her parted, separated.
Q That child is named after you? A Yes, sir.
Q Well, we shall call him George Meigs, jr., if you have no objection.
A We call him George.
Q We will call you Sr. if you have no objection. A Well, sir.
Q Where is your wife, Cinda, living now? A Over here on Big Creek.
Q Did you have a divorce from her? A No, sir, nothing more than an agreement that we wasn't no more man and wife.
Q Were you ever married before you married this wife Cinda? A No, sir.
Q Was she ever married before she married you? A No, sir.
Q How about her present wife, Matilda, was she ever married before the present one? A No, sir.
The 1855 roll estimated Roll of Freedmen of the Cherokee Nation, name of applicant and his wife not found there.
The 1853 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant's not found there.

George Meigs Sr et al 3

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's former wife not found thereon. The Verne-Criston Roll of Freedmen of the Cherokee Nation examined and applicants' names found thereon as follows:
Page 128, #3189, George Meigs, Cooweescoowee District.
(Name of applicant's wife not found thereon.)

Page 128, #3192, Georgia Meigs, Cooweescoowee District.
The Wallace roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 127, #2666, George Meigs, Cooweescoowee District.
The name of applicant's wife not found on the Wallace Roll.

BY W.W. HASTINGS, Cherokee Representative:

Q What was your oldest child's name by your first wife? A John Meigs.

Q Is John alive? A Yes, sir.

Q How old is John? A Well, I could not hardly tell you I had his arms all down, but they ought to know.

Q That is the oldest child? A Yes, sir.

Q Is John here? A Yes, that's him sitting right there.

JOHN MEIGS, being sworn and examined by Commissioner C.R. Breckinridge, testified as follows:

Q Give your name? A John Meigs.

Q How old are you? A 27.

Q What is your post-office? A Wimer.

Q Are you a son of this applicant here, George Meigs? A Yes, sir.

GEORGE MEIGS, SR., the Applicant, re-called:

BY W.W. HASTINGS:

Q What was John Meigs' mother? A Lucinda.

Q Married to her on Big Creek? A Yes, sir.

Q And you married her about a year after you came here? A Yes, sir, I guess it was about that, two or three years, something like that.

Q Short time after you came back? A Yes, sir.

Q And this is your oldest child? A Yes, sir, and there is my next oldest one sitting there.

Q Did you come back with your father and mother? A Yes, sir.

Q First time of the year was it you came back? A Came when they come.

Q What time of the year? A I don't know.

Q Was it February? A Yes, sir, I come right along with them and been here ever since, raised up my family.

Q You don't know what time of the year it was? A No, sir.

Q Was it the February at the time Dan Sanders testified that you come? A Yes, sir.

Q You were not married then? A No, sir, I was with my father.

Q You were grown? A Yes, sir, but I was staying right with him.

Q 24 or 25 years of age? A Yes, I was with him, but of course we always was poor and had nothing and stayed with him until I got a little start.

Q You came in a wagon? A Yes, sir.

Q Did you build a house after you got here? A The house so he lived in was built when he come.

Q He bought the house when he come here? A The crowd that was here before built the house; he made a trip and bought this house from this man who said this was too far from work, wasn't anything to eat out there.

Q You didn't come with your father on his first trip? A No, sir.

Q You come whenever come the last time to stay? A Yes, sir.

Q That is a fact is it? A Yes, sir, that's a fact.

Q Snow on the ground? A Yes, sir.

Q How long after Christmas was that? A I could not tell you I never paid any attention to that.

George Meigs Sr., et al 4.

Q You only know that you came with your father here to stay? A Yes, sir.

Q You never went back to Kansas after that? A I went once.

Q How long did you remain? A I started from home on Friday and got up there on Sunday and started back Tuesday.

Q How long was that after you came down there? A I think it was in June.

Q The following summer? A Yes, sir, we run out of grub, I didn't have anything to eat.

Q Do you know the month you come down here first? A No, sir, and I would not undertake to tell you that; what I know that's what I like to tell.

BY COM'R BRACKENRIDGE:

Q How long after you married your wife, Ginda, before this boy John was born? A I don't know, some two or three years I guess.

Q Didn't have any child for two or three years? A No, sir, I don't think I did.

Q And how long did you say you had been in the Cherokee Nation before you married? A Must have been some two or three years, I didn't keep any account.

Q You had made several crops had you? A Yes, sir.

COM'R BRACKENRIDGE: The applicant applies for the enrollment of himself and one minor child; the applicant states that he has lived in the Cherokee Nation all his life except his absence during the war and a short time thereafter when he was in the State of Kansas. He is identified on the Wallace roll and the Karna-Clifton roll, but not upon the roll of 1880 or upon that of 1896. For further testimony in regard to the time when he returned to the Cherokee Nation from the State of Kansas, reference is made to the case of his mother, Elizabeth Meigs, which has been taken in the course of this afternoon, and a copy of her testimony in her case will be filed in this case. The applicant is now some thing like 60 years of age, and his testimony is that he came down to the Cherokee Nation for the first time after the war when his father moved the family down in the winter as he claims of 1866. Much of his testimony shows that it was in the February following the August of 1866. Attention will also be directed to the probable application made by this family to the Cherokee Citizenship or Supreme Court at sometime prior to the Wallace Court, of the Cherokee Nation in the matter affecting their status as Cherokee Freedmen. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of his case.

His child, George Meigs, Jr., is identified on the Karna-Clifton roll. This child's mother is shown to have been lawfully married to the applicant soon after the close of the Civil War. She is not identified on any roll and it does not appear that the child derives any right through its mother. It is a minor and still living and this child will now be listed for enrollment as a Cherokee Freedman on a doubtful card to await the determination of his status through his father.

As for the applicant's present wife, Mattilda Meigs; she is shown to have married him in July, 1866. The license and certificate relating thereto are filed herewith. The applicant's wife is 24 years of age; she is not identified upon any roll in the possession of the Commission; neither is her father or her mother, both of whom are said to be alive, identified upon any roll in the possession of the Cherokee Nation and all of them have been searched. It further appears that the applicant never procured a judicial divorce from his first wife from whom he has been parted something

George Waige Sr and G.

like ten years. Therefore, the applicant's present wife having no status apparently of her own and having married too late to have acquired the right of enrollment by inter-marriage, and her husband never having procured a judicial divorce from his first wife, is considered to have no right to enrollment at this time and the application for her enrollment is rejected.

---oo000000---

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.

Subscribed and sworn to before me this 26th day of May, 1901.
(signed) J. O. Rosson.
(signed) C. R. Breckinridge,
Commissioner.

-----oo0000-----

F. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he

copied the foregoing and that same is a true and complete copy of the original transcript.

F. D. Green

Subscribed and sworn to before me this September 7th, 1901.



Commissioner.

X 5
File with Cherokee Process, p 997.

Department of the Interior,
Application to the Five Civilized Tribes,
Walla, T.L., May 2nd 1901.

In the matter of the application of Elizabeth Waige for enrollment as a Cherokee Freedman: she be & sworn by Commissioner O.B. Brockbridge, testified as follows:

- Q What is your name? A Elizabeth Waige.
Q How old are you? A I don't know my age.
Q About how old are you? A I was four years old when we came here with the old settlers.
Q Was that when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 72 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Coowescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then? A (No response)
Q Have you a husband? A No sir he is dead.
Q When you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Waige? A Ever since I was nothing but a girl.
Q Were you married to a man named Waige? A Peter Waige.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Hudson Daniel.
The 1836 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.
Q Are any of your family on that roll that you know of. A Yes, sir, Alice Sanders is on it, she is a daughter of mine, Alice is.
The 1841 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows:
Page 189, No. 2575, - Alice Sanders, Coowescoowee district.
The 1846 authentic roll of the Cherokee Nation examined and the name of the applicant not found thereon.
Q Did you ever hear your Cherokee story name? A Yes sir.
The 1850 authentic roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 100 N. 2512, Eliza Waige, Coowescoowee district.
Q Did you ever go by the name of Daniel? A Yes sir that was my owners.
The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 152, No. 40, Elizabeth Daniel.
Note: Wife of Peter Waige.
Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:
Page 151, No. 2765, Elizabeth Waige, Coowescoowee district.
Q Where were you during the Civil war did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.
Q When did you come back? A In the winter of '65.

- Q That time in the winter? A Well it was in the winter.
- Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.
- Q When did he bring you down? A In the winter after he went from here on Big Creek.
- Q He came ahead of you then? A Yes sir.
- Q What time did he leave Kansas? A I cannot tell you when he first came.
- Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '66.
- Q Did he leave Kansas in the winter? A Yes sir.
- Q Was he down here when Christmas came? A Yes sir.
- Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.
- Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.
- Q How long after Christmas before you and he started down here together? A Directly after.
- Q He spent Christmas that year in the Cherokee Nation by himself? A Yes sir my husband did.
- Q What members of your family came down with you and your husband? A These children.
- Q Did you bring your child Alice Sanders with you? A Yes sir.
- Q All the children? A Yes sir.
- Q Can you explain why you are not on the roll of 1880? A No sir.
- Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. W. Hastings, Cherokee Representative:

- Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.
- Q Where were you living in Kansas then? A Fort Scott.
- Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all come here.
- Q Was it as much as a couple or three weeks? A Yes sir I guess so.
- Q And then you started down here? A Yes sir.
- Q Was it in the spring of the year when you reached here? A No sir in the winter.
- Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there warent no buds nor nothing on the trees, it was winter I tells you.
- Q You said come in wagons did you? A Yes sir.
- Q Who came with your husband down here when he first came? A Old man Mike Sanders.
- Q Who else? A Reuben Sanders.
- Q Who else? A Daniel Sanders.
- Q Anyone else that you remember? A There was Little Sam Webber and old man Sam Webber.
- Q Any other Webber's? A Aaron Webber.
- Q Did anyone else come down? A I don't remember anyone else now.
- Q Were you there when they started town? A We all come together I am telling you.
- Q But I mean when your husband come on in advance of you. Who came with him then? Did these parties that you have named come with your husband when he first come down? A Yes sir.
- Q You were at Fort Scott then? A Yes sir.
- Q And they all started together? A Yes sir.
- Q These that you have named are all the you can think of at the present time? A Yes sir.
- Q Did they come in wagons or on horse-back that time? A They come in wagons when they first come.

- Q And after Christmas you all came down did you? A Yes sir.
- Q Did you come in wagons then? A Yes sir.
- Q Did you come by a little place called Chatopa? A Yes sir.
- Q Where did you come to in the Cherokee Nation? A I come right where I am living yet when I come to the Cherokee Nation.
- Q And you are living there yet? A Yes sir, that old house was built in '68.
- Q What house? A That one we is living in.
- Q And you are living at the same old place? A Yes sir, in the same old house.
- Q On what creek is that? A Big Creek.
- Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.
- Q You were the advance family or crowd that came to Big Creek were you? A Yes sir, we was the advance guard.
- Q Did you see anyone from Chatopa along the road through the Nation to Big Creek when you came there? A No sir.
- Q Did these people who first come down with you husband return with him and then come down again when your family mail came after Christmas? A Yes sir.
- Q You all came back together? A Yes sir.
- Q Now Auntie, did any additional people - any other families come down with you? A I dont know who all come down, I am just telling you what I know.
- Q There was Daniel Sanders, and Reuben Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all come with you? A Yes sir.
- Q Did Aaron Webber come? A Yes sir.
- Q And your family? A Yes sir.
- Q Are there any that I missed? A That is all that I gave you.
- Q Is that all that come? A Aaron Wright come with us.
- Q Who else? A (No response)
- Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.
- Q You come to the place that you are living at now did you? A Yes sir and has lived there ever since.
- Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.
- Q What? A Lunie Riley was there on Verdigris, but now where we was living.
- Q How far from where you settled? A I don't know how far.
- Q Was it as much as 4 or 5 miles? A As much as ten miles if you make it right.
- Q Were they the closest residents to you at that time? A Yes sir.
- Q Were there any Delaware Indians there when you come there? A No never saw none.
- Q Any Osages? A No sir, never saw none.
- Q You didn't see anybody on Big Creek, neither white or back, except those that came with you? A That is all.
- Q And you have been there ever since? A Yes sir, ever since we moved there.
- Q You say your husband Peter Moigs built a house there? A There is a log house there and he bought the house and we moved to it.
- Q Who built the house if you know? A Henry Harold.
- Q Was he a colored man? A Yes sir.
- Q Is he living? A I don't know if he is or not.
- Q Some 3 or 4 years after you come down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship? A Yes sir.
- Q They didn't admit him then did they? A I don't know sir.
- Q You know he was disputed? A I dont know nothing about it, I never paid any attention to any such things as that then.

By the Commission:

Q Were you ever admitted by the Cherokee or United States Court or Commission? A I don't understand what you say.

Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir my man enrolled us before he died.

Q I mean in Court? A That is what I am telling you.

Q You know what a court is don't you? A Yes sir.

Q What court do you know? A Kerns Clifton court.

Q Any other court that you know of? A I know of the Wallace court.

Q Any others? A No sir.

Q Did he ever have anything done about your case by the Cherokee Council? A I don't know what was done, my man went there every year or two but I don't know what was done there.

Q How long did it take you and these people to come from Kansas to the Cherokee Nation? A I don't know how long we were on the road.

Q Have you any witnesses with you that you want to introduce?

A Yes sir.

RUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant.

(Examined by the Commission)

Q What is your name? A Ruben Sanders.

Q How old are you? A I suppose I am about 50.

Q What is your postoffice? A Centralia.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.

Q Who did you belong to? A James Sanders.

Q Were you taken to Kansas during the war? A Yes sir.

Q You have a wife named Alice have you? A Yes sir.

Q How long have you and she been married? A About 30 years perhaps more.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:

Page 175, No. 2657, Ruben Sanders, Gooweecooee district.

Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.

Q What court? A The Chambers Court.

Q Is that the only one? A Yes sir that is the only one; I was admitted by the Chambers Court.

Q Where was it sitting? A At Tahlequah.

Q In what year was that? A I can't tell what year it was.

Q Your citizenship had been disputed had it? A Yes sir.

Q When was your right to citizenship first disputed? A It was during the time that Thompson Gochelita was chief.

Q Was that before the 1880 roll was made? A Yes sir.

Q Did the Court decide in your favor? A Yes sir.

Q Was there any dispute made then about your being put on the 1880 roll? A No sir.

Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A No sir.

Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.

Q Where did they take your name? A I was in Goosecreek Bend, at the time.

Q Do you know the applicant Elisabeth Meigs? A Yes sir.

Q Your wife is her daughter? A Yes sir.

By W. F. Hastings:

Q Peter Meigs' citizenship was disputed the same time yours was?

- A Yes, sir.
- Q Did he go before the court at the same time? A No sir, I think not.
- Q His wife's citizenship was also disputed? A I judge so.
- Q Did she go down before that court? A Not to my knowledge.
- Q Did he go down to Tahlequah to the court before that time? A Yes sir I think he went down to the Bob Daniels court, I think he went with my father.
- Q Was Bob Daniels Chief Justice of that court? A Yes sir.
- Q Just a few years after the war? A Yes sir.
- Q In '71 wasn't it? A Yes sir.
- Q Was any action taken in that court? A I don't know.
- Q You were there yourself? A No sir.
- Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I don't exactly know how old I was.
- Q You were not married then? A No sir.
- Q How long after you got back before you married? A Not very long after I got back.
- Q Did you marry on your way down here? A No sir.
- Q How long had you been here before you married? A I have been married twice.
- Q How long had you been here before you married the first time? A Not very long.
- Q As much as a year? A May be so.
- Q Is that your best judgment? A My best judgment is perhaps that it was that long.
- Q When were you married to your present wife? A Upwards of 30 years, or so.
- Q How long did you live with your first wife? A Not very long, she died.
- Q A Year? A Perhaps it was, maybe a little longer.
- Q Then you married your present wife? A Yes sir.
- Q When you came to the Cherokee Nation how did you come the first time? A In wagons.
- Q The first time? A Yes sir.
- Q Who came with you? A Several were on horse-back; it is beyond my knowledge how many there were.
- Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the winter.
- Q Did you come in August? A Yes sir.
- Q Who came with you then? A Some of this family, Peter Meigs and got his place; the heads of these families.
- Q Who else came with you? A My brother Dan and the Whitfrees.
- Q Which ones? A Several.
- Q Which ones? A Hose and Dennis, and the Webbers.
- Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I don't know who else, I don't know who all come.
- Q Who come when you come in October? A I don't know who all come then, so a of that come crowd and some more come in October.
- Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
- Q What was his first name? A Old man Oscar Smith.
- Q You come in both of the detachments yourself? A No sir.
- Q Which one did you come in? A I come in August.
- Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
- Q On Big Creek? A Yes sir.
- Q Where Mrs. Meigs lives? A Yes sir.
- Q And you returned in October, how long did you stay in October?

A We didn't all return in October, we didn't all go back, some staid in August, some staid and some come back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.

Q Then did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.

Q What time in the winter? A Long in January.

Q You mean in '67. A No in the winter of '66.

Q I you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we come here in the winter of '66 is what I said, in January after we had first been here in August and October; we came right to where Mrs. Meigs is living now.

By the Commission:

Q You say you first came here in August of '66? A Yes sir.

Q What was your first coming was it? A Yes sir.

By Hastings:

Q When you moved here permanently, tell all that you possibly can remember of who come with you in the January or February following?

A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.

Q I dont mean only of that family, there were other families were there not? A Old man Billie Forman.

Q Who else? A He had several children.

Q The heads of families I mean? A Fannie Sanders; I dont recollect them all; I dont know as I can call the names of all of them.

Q Were any of the Webbers along? A Yes sir.

Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I had forgotten them I dont think I can remember any of the others.

By the Commission:

Q Did old man Sam Webber come? A Yes sir.

Q Did his son Sam come? A Yes sir.

By W. J. Hastings:

Q Dont you remember anyone else? A Rachel Webber.

Q I you think of anyone else? A No sir.

Q You know that it was a mooted question before the Kerns Glifton Commission as to whom come at this time and as to when you come? A I havent been interested as to anyone except for myself.

Q You know that there is a question about who came dont you? A Yes sir I guess I do.

Q You say you came to Big Creek? A Yes sir.

Q Did you come by the way of Chatopa? A Yes sir I guess that we did, I dont know that they called it Chatopa then, there was a house or so there.

Q Did you cross the river there? A What river.

Q Moosho? A No sir.

Q You didn't cross at the Glifton Ferry? A No sir we crossed 20 or 30 miles from there.

Q You come through what is Chatopa and come on west through the prairie? A We may have.

Q You were in wagons? A Yes sir.

Q Were there any persons living on any of that country from Chatopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of anyone living there before that.

Q Were there any houses there except those that your good built?

A I dont know of any houses, but there were foundations for them on Big Creek.

Q Then the houses were not built before you lived there with your

families? A Yes sir some were, there were logs on some up 8 or 10 logs high.

Q Then there were none really completed until you moved there with your families? A No sir.

Q Did you make a crop there the first year that you moved there?

A Yes sir, as near as we could with one horse plows and hoes.

Q Do you know Jim Martin? A Yes sir.

Q How far does he live from you now? A 4, 5 or 6 miles.

Q Was he living there when you people moved there? A No sir.

Q He had a brother named William Martin? A Yes sir.

Q Was he living out there then? A No sir.

Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.

Q Was his name Dick Carter? A I think it was.

Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.

Q Do you know if that ferry that you crossed the Washo river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.

Q There was no farms made there when you passed through - no citizens had farms up there? A No sir none that I saw.

By the Commission:

Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?

A Yes sir.

Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.

Q You didn't bring your families with you then? A Only part of them and some things that we had.

Q Part come with their families and part come to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you?

A No sir.

Q Did Peter Meigs bring any family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family come in October.

Q When did Peter Meigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He was with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October?

A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir not all of them come in October.

Q There was Peter Meigs in October? A He come with us at each trip.

Q Did he go back to Kansas with you? A Yes sir.

Q And then you come back here to the Cherokee Nation in October?

A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That was the second time that Peter Meigs had been here?

A Yes sir.

Q Where was Peter Meigs in October of '66? A Yes sir

I don't exactly know where he was in October of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family

did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You staid here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q That about that February trip you spoke of? A It was in the winter some time. Snow was on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Came then.

Q On that third trip? A Yes sir.

Q You say Peter Meigs made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he came with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

By Com'r Specklaridge: The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1866 roll or upon the roll of 1896. The testimony indicates that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicates that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Cherokee Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doublet card and the final

decision of the Commission will be made known to her at her destination.

That you have taken the same oath as a photographer to the Commission and that you have in full all the proceedings in this case and that this is a full, true and correct transcript of the same.

Subscribed and sworn to before me this 22nd day of May, 1901, at Chelmsa, I.T.

Signed, J. H. MacDon, Commissioner.

Supplemental:

Department of the Interior,
Commission to the Five Civilized Tribes,
Winita, I.T., May 22, 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman.

RUEN SAUNDERS, having been sworn by Commissioner Breckinridge testified as follows:

Q Ok, your name? A Ruhen Saunders.
Q How old are you? A I am only about 30 past.
Q You gave testimony just now in the case of Elizabeth Meigs?
A Yes sir.

Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867, when we made the last move, about the first of the month; it was the following August in 1866; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.

Q How did you find out now it was January instead of February?
A It was just after Christmas that he was on the road coming down.

Q How long after Christmas? A About a week after Christmas; my reason for giving that date was because a few days before Christmas there was a man named Harford, and there was a gentleman killed, a man by the name of Harford, that killing was done shortly after that killing was done, and he was with us, in our crowd, that was a week, or after Christmas, a week, or after.

Examined by Commissioner J. H. MacDon:

Q How old are you? A I am about 30 past.
I suppose that I am about 30 past.

Q Where did you see him? A I saw him in the line.
Q Fori Booth? A Yes.
Q And the man that was killed? A Yes.
A Named Harford.
Q You remember his name?
Q You remember the man that was with him?
A No sir I do not.

Q Did you ever learn anything about the man that was with him?
Do you know? A I don't know.

RECORDED
MAY 13 1891
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
OF INDIAN TERRITORY

Q You know what county that is in? A No sir.
 Q Who called your attention to this error? A I thought so myself.
 I called my own attention to it; I was studying over it; I did.
 Q You know how it was only a few days after Christmas? A Yes sir,
 a few days after Christmas.

Gov. Breckinridge: This statement will be filed as
 supplemental in the Elizabeth Midge case, to be considered in
 connection with the former statement of the witness, and the
 other evidence relating to the date in question.

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 May 23, 1891.
 Signed, C. E. Breckinridge,
 Commissioner.

 Bruce C. Jones, being duly sworn, says that as stenographer to
 the Commission to the Five Civilized Tribes he copied the foregoing,
 and the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of August, 1891.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1901.

In the matter of the application of Luella Shaden for the enrollment of herself as a Choctaw Freedman; being sworn and examined by Commissioner Needles, she testified as follows:

- Q What is your name? A Luella Shaden.
Q How old are you? A 17.
Q What is your post-office address? A Wier, I. T. now.
Q What district do you live in? A Coowescoowa.
Q You want to be enrolled as a Choctaw Freedman? A Yes sir.
Q Do you want to enroll by and for yourself? A No one.
Q Are you married? A Yes sir.
Q What is your husband's name? A Alf Shaden.
Q Is he a citizen? A No sir.
Q Have you applied to be enrolled by any other nation or tribe?
A No sir.
Q What is your father's name? A George Seigs.
Q What is your mother's name? A Lucinda Towers.
Q You claim your citizenship through your father or mother? A My
father.
Q Where were you born? A On Big Creek.
Q Choctaw Nation? A Yes sir.
Q Lived here all your life? A No sir.
Q Where have you been living? A In the Choctaw Nation.
Q Where were you born, in the Choctaw Nation? A No sir, I was
born on Big Creek.
Q How long have you lived in the Choctaw Nation? A I don't know,
sir, exactly how long.
Q Are you living there now? A No sir, I am living here now.
Q With your husband? A Yes sir.
Q How long have you lived here? A Aint lived here for a month.
Q You married in the Choctaw Nation? A Yes sir.
Q When did you first go to the Choctaw Nation? A I don't know sir,
how long it has been.
Q Can you recollect? A Yes sir, I can recollect when we left.
Q Was you born down there? A No sir, I was born on Big Creek.
Q You have always lived in the Choctaw Nation until about a month
ago? A No sir, I have been here since.
Q Have you lived here since? A No sir.
Q What do you live with down there? A My mother.
Q Is she a Choctaw citizen? A No sir, Choctaw citizen.
Q Your father live down there? A No sir, he lives here.
Q What does your mother live in the Choctaw Nation for? A Her hus-
band is Choctaw.
Q She has married a Choctaw? A Yes sir.
Q Were you ever enrolled upon any Choctaw rolls? A No sir.
Q Your mother married down there? A Yes sir.
Q What part of the Choctaw Nation? A I married at Alderson.
Q Are you living at Alderson now? A No sir.
Q You have moved up to the Choctaw Nation? A Yes sir, I have
got a home here.
Q Is your husband there now? A No sir.
Q Where do you live? A I am living with my father.
Q Your husband's where? A He is waiting down in the Choctaw Nation.
Q You are going to go back to your husband? A No sir, he is going
to come here.
Q You are going to live here are you? A Yes sir.
Q Is your name on any of the rolls of the Choctaw Nation? A Nowir.
Q Of the Choctaw Nation? A Yes sir.
Q What rolls? A On the Wallace and Clifton roll.
Q Your father's name is not on the 1880 roll? A No sir, I don't
know sir, whether he is on the 1880 roll or not.

Luella Snaden 2

Q How long have you been married? A Just 2 months.

Kern-Clifton roll of citizens of the Cherokee Nation examined and applicant identified
page 128 #3194 Luella Meigs, Coosawacoochee, 3 years old;

Q Did you ever have any sister named Luella? A No sir.

Q You are pretty sure you never applied to be enrolled as a citizen of the Choctaw Nation? A Yes sir, I am sure I didn't.

Wallace roll of citizens of the Cherokee Nation examined and applicant not found;

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;

1896 census roll of citizens of the Cherokee Nation examined and applicant not found.

con'r Needles: Luella Snaden applies for the enrollment of herself; she avers that she is a child of George Meigs, who is listed for enrollment on D card 394; she avers that she is now married to one Alf Snaden, a non-citizen, and she married in the Choctaw Nation; from a child she has lived in the Choctaw Nation with her mother, until a month or two ago; the testimony taken in the application of George Meigs, for the enrollment of himself, will be made part of the record in the case at bar, and a copy thereof filed herewith; said Luella Snaden is identified on the Kern-Clifton roll as Luella Meigs; she cannot be identified upon any other rolls of the Cherokee Nation; she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she will be notified by mail of the decision of the commission in her 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 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 July 15, 1901.



Commissioner.

File with Cherokee Freedman B-237, Lucille Snodden.

Department of the Interior
Commissioner to the Five Civilized Tribes,
Vinita, I.T., October 18, 1907

In the matter of the application of Elizabeth Weiss et al. for
enrollment as Cherokee Freedman.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

- M. T. Brown, agent for the applicant.
- J. C. Davenport, of counsel for Cherokee Nation.

M. T. Brown: I would like to have the record show that sometime next week the applicant intends to introduce as witnesses in this case, Aaron Wright, Nathan Sanders, Ben Sanders, and Sam Webber, for the purpose of showing that all the applicants in this case returned to the Cherokee Nation during the time prescribed by the Ninth Article of the Treaty of 1866.

Commissioner Needles: Hasn't that already been shown?

M. T. Brown: And that they have had a continuous residence in this country since that year.

Commissioner: Well, that is all right.

ROBERT WEISS, being duly sworn by Commissioner Needles, testified as follows:

Q Mr. Davenport: What is your name? A Robert Weiss.
Q Where do you live? A I live five miles southwest of Tahlequah.
Q What is your postoffice? A Deer Hill is my postoffice.
Q How old are you? A I am 58 my next birthday.
Q How long have you lived in the Cherokee Nation? A I have lived here all my life except a little while time of the war, from '64 to '66.

Q Did your people own any slaves before the war? A Yes sir.
Q Do you know whether they owned a woman of the name of Elizabeth? A No, sir.
Q Do you know whether or not they owned her mother, or anybody of the family? A Elizabeth, no, sir.
Q Well, did you know Peter Weiss? A Yes, sir.
Q Do you know what his wife's name was when the war broke out? A Betsy they called her.
Q Well, was she living, Betsy, at the time the war broke out? A Yes, sir.
Q Well, did you ever know her by any other name than Betsy? A Bettie.

Q Where was Peter Weiss and his family at the breaking out of the war? A Well, Peter was with us at home at the breaking out, but he and his wife was up there somewhere near the Dutch Hills on the Arkansas line.

Q Well I wish you would look at that woman there and see if she is the woman you know as Betsy or Bettie or whatever you know her by (indicating applicant)? A Yes, I think that is the one, I have never seen her but once.

Q That is since the war? A I just saw her once in my life and that was time of the war, after the war.

Q Did you ever see Peter Weiss and his family after the war? A Yes, sir, saw Uncle Peter.

Q What year was that? A Sometime after the war.

Q What were the circumstances as to your seeing him or meeting him? A Why he had come down to look all to see about fixing up his rights, and he came down to where my brother John, we were right together, and I went up there to see him.

Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing there he and his wife were present in regard to his rights or what he returned? A Yes, sir.

Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him, and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A Why he said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a home in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '65.

Mr. Davenport: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late; is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave but one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, D-396, D-398, D-404, D-402, D-401, D-407, and D-775, and the sub-references.

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 7th of November, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Anita, I.T., October 19, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

1. T. Brown, agent for applicants;
2. B. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, testified as follows:

- Q By T. Brown: State your name? A Daniel Sanders.
- Q What is your age? A About 59.
- Q What is your postoffice address? A Centralia.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
- Q Does your name appear upon the authenticated roll of 1867?
- A I think it does.
- Q You know Elizabeth Meigs and George Meigs? A Yes, sir.
- Q What relation is George Meigs to Elizabeth Meigs? A Her son.
- Q Did you know Peter Meigs during his life time? A Yes, sir.
- Q Do you know whether Peter Meigs, Elizabeth Meigs, and George Meigs were out of the Cherokee Nation during the war? A Yes, sir.
- Q When did they return to the Cherokee Nation?
- Q With whom did they return? A They came with me and my father and the "backers."
- Q Have they had a continuous residence in the Cherokee Nation ever since? A Yes, sir.
- Q Mr. Bell: When did you come to the Cherokee Nation yourself after the war?
- Q What date of the year? A First of December.
- Q That was the first time? A Yes, sir.
- Q When did you make your second trip? A Along in first part of January.
- Q That was January, 1867? A Yes, sir.
- Q Now which one of these trips was it that Peter and his family came with you? A They came both times.
- Q Came both times? A Yes, sir, the old man came the first time and then the last time the family came.
- Q Peter came with you alone the first time? A Yes, sir.
- Q When the second time he brought his family? A Yes, sir.
- Q What did his family consist of? A Mary, George, Alice, Harry, Simon, and Jerry.
- Q How many children? A There was his children.
- Q Did he have his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of the record in the case at bar and part of the record in D-284, D-396, D-338, D-401, D-402, D-404, D-407, D-775.

Elihu 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.

Sworn to and submitted before me this 19th day of November, 1901.

Phineas Jones
[Signature]
Commissioner

Supl. Order, C.F.-D.497.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 19th, 1901.

SUPPLEMENTAL ORDER in the matter of the enrollment of Luella
Shain, C.F.-D.497, as a Cherokee Freedman, made by request of Mr.
Davenport, of Counsel for Cherokee Nation:

Don't Needles! The testimony taken in D-394 will be made
part of the record in D-997.

---00000000---

J. O. Rosson, being first duly sworn, states that as stenog-
rapher 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 25th, 1901.

[Signature]

Commissioner.

Cher. Fr. D-997.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 24, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of LUELLE SNADEN, ET AL., as Cherokee Freedmen.

Appearances:

V. W. Hastings and L. B. Bell, Attorneys for Cherokee Nation.

REUBEN SANDERS, being first duly sworn, testified as follows on behalf of Applicants:

BY COMMISSION: State your name? A My name is Reuben Sanders.

Q How old are you? A About fifty, I do n't know.

Q You were born before the war, were you? A Yes sir.

Q What is your post office? A Centralia.

Q Do you know Luella Snaden? A Yes sir.

Q Who is her father? A George Meigs.

Q Her mother? A Lucinda.

Q Did Lucinda's name use to be Lucinda McKinney? A I am not acquainted with her by that name.

Q Where was Luella Snaden born? A On Big Creek.

Q In what nation? A In the Cherokee Nation, in Coowesscoowee District.

Q How long has she lived there? A She has lived there, well just how many years I don't know as I know just exactly how many years. She has a place there, and she has lived some time down in the Chickasaw or Choctaw Nation, I suppose.

Q Has she ever lived outside of Indian Territory? A Not to my knowledge.

Q How long has she lived continuously in the Cherokee Nation?

A She has lived the biggest part of her life in the Cherokee Nation.

Q For about how many years has she lived continuously in the Cherokee Nation? A Just exactly how many years I just couldn't tell you how many years.

Q Has she lived in the Cherokee Nation for the last ten years?

A There is a part of the time she has been down about Krebs.

Q When did she come back from there to live in the Cherokee Nation?

A About two or three years ago, since she married. But she has been coming back and stopping with her father up here, and then she would go back. That is, before she was married.

Q About when did she get married? A I just don't know exactly when, but to the best of my knowledge she has been married upwards of two years.

Q Are you acquainted with her husband, Alf Snaden? A I have seen him, I don't have much acquaintance with him.

Q Has he been living in the Cherokee Nation for some time?

A I don't think he has. He has been living in the Cherokee Nation perhaps something over a year, perhaps not so long. I am not very much acquainted with the gentleman.

Q Have they lived in the Indian Territory since they were married?

A Yes sir, they have lived down in Alderson, I think Alderson is the post office.

Q In what nation? A In the Choctaw Nation, I believe.

Q Then you say Luella Snaden has lived in the Indian Territory all her life? A Yes sir, I have no knowledge of her going out or living anywhere any further, going any further than Alderson. That is the only place I have knowledge of her being, and up home.

MR. HASTINGS: Was George Meigs married to her mother? A Yes sir.
Q Did they continue to live together, or did they separate?
A Separated.
Q Her mother went off down south to the Chickasaw or Choctaw Nation
A Choctaw Nation.
Q Is that the way of it? A Well, she didn't go to the Choctaw
Nation when they first separated.
Q Is that the reason why this girl went down there, did she go with
her mother? A Yes sir, I believe her mother carried her down there.
Q About how long ago? A I just don't know how long.
Q Five or six or eight or ten years ago? A No, I haven't no idea
that it has been ten years ago.
Q What is your best judgment about it? A I just don't know.
Q She has lived there, up here and down there, all the time ever
since she was born? A Yes sir, she has been on Big Creek, about
half a mile of where I am living. She would come there, and go back
down to where she was living, where her mother was.
Q Were her parents living together when she was born? A They were.

ALFRED SNADEN, being first duly sworn, testified as follows
on behalf of Applicants:

BY COMMISSION: What is your name? A Alfred Snaden.
Q How old are you? A I am about thirty now, I suppose.
Q Are you the husband of Luella Snaden? A Yes sir.
Q Are you the father of Kitt Snaden? A Yes sir.
Q When did you marry Luella Snaden? A I can't think of the exact
date. I have it here. (Shows paper).
Q You can testify from that, when was it? A I am not a very good
scholar.
Q What year was it? A In '91 I believe.

MR. HASTINGS: You mean 1901? A Yes sir.

BY COMMISSION: That is two years ago? A Yes sir.

MR. HASTINGS: This shows the 6th day of April, 1901.

BY COMMISSION: Where have you and your wife been living since you
were married? A In the Choctaw Nation the biggest portion of the
time, until the 4th of last April we moved up here.

Q How long had you known your wife before you married her?

A About two years.

Q You and your wife have never lived outside of Indian Territory
since you were married? A No sir, never been outside of Indian
Territory.

Wm. Hutchinson, being first duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes he correctly reported
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 28th day of October, 1903.

Wm. Hutchinson
Notary Public.

Cherokee Freedman D-397.

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

General

In the matter of the application for the enrollment of
Lucilla Swaden and Kitt Swaden as Cherokee freedmen.

RECITALS.

The record herein shows that on July 1, 1901, Lucilla Swaden appeared before the Commission at Nowata, Indian Territory, and made application for the enrollment of herself as a Cherokee Freedman. Subsequent to the original application herein a birth affidavit which is made a part of the record herein was filed with the Commission showing the birth of Kitt Swaden. Further proceedings were had in the matter of said application at Vinita, Indian Territory, October 19, 1901, and September 24, 1902. A copy of the testimony taken in the cases of George Neige, Sr., Cherokee Freedman D-394, and Elizabeth Neige, Cherokee Freedman D-393, is filed herewith and made a part of the record herein.

The evidence shows that the principal applicant, Lucilla Swaden was born since 1860, and is the daughter of, and claims the right to enrollment through, George Neige, Sr. That the said George Neige, Sr., was the slave of a Cherokee citizen at the commencement of the rebellion, and that during said rebellion he left the Cherokee Nation. The Commission have heretofore found in the case of the said George Neige, Sr., Cherokee Freedman D-394, that he did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 2, 1896, in the case of Moses Whitacre, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation, Lucinda Neige, nee Towara, mother of the principal applicant herein, is not shown to possess any rights as a Cherokee freedman, and in the absence of such showing, it will be presumed that she possesses no such rights. The applicant, Kitt Swaden, is the minor son of the said Lucilla Swaden and possesses no rights to enrollment except such as he may acquire through his said mother. Neither of the applicants herein, nor their ancestor, George Neige, is identified on the 1860 authenticated Cherokee Tribal roll.

It is, therefore, the opinion of this Commission that the application for the enrollment of Inella Sinden and Kitt Sinden as Cherokee Freedmen, should be denied under the provisions of section twenty-one of the Act of Congress approved June 23, 1902, (30 Stat., 498), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED: Tame Bixby.
Chairman.

SIGNED: T. B. Needles.
Commissioner.

SIGNED: C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this NOV 5 1904

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

In the matter of the application for the enrollment of Luella Sanden, et al., as Cherokee Freedmen.

NOTICE FOR REHEARING.

The record in this case shows that on November 8, 1906, the Commission to the Five Civilized Tribes transmitted the record in the matter of the applications for the enrollment of Luella Sanden and her minor child, Kitt, Sanden, as Cherokee Freedmen.

Reporting on June 23, 1906, the Indian Office recommended that the decision of the Commission adverse to the applicants be approved. On June 23, 1906, the Department concurred in the recommendation made and the decision of the Commission dated November 8, 1906 adverse to said applicants was affirmed.

The record shows that Luella Sanden was born since 1866 and is the daughter of, and claims right to enrollment through George Meigs, Sr.; that George Meigs, Sr. was the slave of a Cherokee citizen at the commencement of the war of the rebellion; and that during the war he left the Cherokee Nation.

The primary question to be determined in this case then is: 'Did George Meigs, Sr., return to and establish his residence in the Cherokee Nation in time to have been, on February 11, 1867, an "actual personal bona fide resident" in good faith of the Cherokee Nation?' We have filed a Motion for rehearing in the case of George Meigs, Sr., et al., and this being a case that should properly be consolidated with that case, we file this Motion for rehearing in order that whatever action might be taken in the Meigs case, the same action might be taken in this case as these applicants are descendants of the claimant in that case.

NOTICE.

Comes now the applicants herein, and move the Department to grant them a rehearing and to remove this case to the Honorable Commissioner

to the Five Civilized Tribes in order that the newly discovered testimony of witnesses might be taken to show that the ancestor through whom Luella Madden claims was an actual personal bona fide resident in good faith of the Cherokee Nation on February 11, 1867.

RESPECTFULLY SUBMITTED,

Starr & Patton

ATTORNEYS FOR APPLICANTS.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY } SS.
NORTHERN DISTRICT }

J. C. STARR, of lawful age, being first duly sworn, on his oath deposes and says that he is one of the Attorneys for applicants in the above case and that he has read the statements made in the foregoing Motion for rehearing and states that this Motion is made in good faith, not for the purposes of delay, but in order that justice might be done.

J. C. Starr

Subscribed and sworn to before me this 18th day of August, 1906.

Copy

J. H. Harris

UNITED STATES COMMISSIONER FOR
THE NORTHERN DISTRICT
OF THE INDIAN TERRITORY.

COMMISSIONER
THOMAS B. BRIDGES,
C. S. BRIDGES,
W. G. BRIDGES,
Secretary.

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

REFER TO ONLY TO THE FOLLOWING
Cherokee Freedmen

D-227.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, November 5, 1904.

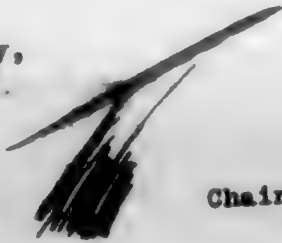
Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for the enrollment of Luella Snaden and her minor child, Kitt Snaden, as Cherokee Freedmen.

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 same.

Respectfully,



Chairman.

Encl. 3-5.

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON. June 22, 1905.

Land
78903-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated November 5, 1904, transmitting the record of the application for enrollment as Cherokee Freedmen by Luella Snaden for herself and her minor child, Kitt Snaden.

November 5, 1904, the Commission decided adversely to the applicants.

The record shows that Luella Snaden was born since 1866 and is the daughter of, and claims right to enrollment through George Meigs, Sr.; that George Meigs Sr., was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that during the war he left the Cherokee Nation and did not return thereto on or before February 11, 1867. Lucinda Meigs, the mother of the principal applicant, is not shown to possess any rights as a Cherokee Freedman. The applicant Kitt Snaden is the minor son of Luella Snaden and possesses no rights to enrollment except through his mother. Neither of the applicants nor George Meigs Sr. is identified on the 1880 authenticated Cherokee roll.

JSjr.

DEPARTMENT OF THE INTERIOR LLB
WASHINGTON.

D.C. 26613

I.T.D. 7698-1905.

June 23, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

November 5, 1904, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of Luella Snaden and her minor child, Kitt Snaden, as Cherokee freedmen.

Reporting June 22, 1905, the Indian Office recommended that the decision of the Commission, adverse to the application, be approved. A copy of its letter is inclosed.

September 7, 1905, there was filed with the Department a motion for review of said decision.

There appears to be no proper reason for the granting of said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission dated November 5, 1904, is hereby affirmed.

Respectfully,

Jeese E. Wilson
Assistant Secretary

1 inclosure.

COPIES IN WHOLE TO THE FOLLOWING:

Cherokee Freedmen
D 997

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 3, 1906

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

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for enrollment as Cherokee freedmen of Luella Snaden and her child, Kitt Snaden, was affirmed by the Secretary of the Interior on June 23, 1906.

A motion for review of said decision, filed by the attorneys for the applicants on September 7, 1905, was also denied by the Department on the same date.

For your information a copy of Departmental letter referred to is herewith enclosed.

Respectfully,

Commissioner

L M B

Encl. 3-97

(C O P Y)

Land
110-1907
2937-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 18, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is forwarded herewith report of the Commissioner to the Five Civilized Tribes, dated December 27, 1906, transmitting a motion for rehearing in the Cherokee Freedman case of Luella Snaden, et al., which was filed with the Commissioner on August 20, 1906, by Starr and Patten, attorneys for the applicants.

The decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application of Luella Snaden, for the enrollment of herself and minor child, Kitt Snaden, was affirmed by the Department June 23, 1906 (I.T.D. 7698-1905).

There is also forwarded herewith the Commissioner's report, dated January 7, 1906, with which is enclosed a letter from Starr and Patten, attorneys for the applicants, dated December 22, 1906, in which they say that they have repeatedly called the attention of the applicants to the necessity of filing further affidavits in support of the motion for rehearing, but that they have failed to give the matter further attention.

This motion is based on the showing made in a motion filed by Starr and Patten for the rehearing of the Cherokee

Freedman case of Clara Grayson, et al., which was forwarded to the Department without affidavits in support thereof and, apparently, not presenting any question of law or fact not heretofore fully considered. It is recommended that the motion for rehearing be denied.

The record in the case is enclosed herewith.

Very respectfully,

G. F. Larrabee,
Acting Commissioner.

AJW-D

D.C. 6296-1907.

(COPY)

J.F.Jr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I.T.D. 1322-1907.

January 29, 1907.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 18, 1907 (Land 110), the Indian Office transmitted your report dated December 27, 1906, in regard to a motion for rehearing filed in the matter of the application of Inella Sweden et al. for enrollment as Cherokee freedmen.

You recommended that said motion be denied.

The Indian Office concurs in your recommendation. A copy of its letter is enclosed.

On January 7, 1907, you also transmitted a report with reference to this motion, submitting a copy of a communication from the attorneys for these applicants, in which they state that they have repeatedly reminded these applicants that they ought to file all of the affidavits they can secure in support of their motion for rehearing, and as they have given the matter no further attention the case might as well be forwarded for departmental action.

The Department has considered said motion, together with the affidavits filed in support of the motion in the Cherokee freedmen case of Clara Grayson et al., to which reference is

made. No proper reason is shown for a further consideration of this case, and the motion is hereby denied.

The motion for review filed in the case of Lula Sanders, and returned in the papers with this case, will be the subject of a separate letter.

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 7 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
F.D. 997.

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

Muskogee, Indian Territory, February 16, 1907.

W. W. Hastings,

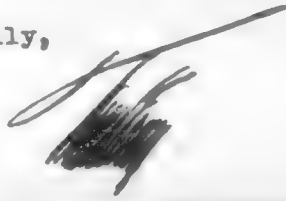
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a rehearing in the Cherokee freedmen enrollment case of Luella Snaden et al, filed by their attorneys, Starr & Patten, Vinita, Indian Territory, was denied by the Secretary of the Interior, January 29, 1907.

For your information a copy of the Departmental decision referred to is enclosed herewith.

Respectfully,



Commissioner.

Encl. HJ-65.
HJC

J. C. Starr.
ATTORNEY AT LAW.
VINITA, IND. TER.

FD 997

REC
JUN 17 1006
TA



1906

Mr. J. C. Starr

17

Wichita, Kan. Ter.

3 2 2 8

Cher Fr D 710

Cher Fr D 998

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1901.

In the matter of the application of Nancy Starr for the enrollment of herself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, she testified as follows:

- Q What is your name? A Nancy Starr.
Q How old are you? A I guess I am about 52; will be, my birth.
Q What is your post-office address? A Cottonwood.
Q What is your district? A Sequoyah.
Q You want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever try to be enrolled in any other Nation? A No sir, No sir.
Q Who do you want to enroll besides yourself? A I have got one boy, he is 33.
Q Will he be old enough to chop wood himself; is your name on any of the rolls of the Cherokee Nation? A Yes sir.
Q On the 1830 roll? A No sir, it is on the Kern-Clifton and the Wallace roll.
Q Are you married? A No sir.
Q Were you ever married? A Yes sir.
Q What was your husband's name? A Sam Starr.
Q Is he living? A No sir.
Q What is your father's name? A Henry West.
Q Your mother's name? A Phoebe West.
Q Are you living? A No sir.
Q Your father living? A No sir.
Q Have you any witnesses here? A Yes sir.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Walk My Field was my boss. Jane Mayfield was my mistress.
Q Were they Cherokees? A They said they was.
Q What do you think about it, were they Indians? A Yes sir, they was Indians, said to be.
Q Did you go out of the Cherokee Nation during the war? A Yes sir, went to Texas.
Q When did you come back? A I come back next year after peace.
Q What year was that? A I don't know what year after I come they called it '66; I come back here next year after peace, in the winter.
Q Where did you come to? A I come to Lila Starr's place, that's where we stopped.
Q Have you been living in the Cherokee Nation ever since that? A Yes Yes sir.
Q Never lived out of it? A No sir.
Q Were you married when you came? A No sir.
Q You have been married since? A Yes sir.
Q Are you living with your husband now? A He is dead.
Q You haven't married since his death? A No sir.
BY MR. JAMES DAVENPORT, Cherokee Representative:
Q Where were you living when you first remember? A I was born in Texas; I can't hardly remember when I was in Texas first time.
Q You were born in Texas after Walk Mayfield and the Mayfield family went to Texas? A After they went there?
Q Yes, you were born in Texas? A Yes sir.
Q They were in Texas at the time you were born? A I don't know; when I remember go of I was here.
Q Did you ever see Walk Mayfield in Texas? A Yes sir, I went to Texas with Walk Mayfield in time of the war.
Q You were born in Texas? A Yes sir.
Q When were you born in Texas, way before the war? A Yes sir.
Q When did you come from Texas to the Cherokee Nation? A I can't remember, I was small.
Q How close with Walk Mayfield when you did come and his family?
A I come from Texas when I was small child.

Nancy Starr 2

- Q You remember that you came with Walk Hayfield don't you? A I do when I went to Texas time of the war.
- Q You did come from Texas up here, or then went back during the war, that the way of it? A That's the way they said it was, I don't remember it; I just said I was born in Texas; that's all I know.
- Q You don't remember going to Texas with Hayfield? A I remember going to see him in the war.
- Q What part of Texas is that? A Went down there near Bellview.
- Q Then did he come back? A Next came after the war, way in the fall like.
- Q You came back direct to the Cherokee Nation, or did you go back through Arkansas? A Where is Arkansas?
- Q Don't you know where Arkansas is? A I don't know.
- Q You don't know where Arkansas is? A We came back through Mt. Smith.
- Q About what in Arkansas? A I don't know, sir.
- Q How far is Cottonwood post from the line of Arkansas? A Cottonwood is in Sequoyah.
- Q You mean it is not but a little piece from the line of Arkansas? A No, A line of the river.
- Q No, line of the State? A I don't know where that is.
- Q You never have been in Arkansas have you? A I have been to Mt. Smith.
- Q About how long were you in the Cherokee Nation after the war? A 13, I believe.
- Q Where were you living when you came? A Living in Sequoyah.
- Q What place in Sequoyah were you living? A There were I a living yet.
- Q On what place was that? A I lived on my father's place.
- Q What is your father's name? A Houston West. Henry Hayfield, was his name in slavery.
- Q Who lives near you there now? A I don't live near you when you located there after the war? A There is one named Crying Bear lived there when we first built the place.
- Q Anyone else living there? A Orion Johnson and Mack Tom Baysdale and Billy Sanders and his wife.
- Q How far is Cottonwood from where you lived now? A 4 or 5 miles, I reckon.
- Q How far do you live from John Smith; or do you know? A 10 or 12 miles.
- Q How far do you live from Dave Turner, you know him? A Yes sir, I don't know how far I live from him.
- Q Your father living? A No sir.
- Q Your mother living? A No sir.
- Q When did your mother die? A She has been dead 9 or 8 years.
- Q When did your father die? A I don't remember how long; he died since my mother died.
- Yours truly,
- Yours truly,
- Q You say your husband is not living? A No sir.
- Q You are his widow now are you? A Yes sir. He and Houston West is brothers and sisters.
- Q Did you know at the same time as Houston West? A Yes sir.
- Q Was Houston West born in Texas? A No sir.
- Q Any other older than Houston? A Yes sir.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified
page 111 #2779 Nancy Starr, (No district.)
Wagon roll of citizens of the Cherokee Nation examined and applicant identified
page 130 #2012 Nancy Starr, Sequoyah District.
1840 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;
1845 census roll of citizens of the Cherokee Nation, main 1

Nancy Starr 3

and applicant not identified thereon.

Comr. Hedges: Nancy Starr applies for the enrollment of herself; she cannot be identified upon the authenticated roll of 1890 or the census roll of 1896; she is identified upon the Kern-Clifton pay roll and the Wallace roll, according to page and number of the rolls as indicated in the testimony; she avers that she was a slave of Walk Hayfield, and Jane Hayfield; she avers that she was born in the State of Texas; she is a sister of Houston West, who was listed for enrollment as a Cherokee Freedman on D card 989, and the testimony taken in the application of said Houston West for his own enrollment will be made a part of the record in the case at bar, and a copy thereof will be filed herewith; as to her residence, reference is made to the testimony; she will now be listed for enrollment as a Cherokee Freedman on a doubtful card, and will be notified by the Commission at her post-office address by mail of its decision.

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 July 15, 1901.

Commissioner.

RECORDED
INDEXED
JUL 15 1901

File with C. P.

908 Nancy Starr,

Department of the Interior,
Bureau of the Five Civilized Tribes,
Wash., D.C., July 1st, 1901.

In the matter of the application of Houston West for the enrollment of himself and five children as Cherokee Freedmen; he being sworn by Commissioner T. B. Keenan, as follows:

- Q What is your name? A Houston West.
- Q What is your age? A 47.
- Q What is your postoffice address? A Chickasaw, I.T.
- Q In what district do you live? A Sequoyah district.
- Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
- Q And do you want to have enrolled together yourself? A Five children.
- Q What are their names? A 1st West.
- Q How old? A 19 years.
- Q Next? A Percy.
- Q How old? A 18 years.
- Q Next? A Sammie.
- Q How old? A 16.
- Q Next? A Georgia.
- Q How old? A 15.
- Q Next? A William.
- Q How old? A 9 years.
- Q Is your name on any roll of the Cherokee Nation? A Yes sir the 1890 and 1895 rolls.
- Q Were you married? A I have been, can not now.
- Q Is your wife living? A The mother of these children is not living.
- Q What was her name? A Maria Albert when I married her.
- Q When were you married to her? A In 1879.
- Q Why do you not have a name on the roll of 1890? A I have always tried to get it on.
- Q How have you failed to do so? A Yes sir.
- Q Is your wife a citizen? A Yes sir.
- Q Have children roll examined? A The name of the applicants and is follows:
Page 111, No. 2766, Houston West, Chickasaw District.
Page 111, No. 2766, Ida West,
Page 111, No. 2766, Percy West,
Page 111, No. 2767, Sammie West,
Page 111, No. 2768, Georgia West,
Page 111, No. 2769, William West.
- Q Has their roll examined and the name of the applicant found as follows:
Page 149, No. 2766, Houston West, Sequoyah District.
Page 149, No. 2767, Percy West,
Page 149, No. 2768, Sammie West,
Page 149, No. 2769, Georgia West,
Page 149, No. 2770, William West.
- Q Do you know any other persons who were married to Maria Albert? A Yes sir.
- Q Did you go out of the Cherokee Nation during the war? A Yes sir.
- Q Where did you go? A To the States.
- Q When did you return? A In 1870.
- Q What was your occupation? A He was to the water.
- Q Where did you live when you returned? A In the States.
- Q Have you lived in the Cherokee Nation continuously since that time? A Yes sir.
- Q How many children have you? A Five.
- Q And have they all been here all the time? A Yes sir.
- Q How do you know that your children are your children? A Yes sir.
- Q How do you know that they are your children? A Yes sir.
- Q By whom? A Yes sir.
- Q The name of the witnesses? A Yes sir.
- Q How many? A Yes sir.

- Q And you belonged to the Mayfield? A Yes sir.
- Q Where were you living when the war commenced? A On the old Flack burn place in Sequoyah.
- Q When did you go to Texas? A The second year of the war.
- Q Where did you stop at there? A At the old Mayfield place near Wellville, Texas.
- Q Did your father belong to Walk Mayfield at the beginning of the war? A Yes sir.
- Q When did your father return home? A In 1865.
- Q Who with? A Walk Mayfield and his family.
- Q What was his wife's name? A Jane Blackwood before he married her.
- Q What ever became of your father? A Died.
- Q Is your mother alive? A No sir.
- Q Just you and Walk's family came together? A That is all.
- By the Commission-
- Q When did your father die? A In '63 or '4.
- Q When did your mother die? A She died before he did.
- Q Your father and mother are not on the roll of 1860? A No sir but I have a sister on the 1860 roll.
- Q What is her name? A Mary Whitmore.
- Q Is she married now? A Yes sir.
- Q Did she go to Texas with you? A Yes sir.
- Q And did she return with you? A Yes sir.
- The 1860 authenticated roll of the Cherokee Nation examined and the name of the applicant's sister found as follows-
Page 728 No. 1399, Mary Whitmore, Sequoyah District
- Q You say this is your full sister? A Yes sir.
- Q Your father and mother? A Yes sir.
- Harrison Foreman called and sworn as a witness for the applicant:
- Q What is your name? A Harrison Foreman.
- Q What is your age? A 43.
- Q What is your post-office address? A Catoosa.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q A Freedman? A Yes sir.
- Q Do you know the applicant? A Yes sir.
- Q How long have you known him? A Since the war.
- Q Was he a slave? A Yes sir that is what I hear.
- Q When did you first see the applicant after the war? A I can't be positive as to the exact time, in '66 I believe.
- Q Where? A I was the ferryman at Fort Smith and I ferried him over the river.
- Q Who was with him? A Walk Mayfield and his family and the applicant's father and mother.
- Q And you think it was in '66? A Yes sir.
- Q Has he lived in the Cherokee Nation since '66? A Yes sir.
- By Call-
- Q What time of the year was that? A I don't know if it was in November or December, but along there.
- Q Walk Mayfield was his former owner? A Yes sir.
- Q Is Walk living? A No sir.
- Dennis Bean called and sworn as a witness for the applicant:
- Q What is your name? A Dennis Bean.
- Q What is your age? A 42.
- Q What is your post-office address? A Muldrow.
- Q Are you a Cherokee freedman? A Yes sir.
- Q Do you know the applicant? A Yes sir.
- Q How long have you known him? A Ever since-- I think it was the fall of '65.
- Q Was he a slave? A Yes sir.
- Q Who owned him? A Walk Mayfield.
- Q Did this applicant go out during the war? A I guess they did.
- Q When did you first see them after the war? A They was coming through making their way up by where I lived in '66, I lived on the

Arkansas this side of Fort ~~Smith~~ Smith.
 Q Who was with this applicant then? A His father and mother and
 his sisters I think a man named Tom Hornace and a woman named Agric
 and Dave West.
 Q Was Walk Marshall with him? A Yes sir that was his own
 Q Has this applicant lived here ever since? A Yes sir.
 Q All-
 Q Where were you living then? A On this side of the river on the
 place that belonged to Menerva Thornton. The house is caved in now.
 Q Was that the old George Johnson house? A No sir that was below us
 Commission
 Q You are positive that you are correct as to these dates? A Yes sir.
 Q What circumstance make you think it was in '66? A Because they
 was all harping about the '66 treaty then.
 Albert Johnson called an sworn as a witness for the applicant
 Q What is your name? A Albert Johnson.
 Q What is your post office address? A Benze.
 Q What is your age? A 43.
 Q Do you know the applicant? A I do
 Q How long have you known him? A Ever since I was a boy.
 Q Was he a slave? A I guess he was, he was with Walk Marshall.
 Q Did he get out of the Cherokee Nation during the war? A Must have
 he came back.
 Q How do you know he came back? A He'd on the Lilly Starr place
 in the fall of '66.
 Q Where is that? A This side of the Arkansas river.
 Q Who was with him? A His mother and father.
 Q How long have you known him ever since that time? A Yes sir.
 Q How long ago was that it was in '66? A As my memory serves
 it was '66.
 Q You are a free person yourself then? A Yes sir.
 Q All-
 Q Who was with him, was Walk Marshall with him? A Yes sir
 the Commission
 Q How long ago was that a Cherokee citizen? A Said to be.
 Q Do you know this applicant's wife? A Yes sir.
 Q How long have they been married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.
 Q How long ago were they married? A Yes sir.

the said West applies for himself and five child-
 ren, I.e., Mary, Fannie, Georgia and William West; he cannot be
 identified on the authenticated roll of 1820 or the census roll of
 1850; he is identified on the Fern Clifton roll and the Wallace roll
 according to the parcel and number of the rolls as indicated in the
 testimony; he avers that he was the slave of Walk Marshall, that he
 was taken out of the Cherokee Nation during the war and returned in
 1866 with his master Walk Marshall, and offers evidence to establish
 that fact. He also offers sufficient proof of his marriage to Lizzie Al-
 bert now deceased, who is the mother of his children; all of his
 children are identified on the Fern Clifton roll; he avers that he is
 the full brother of Mrs. Val mine, they having the same father; and
 that he is now married and enrolled on the authenticated roll
 of 1820; he avers that she returned to the Cherokee Nation with him
 at the same time as his father and mother and the balance of the
 family; the evidence so far presented is sufficient to justify the
 Commission in enrolling the said Touston West and his five children
 herein named, as Cherokee Freedmen, but now comes the Cherokee Na-

tion, and ... the evidence now given; consequently, the ... of his five children will be ... on a beautiful card, and when the first ... is arrived it will be notified by ...

... that as stenographer ... in full all the ... in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 15th of July, 1901.
(signed) Gus van Vels, Commissioner.

... states that as stenographer to the ... he made the foregoing copy ... copy of the original transcript

[Handwritten signature]

... this September 13th, 1901.

[Large handwritten signature]

Corrected ...

NOTICE!

IN THE MATTER OF The application of Nancy Starr
for enrollment as a Cherokee Freedman:

Case No. F. D. 998

To Nancy Starr Cottonwood I. F?

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 Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Pt. Gibson Indian Territory, on the following dates, to-wit: SEP 13th

A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 27th day of Aug, 1901.

[Signature]
[Signature]
[Signature]
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., September 4, 1901.

In the matter of the application of Houston West for enrollment
as a Cherokee Freedman.

Testimony on Behalf of Cherokee Nation.

Appearances:

Applicant not present:

W. H. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of
service of notice that they will introduce testimony in this
case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, tes-
tified as follows:

Q What is your name? A W. T. Harnage.

Q What is your postoffice? A Tahlequah.

Q What is your age? A About 53.

Q You a Cherokee citizen by blood? A Yes, sir.

Q I believe you made a statement that you returned here in December
of 1866, after the war? A Yes, sir.

Q To what part of the Cherokee Nation did you come? A Sequoyah
district.

Q How far did you locate from Fort Smith? A Just across the river,
about half a mile from the line.

Q What relation are you to Zeke Harnage? A Half brother.

Q Is he older or younger than you? A He is older.

Q Did you know Walk Mayfield? A Yes, sir.

Q What relation is he to you? A He is my uncle.

Q How long did you continue to remain down there in Sequoyah dis-
trict immediately after you came? A I stayed there in the bottom
until after Christmas, then I went up to Flint.

Q You stayed there until after Christmas of '66? A Yes, sir.

Q About the first of January? A About the first of January some-
time.

Q Now did your uncle Walker Mayfield return when you lived there?

A No, sir.

Q Now how long did you remain up in Flint? A I stayed up there
till about the middle of April and went back down in the bottom.

Q And when you came back had he returned then? A Yes, sir, he was
there then when I went back to the bottom.

Q That was in April of what year? A '67.

Q But when you left there after Christmas of '66, about January,
he hadn't come? A No, sir, he hadn't come in, we left him in Texas
in the fall of '66.

Q You left him there? A Yes, sir.

Q Had he made a crop there in Texas that year? A Yes, sir.

Q You know what kind of a crop, cotton and corn? A Corn and
cotton.

Q Well, how far did he locate from your place and from the place
that you had stopped when you returned there in April of '67?

A About five miles.

Q He was your uncle? A Yes, sir.

Commissioner: He came there you say in April, '67? A I came
back to the bottom in April '67 and he was there then I came.

Q Walker Mayfield was? A Yes, sir.

Q You know when he came there? A No, sir, he came after I left,
I left the bottom in January, '67, and went up to my uncle's in Flint

and stayed there till April.

Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.

Q What brings it to your memory that it was in '67? A Because it was in '66 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.

Q Couldn't he have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came up here? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Corn and cotton.

EZEKIEL HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Harnage.

Q What is your postoffice? A Foyil.

Q What is your age? A 39 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q Now you came back, I believe you say, to Sequoyah District?

A Yes, sir.

Q Now you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q How far did you live from him down there, or did he from you?

A About a couple of miles, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You moved up there in Sequoyah about December 16, 1866?

A Yes, sir.

Q Now what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had some boys, Houston, Callie and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16 up until the following April, March or April?

A Oh yes, I was there all the while.

Q Would you say that Walk Mayfield came from you when he came?

A I guess it was four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew them boys.

Q Did he have a sister named Mary? A I don't know anything about the girls.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.

Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield came back to the Nation.

Q With Mayfield's family? A Yes, sir.

Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.

Q Is he living? A No, he is dead.

Q His wife living? A No, she is dead.

Q What fact fixes the date of Mayfield's return in your mind?

A The fact of the business is, the fact that fixes it in my mind was about going to work to make a crop.

Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield came the next spring like.

Q You know that you came in '66? A I know that, I am positive of the fact.

Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A D. M. Falkner.

Q What is your age, Mr. Falkner? A I am about 60.

Q What is your postoffice address? A Hanson, Indian Territory.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Falkner, you have been married, I believe, the second time?

A Yes, sir.

Q What was your first wife's name? A Her name was Rachel L. Adair.

Q That was her maiden name? A Yes, sir.

Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.

Q Did you know Walk Mayfield yourself? A Yes, sir.

Q Where were you living in the year of '66 and the spring of '67?

A I was living in Sequoyah district, Cherokee Nation.

Q Did you know Walk Mayfield before the war? A Yes, sir.

Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.

Q Now Mr. Falkner, tell the commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of --

Q That you afterwards married? A Yes: she was boarding with my sister, teaching school, and the news come that her uncle had come home from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we went, and they claimed they had just come in.

Q Well, how far was it that you had to go? A Four miles, and then I went with her over there, and the reason why I am so positive about it, is she and her was married about ten or fifteen days after that: that is, this young lady.

Q Your first wife? A Yes, my first wife.

Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home. My marriage: we were married about a week or fifteen days after he come, and I think it is dated on the 17th of April, or the 27th of April, when we and her were married, and just a few days before that is when we and her went over there.

Q That is her uncle, Walk Mayfield? A Yes, sir.

Q You had heard of his coming those four miles here, and you went over there to see him, and they had just come in? A That is what they claimed, that had just come in.

Q You hadn't heard of him before that? A No, sir.

Q Did they have some slaves, colored people, with them?

A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I need.

Q Had they unloaded the wagons when you got there? A There was a covered wagon standing there at the house when we got there.

Commissioner: What year were you first married, Mr. Falkner?

A It was in April, '67.

Q You are positive of that? A Yes, sir, I have got it in the bible at home.

Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me that was his darkies, all I know.

Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.

Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.

Commissioner: Walker Mayfield dead? A Yes, sir.

Q His wife dead? A Yes, sir.

Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys and they are all dead.

Q How far is this Walker Mayfield place, where he came to, from the Chapokee line? A It is about four miles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.

Q Four or five miles from that place to Fort Smith? A Yes, sir.

Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.

Q There is where they all crossed? A Yes, sir.

Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callis West, D-1000, and George West, D-220.

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 correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 6th of September, 1901.

C. R. Breckinridge

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 18, 1901.

In the matter of the application of Nancy Starr et al. for
enrollment as Cherokee Freedmen.

O r d e r .

Commission: The Cherokee Nation makes satisfactory proof
of service of notice that testimony would be taken in the
matter of the application of the said Nancy Starr for enroll-
ment as a Cherokee Freedman, at Fort Gibson, Indian Territory,
on the 13th day of September, 1901. Said Nancy Starr has been
called three times and does not respond. The Cherokee Nation
desires that the evidence of W. T. Harnage, Ezekiel Harnage,
and D. W. Paulaner, taken in the matter of the application of
Houston West, for enrollment as a Cherokee Freedman, at Fort
Gibson, Indian Territory, on the 4th day of September, 1901,
be made a part of the record in the case of the said Nancy
Starr. The order will be made.

Bruce C. Jones, being duly sworn, says that as stenographer to
the Commission to the Five Civilized Tribes he correctly recorded
the proceedings 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, 1901.

M. C. Jones
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washgton, I. T., May 23, 1903.

In the matter of the application of Houston West for the enrollment of himself and children as Cherokee Freedmen.

SUPPLEMENTAL TO D-839.

APPEARANCES:

A. S. McRae for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Supreme Court in 1871, as taken from a book from the records of the Executive Department of the Cherokee Nation entitled, Book of Doubtful Cases for Cherokee Citizenship Tried in 1871, and from that part of the book headed Doubtful Ball Sagooyah District, No. 143, the following:

"Henry West.
Decided against claimant June 15, 1871."

The Cherokee Nation also desires to introduce in evidence a decision of what is known as the Chamber's Court, on June 12, 1871, as shown from the citizenship record, No. 1, page 9, in the case of Henry West vs. the Cherokee Nation, the same being signed by John Chambers, President of the Commission, C. P. Brewer, George Downing, Commissioners, countersigned R. L. Nicholson, Clerk of Commission, as follows:

No. 1. Henry West)
vs)
Cherokee Nation.)
Clerk of Citizenship. Before the
Commission on Citizenship, sitting at
Tahlequah, C. H. June 12th, 1871

This case, comes under that class of cases, of which the Commission have jurisdiction under act of Dec. 1877, claiming citizenship under the 9th Article of the Treaty of 1866, in regard to persons of African descent. His statement alleges that he was a slave and owned by a citizen of the Nation, and both resident here at the commencement of the rebellion. Claimant was afterwards sent to Texas, by his owner, but returned in time, that is, within six months after the ratification of the treaty of 1866;

The facts above are proven satisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The facts find that the only testimony on that point, is the statement of Walter Hayfield, who says that he and claimant returned to the Nation on the 4th day of April, 1867. This is decisive of the case. Claimant came too late. The Commission are confined by the Act establishing the Commission to the time mentioned in the amendments to the Cherokee Constitution as far as to the exact time of the ratification of said treaty is concerned, which places it, on the 12th day of July 1866: and hence claimant's return

in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

Attest:

D. L. Nicholson,
Clerk Comm.

John Chambers,
President Commission.
O. P. Brewer } Comrs.
George Downing, }

Attention is called to the fact that at the head of the decision dated June 12, 18-, that the date is omitted, but the decision on page 8 of the same book, in the case of Mary Ann Trumble vs. the Cherokee Nation, is dated June 7, 1878, and the case upon the page following this decision, the same being that of Crill Miller vs. the Cherokee Nation, is dated June 12, 1878.

MR. MCRAE: To all of which the applicant objects for the reason the cases cited does not tend in any manner to prove any issue in this case, and has no bearing whatever. Comes now the attorney for the applicant and objects to the introduction of the records above for the reason that neither of the records cited by the representatives of the Cherokee Nation in this case has any tendency whatever to prove any issue in this case, and for the further reason that the same is incompetent and irrelevant; and further, it appears that in the record as cited, the same being known as the Chambers record, that it appears upon the face of the same there is no year mentioned in the alleged decision of the said Commission as being rendered against Henry West, whose name is not mentioned in the application of the case at bar, and subsequently would have no bearing as to the rights and the status of these applicants. It would further appear that these applicants, Houston West et al, were slaves in the Cherokee Nation before the war of the rebellion, and was owned by a Cherokee citizen by blood. Consequently, the alleged decision as appears against Henry West would have no bearing upon these applicants, they being claimants in their own rights and status. Mr. Hastings, I'll swear you, without waiving any of the objections.

W. V. Hastings, being first duly sworn, testified as follows:

MR. MCRAE: Your name? A W. V. Hastings.
Q Age and postoffice address? A I am 35 years old and postoffice is Tallapoosa.
Q Mr. Hastings, what knowledge or information have you as regards the appointment of the Chambers Commission, by what constituted authority was this Commission appointed? A By an act of the Cherokee National Council, so I am informed and the records show.
Q I will ask you if it is not the law under the Constitution of the Cherokee Nation that in the appointment of these alleged Commissions on citizenship, if when the Commission has exercised its duty as regards the same, that before the same can become a law, either for or against the applicants as appear before these respective Commissions, would have to be ratified by the Council of the Cherokee Nation, ratified by the Council of the Cherokee Nation? A Well

I haven't that law before me, but I have no doubt from the legislation that I have read of it that it did admit a great number of people and it didn't take any subsequent action of the National Council.

Q Well do you know of your own knowledge or information whether or not there were any persons who appeared before these respective commissions and their cases were submitted to the Council for admission or rejection? A There weren't any so far as I know except--there weren't any submitted to the National Council except, so far as I know, except some in 1871; none of these later commissions, they had full authority to investigate and admit themselves or reject, and this Commission had authority to admit or reject, and the Council have no supervisory control over it.

Q Then the action of the Commission as regards the enrollment of citizens was final? A Yes, sir. Now I mean this Commission, yes, sir.

Q The Chambers Commission? A Yes, sir. Well I was stating in my judgment of the law, I wasn't there, you know; never practised before it.

Q How about the Commission of 1871, known as--what's the name of that Commission? A Well, in 1868 an act was passed allowing certain people to go before the Chief Justice of the Supreme Court, and he had hearings up until sometime in 1871, I don't remember the exact date, but under that class of cases, and under that act, my recollection was that it was December 3, 1869, but I wouldn't be positive as to that, but anyhow under that the justice of the Supreme Court heard applications, and referred them to the National Council, but I know of no other authorities that did; don't recall any.

Q Who was the president of the Commission of 1871, chairman of the Commission appointed in 1871? A I would have to look that up. I believe John S. Vann; I know he was along about that time, but perhaps I am mistaken. Well, this record here shows that R. B. Daniels in 1871. John S. Vann was along about that time, I don't know now just when he went in or out.

Q Who was the member of the Commission appointed to hear citizens who made application in '71? A This book shows that R. B. Daniels was Chief Justice of the Supreme Court in '71; that book shows that.

Q I want to make a further objection as regards the entries of the '71 docket. It is further objected to as regards the introduction of the entries upon the docket of Doubtful Cases from Cherokee citizenship tried in '71 for the reason that from the very face of the record produced, that the same appears more like the entries kept upon that of a day book than that of a regular record kept by a regular organized and a properly constituted court of record.

THOMAS A. WILLIAMS, being first duly sworn, testified as follows:

MR. MCRAE: What is your name? A My name?

Q Yes, sir? A Thomas A. Williams.

Q Your age? A I am 61, going on 62.

Q Postoffice address? A Muldrow, Indian Territory, Sequoyah District.

Q Mr. Williams, are you acquainted with Houston West and brothers?

A Yes, sir, I am acquainted with Houston and especially acquainted with Callie West.

Q How long have you known him? A Well, sir, in 1866 I had a bunch mules, myself and Crosby, and we was keeping them on Camp Creek there right below old man West's, and some time in the early part of the winter perhaps, just before Christmas, two or three or four days, Falk Mayfield brought the family back there, they were chaps.

Q Who was Falk Mayfield? A Falk Mayfield? That was a Cherokee I took him to be.

Q Where was he when you saw him in '66? A I saw them and camped just about about, when they first came there they came just above where the bridge is.

Q In the Cherokee Nation? A Yes, sir, in the Cherokee Nation, because I was crossing there with the mules.

Q Now I will ask you, Mr. Williams, how long have you lived in the Cherokee Nation? A Why, sir, I have lived in and out of the Cherokee Nation, well, let me see, I came in there, I located one year in the Cherokee Nation before I was made a citizen of it.

I was in the Cherokee Nation in '67, the bigger part of the year in '67; then in '74 I came into the Cherokee Nation and made a crop, I believe it was in '74, and then in '77 I became an adopted citizen, and I have been here most of the time since.

Q Were you acquainted with the father and mother of these boys? A Why I have seen them hundreds of times, yes; I didn't have a close personal acquaintance with them because they were left to themselves.

Q You are positive that it was some time in the month of December, '66? A Yes, sir, to the best of my knowledge it was three or four days before Christmas.

Q In the Cherokee Nation? A They were in the Cherokee Nation, because I and Crosby was driving a little bunch of mules we had, taking them over.

Q Well to your knowledge, so far as you know, have they lived continuously in the Cherokee Nation since you first knew them in '66? A Yes, sir to the best of my knowledge their family has lived and remained right there.

Q You have had occasion to see their offspring since then? A Very often, we were hunting stock there very often.

Q And you say that your knowledge and acquaintance with Galbis is of a very intimate nature? A Yes, sir.

Q And character? A Yes, sir, he a truthful, honest, straight, upright man so far as I know.

Q You were at one time a recognized citizen of the Cherokee Nation, were you not? A Yes, sir, I was, and drew money from the Cherokee funds.

MR. HASTINGS: When did you draw money? A I think it was in '79 and maybe '82, the record shows. Daves Commission found me on the record, and you can find me there very easy.

Q Don't you know that they didn't pay out any money either in '79 or in '82 to anybody in the Cherokee Nation, and the records will show it? A Well, I don't remember the exact year, but it was along there somewhere, I draw in Tanlequah and I draw in Vinita.

Q Do you remember where about when you saw Galbis first, that you do when you draw money yourself? A I made no minute of that.

Q Well did you make any minute of seeing him? A I made a minute of some cows that he had got in.

Q Where cows? A They made some record, that I remember very well.

Q That's Galbis wife's name? A I don't know both; which, his first wife?

Q Yes, sir. A I don't remember what his first wife's name was.

Q How many children did he have when you first saw him? A Why no
didn't have any one.

Q Did he have a wife? A No, sir, wasn't no wife.

Q About how old was he when you first saw him? A I don't know;
he was a kid of a boy.

Q Don't have any idea about that? A No, I couldn't think anything
about it.

Q With whom were you living when you first saw him? A I was
living with yself.

Q Where? A Why I was going from Fort Smith to Jennie Lind and
around; we had a bunch of cattle, they were scattered, and we had
some cattle in the Cherokee Nation, and quite a little bunch in
Arkansas.

Q Who owned them? A He and Jesse Crosby, that fell out of a
two-story window in Fort Smith and broke his neck in two.

Q He isn't alive now? A No, sir, he's dead now.

Q Did you know any other Cherokees over there in '67? A Why I
think I did, Uncle Billie Wilson.

Q Es's dead too? A Yes, sir.

Q Was he there in '67? A He was quartered there in '66 I think,
Q Now, Mr. Williams, Walker Hayfield testified, and the record in
this case shows, that he returned to the Cherokee Nation there with
a crowd of people on the 4th day of April, '67, and the testimony
of a number of other reputable witnesses is to that effect; what do
you say about that? A Well I will say that I am not responsible
for what Walker Hayfield swore.

Q Well do you say that isn't true?

MR. MCRAE: You say that Walker Hayfield has testified to that
in this case?

MR. HASTINGS: No, I say he has testified and the record shows.

MR. MCRAE: This record?

MR. HASTINGS: Yes, sir.

MR. MCRAE: This judgment just offered here?

MR. HASTINGS: Yes, sir.

Witness: Well, to the best of my recollection it was three
or four days before Christmas that I saw Walk Hayfield here. Whether
he went back into the state and come back again into the Nation I
don't know.

Q Mrs. D. M. Franklin were in '66 that her uncle, Walker Hayfield,
came there about the first of April, '67, and that she was teaching
school in that vicinity; and that she went out there to see him.
Do you say now that you are your judgment, and you a stranger, as
against those who were blood relatives? A I put my recollection,

I am talking just as I remember it; it certainly was just before
Christmas that he came over here, and the family was certainly
there; to the best of my recollection it was just before Christmas.

Q D. M. Franklin, the wife of James, swears that Walker Hayfield,
the son of his wife's uncle, came here in '67 in April, do you dispute
that? A Yes I do not dispute it; I do not know you the best of my
recollection, and I recollect when I first saw Walker Hayfield when
I came back from there.

Q Did you see him before the war? A I had see him a few times.
Q Where did he live? A He lived close to where the rail-
road runs.

Q Did you see him after the war? A Not him or any other, and I have seen
him ever since the war.

Q In the present case, the fact? A Yes, sir, I was all through
that case, before the war.

Q Was Mr. Mayfield married before the war? A I don't know anything about his marriage there; I have no knowledge of that.

Q Did you ever leave the Cherokee Nation before the war? A I had a horse, a solid horse, in the Cherokee Nation before the war as a matter of fact.

Q Well now where did you see those cattle in the Cherokee Nation in '67? A We bought some cattle in the Cherokee Nation.

Q Well where did you buy them though? A Just bought them and let them run until they were all gone then.

Q Then they were all gone? A Yes, they were all gone.

Q Where did you buy them? A Somewhere on the river.

Q You have just now been rejected by the Commission as an applicant for citizenship, haven't you? A Yes, sir; I don't care anything about the rejection. I would rather be a white man than a Cherokee so far as my preference is concerned.

Q Well you have got your preference? A I've got it, too. The young clerk here, I like his splendid way of giving his preference.

Q Well you just answer my questions. Now you are willing to swear as against these other people that the family came back there just before Christmas, '67? A Yes, I have some knowledge.

Q Then you are positive about it? A To the best of my knowledge, that's what the young man qualified me to swear, to the best of my recollection.

MR. KOPAR: You have knowledge of years, haven't you? A It seems to me like I ought to have. I was born in '41, and I was a United States soldier, and I ought to have been old enough to have some knowledge of things. I wouldn't swear for Gullis West to get into the Cherokee Nation.

Q Well you aren't any more likely to be mistaken in your statement than Mr. Mayfield would be in that? A No, sir.

MR. HASTINGS: But Mr. Mayfield testified in '72, only 12 years after that time.

COMMISSION: This testimony will be filed in and made a part of the record in the following Freedmen cases: D-938, being that of Nancy Starr; D-939, being that of George West et al; D-1000, being that of Gullis West; D-1053, being that of Lugenia Harris et al; and D-1054, being that of Gullis West, et al in the case at bar, D-924, the case being the case of Houston West et al. It is ordered that the records of the Commission that the above named appellants are all registered by A. S. Kobas.

Article 4, paragraph 2, being that only those cases that are designated as the subject of the Freedmen Commission by the Commission in that the testimony and proceedings in the cases are not to be the subject of any other proceedings or any other proceedings.

(Signed) Arthur S. Kobas.

Subscribed and sworn to before me this 2nd day of July, 1902.

(SEAL)

(Signed) P. E. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans.

Subscribed and sworn to before me this the 20th day of August, 1902.

B. Jones
Notary Public.

Berge J. T. March 6th 1904
Cherokee Nation of Rejection
Indian Territory (Set aside)
Seventh (7th) Congressional District
in Northern Judicial District of U.S.
Court for the Indian Territory.
In the matter of Nancy Starr
Friedman D. 998 Samuel H. Starr et al.
" D. 85 Sarah Barnes et al.
" D. 86 Nellie McLain et al.
" D. 88 Henry Starr et al.
" D. 89 Charles Mayfield et al.
" D. 1001

Your Petitioner would most respectfully
represent and show
That the applicants hereinbefore named
were slaves of Cherokee citizen at the beginning
of the war of the rebellion, and that their
mother Nancy Starr was taken out of the
Cherokee Nation and she returned to the
Cherokee Nation and established her
residence in said Nation in 1866.
That the applicants were always recognized as
bona fide citizens of the Cherokee Nation
and the applicants offer the testimony of
Dennis Bean and Isaac Johnson of the
Cherokee Nation etc.

whose evidence will clearly and conclusively
show, that the applicants did returned to the
Cherokee nation in 1866

Therefore your petitioners pray that the Honorable
Secretary of Interior set aside the Decision
of the Commission to the (5) five civilized
Tribes, rejecting the applicants' claims on the
1st of July 1904

Your petitioners further states that the applica-
-ants were not aware of the existence of the
witnesses above named until about the 1st
of March 1904

As in duty bound would ever pray &c,
Samuel H Starr

IN THE DEPARTMENT OF THE INTERIOR

WASHINGTON.

In the matter of the application for the enrollment of Nancy Starr et al as Cherokee Freedmen. (Consolidated cases.)

Cherokee Freedman Enrollment Case # D998.

Brief for the Cherokee Nation.

A copy of a motion to reopen this case has been served upon the Representatives of the Cherokee Nation.

The Cherokee Nation objects to the reopening of this case for the reason that no sufficient grounds are given and the testimony offered heretofore in the case shows conclusively that the original claimant Henry West, through whom applicants in this case claim, did not return with Walk Hayfield to the Cherokee Nation until the Spring of 1867 or too late to qualify under the treaty.

Dennis Bean and Isaac Johnson are two colored men living neighbors to Samuel H. Starr, the son and representative of the applicants and if their testimony was material it should have been taken a long time ago.

In fact no reason whatever is given for the reopening of this case; they do not show wherein the testimony of these parties is material nor do they set out as is required by law what they expect to prove by these witnesses and certainly the department will not reopen cases upon the unverified statement of some applicant after he is rejected, that he can get other witnesses.

Respectfully,

W. W. H. Starr
Attorney for the Cherokee Nation.

....

.. ..

....

DEPARTMENT OF THE INTERIOR

..

COMMISSION TO THE FIVE CIVILIZED TRIBES

---*00*---

-----X
 :
 In the matter of the applications :
 for the enrollment of Nancy Starr :
 et al as Cherokee Freedmen, consol- :
 idating cases Nos. C.F.D. 88-6-8- :
 9; 998, and 100/ :
 -----X

BRIEF OF THE CHEROKEE NATION.

The only question involved in this case is the one of return of the principal applicants in this case, and the Commission to the Five Civilized Tribes on July 1st 1903 rendered a decision in the case finding from the evidence that the principal applicants did not return to the Cherokee Nation within the time prescribed by the treaty of 1866, and for that reason are not entitled to be enrolled as citizens of the Cherokee Nation.

The Hon. Commissioner of Indian Affairs reporting upon this case Feb. 6th 1904, Land, 44290- 1908, is inclined to hold that the applicants are entitled to be enrolled as citizens of the Cherokee Nation for the reason that the evidence shows that the principal applicants returned to the Cherokee Nation within the time prescribed by the treaty; from an examination of the report of the Hon. Commissioner of Indian Affairs, it is quite evident that all of the evidence introduced in the case was not examined and reviewed. It is true that Nancy Starr testifying in her own behalf and in behalf of the other applicants in this case, states that she was a slave of Walk Hayfield, and she returned to the Cherokee Nation with Walk Hayfield along with her father Henry West; that she came the next year after the war, but when pressed for the year

in which she returned she was unable to give any positive statement with reference to it, in answer to this question; "When did you come back?" she replied "A. I came back next year after peace." "What year was that?" A. "I don't know what year, after I came they called it 66, I came back here next year after peace in the winter. But when questioned further on she does not remember what route she came; she don't know whether she came back through Arkansas or not and she is so ignorant of locality that she does not even know in what district she is now living, and all the witnesses for her testified that she came back with Walk Mayfield, her former owner, after the war. Now it must be remembered that all of these colored people have the greatest incentive to testify that they returned within the time prescribed by the treaty, and for the last 35 years, the year 1866 has been drilled into them, and lay in and day out that year has been pounded into their minds, and they are fully aware that they must testify that they came within that year, and in order that they might be enrolled and become citizens of the Cherokee Nation and thereby share in the division of the lands and moneys as Cherokee citizens, but these applicants with this incentive before them evade the direct question and state that they won't be positive as to the exact time, but they state that they believe or that they think or that they were told that it was in 1866. The other two witnesses, Harris Farmer and Dannie Bean both from their ages given were mere boys in 1866, one now being 48 and the other 47 years of age and neither of them gave direct or pointed testimony as to the time these applicants returned and both of them evade direct answers by saying that they believe that they returned in the fall of 1866, and another witness Albert Johnson who was only 8 years of age in 66, testified to the same fact. It is well known that these colored persons were ignorant as to dates and they could give no reason

why they fix the time at that year, but 25 years after attempt to testify as to their independent recollection of this important event; the Commission to the Five Civilized Tribes are men of broad experience, they are men of great capabilities, they are men of the highest integrity and they are men who have traveled all over the Cherokee Country, and the witnesses on both sides are brought before them and they diligently and thoroughly enquire into and cross-examine most minutely all witnesses in all cases brought before the Commission. The members of the Commission are without bias and have no prejudice for or against the applicants or the Cherokee Nation and it is their duty as far as possible to ascertain all of the facts upon which an honest decision should be written. It is true when the first preliminary hearing was had upon the statements of the applicants themselves, taking their statements to be true, the Commission in the field had first lent a favorable ear to the testimony which they gave, but as their experience lengthened, and they saw how unreliable these freedmen witnesses were they necessarily became more cautious and held in abeyance final judgment until all of the testimony on both sides was submitted in each case. If this class of testimony is to be believed unreservedly, every freedman applicant in the Cherokee Nation would be admitted, because it is a rare exception, indeed, that a freedman applicant does not testify that he ~~first~~ came back to the Cherokee Nation in the fall of 66, and numerous witnesses are usually introduced to testify not evasively and indirectly, as these witnesses did, but pointedly to the fact that they returned in 1866. The Commission here fully understands that a freedman association was formed; that nearly all of the colored people in the country joined the same, that they were secretly ~~deem~~ to testify for colored applicants, and strictly forbidden to testify against them, and

in the face of these conditions it is in a number of cases almost impossible now more than 25 years after the close of the war to secure witnesses to testify for the Cherokee Nation as to the exact date of the return of certain colored applicants. Again we think that the Hon. Commissioner of Indian Affairs, was deceived by the fact that the name of Mary Whitire, the sister of the principle applicant, appears upon the 1880 authenticated roll, but if so, the 1880 roll was thoroughly understood there should be no confusion about it, a great number of names appeared upon that roll that were not entitled to be thereon, some of whom we might mention, never claimed a Cherokee citizenship; people who were not born in the Cherokee Nation, did not belong here before the war, and who do not claim to have come back within the time prescribed by the treaty, but intermarried with Cherokee freedmen who were entitled, and in that way became enrolled as a member of the family, which was a mistake of the census takers in 1880, who were in most instances ordinary farmers, and the mistakes were overlooked by the National Council when the same were authenticated. Under the law it is now held that this roll cannot now be corrected, that the Cherokee Nation is bound by these mistakes. Let me cite two notable instances Henry Bean a colored man whose post office is Tahlequah, I. T., was born in Mo., never saw the Cherokee Nation prior to 1874, came here at that time for the first time married a freedman citizen, and by mistake was enrolled in 1880, and didnt himself know it until he appeared before the Commission at Ft. Gibson, in 1901 with the other members of his family, when he was first advised that his name appeared upon the roll, and he was requested by the Commission to make application for himself. Clearly his enrollment in 1880 was an error, and while the Cherokee Nation may be now estopped under the law from denying his right to enrollment, yet his erroneous enrollment could not and should not

be urged as a reason for erroneously enrolling other, brothers and sisters of his, who came here when he did. Another case is that of Rebecca Ross who was a slave of a citizen of Arkansas, prior to the war, came here the first time in 1867, married into a freedman family and enrolling the rest of the family here his name was erroneously included with the list and it like-wise was over looked by members of Council, and said roll was authenticated; numerous instances could be cited of persons who returned to late whose names were placed upon said roll, but the Cherokee Nation was estopped by an act of congress from going into this case. The same was true of Mary Whitmire, she came too late, married into a freedman family, was erroneously enrolled, and while the Cherokee Nation cannot prevent her enrollment now, still the Commission held that ^{that} error should not enure to the Benefit of others not now entitled to enrollment as citizens of the Cherokee Nation. And this calls to mind the fact that a vast majority of these "too late" applicants are now inter-married with freedman citizens enrolled on straight cards which of itself prevents the Cherokee Nation, from getting evidence from among the colored people in the country to testify in these cases, because they would in fact be testifying against some of their relatives or descendants. There is but one question involved in this case and that is did these principal applicants return to the Cherokee Nation prior to Feb. 11th 1867; they all came with Walk Mayfield and hence the testimony of the Cherokee Nation was direct, as to the time Walk Mayfield returned; W. J. Harnage a close relative of Walk Mayfield was 53 years of age when he testified, lived in Sequoyah District, only a short distance from the point to which Mayfield returned, and swore positive that he lived there until after Christmas, 1866, when he removed up to Flint District, which was about the first of January of 67, and up to that time his uncle, Walk Mayfield, had not returned from Texas.

He further states that he came back to that neighborhood about the middle of April 1867, when Mayfield had just returned. Now Mayfield was his uncle and it is reasonable to suppose that the knowledge of his return soon came to him there in the neighborhood, and while he does not attempt to give the exact date of his return, yet his testimony is much more direct and positive than any of the witnesses for the applicants and they flatly contradict the testimony of the applicants to the fact that Walk Mayfield did not certainly return in the year 1866. Ezike Harnage a cousin of Walk Mayfield testifies that he came back to Sequoyah District, near the same place where Walk Mayfield afterwards returned, and that he continued to reside in the District from December 18th, 1866 until after April 1867, and when asked this question "Q. Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867?" he answered "I am positive of it." A little further on he testified that he came back in the spring of 1867. Now these two witnesses are men of highest integrity and intelligence. The next was D. M. Faulkner. This man is now assistant Chief of the Cherokee Nation elected since the day he gave his testimony has been a delegate to Washington City and has been a member of the Cherokee Senate and a great number of years, and a man of great force of character and highest intelligence, he was married to Rachel L. Adair, about the middle of April 1867, and of course he can fix this date definitely, he testifies that about the first week in April his wife was the niece of Walk Mayfield, just heard of her uncles return and that they went down to see him and that the family had just returned from Texas. Now it is unreasonable to suppose that Walk Mayfield could have been in the same neighborhood where his niece was who was eager to meet and greet her relatives, without her knowing it; not only is it shown by the fair preponderance of the testimony, but that it is conclusively shown from this evidence that these applicants did not return in the time prescribed by the treaty.

and Commissioners

Evidently the attention of the Hon. Secretary of Indian Affairs was not called to the judgment offered in evidence on May 13th 1902 by the Cherokee Nation in these cases, these judgments show that Henry West the father and Grand-father thereof, whose claim appealed to the Supreme Court of the Cherokee Nation and was rejected on June 17th, 1871, at that time hundreds of witnesses were alive who could testify as to the exact date of the return of Walk Mayfield, but not content with this, this same Henry West appealed to the Cherokee Court created under an act of December 7th 1877, and at that time this same Walk Mayfield was alive and appeared before the Commission and gave testimony in this case and the decision of the Cherokee court filed in this case and here a part of the record shows the following:

Henry West)	Claim of Citizenship, before the
vs)	Commission on Citizenship, Article 9
Cherokee Nation)	Decided 1st, C. N. June 17th, 1871

This case, comes under the jurisdiction of the act of Dec. 1877, which the Commission have jurisdiction under act of Dec. 1877, claimant citizenship under the 9th Article of the Treaty of 1866, in regard to persons of African descent. His statement alleges that he was a slave owned by a citizen of the Nation, and both resident here at the commencement of the Rebellion. Claimant was afterwards sent to Texas, by his owner, but returned in time, that is, within six months after the ratification of the treaty of 1866.

The facts above are proven satisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The Commission finds that the only testimony on that point, is the statement of Walter Mayfield,

who says that he and claimant returned to the Nation on the 4th day of April, 1867. This is decisive of the case. Claimant came too late. The Commission are confined by the Act establishing the Commission to the time mentioned in the amendments to the Cherokee Constitution, so far as to the exact time of the ratification of said treaty is concerned, which places it, on the 19th day of July 1866; and hence claimants return in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the public domain of the Cherokee Nation.

D.L. Eliason,
Clerk Comm.

John Chambers,
President Commission,
G.P. Brewer)
George Downing,) Comrs. "

It will be noticed in this case that the Chambers Commission found that the return of the said Henry West to the Cherokee Nation was ~~within~~ then as now a turning point in the case and the Commission upon this point said "The Commission finds that the only testimony on that point is the statement of Walk Mayfield who says that he and claimant (Henry West) returned to the Nation on the 4th day of April 1867. This is decisive of the case, claimant came too late. And later on the Commission found that the claimant returned on April 18th 1867 was not entitled to it. As this judgment shows, this Commission was created by an act of 1878, only 11 years after Walk Mayfield claimed to have returned from the state of Texas, when all of the facts connected with the time of his return could be easily proven. It will be noted that these judgments were not introduced until May 23, 1902, and therefore the date fixed by that judgment was certainly not known to W.T. Harnage, Ezekiel Harnage and D.M. Faulkner who testified nine months prior thereto on September 4th, 1901. But it is interesting to note how enerringly they pointed to the time of Walk Mayfield return from every single, solitary one of them gave it as their judgment, giving reasons therefor, that Walk Mayfield returned about the 1st of April or the last part of March 1867 and later on we think that this Chambers judgment conclusively and definitely fixes the date of Mayfield's return and the return of these applicants. No where does the Hon. Commissioner of Indian Affairs in his report upon this case refer to this judgment, and therefore it is certain that it was lost among the records and his attention was not called to it or else he would have readily agreed with the Commission to the five Civilized Tribes and the Several Cherokee Commissions that these applicants or those through whom they claim did not return to the Cherokee Nation in time to qualify under the treaty of 1866. We earnestly submit these facts in the hope that the Hon. Commissioner of Indian Affairs will carefully consider for review his decision when we confidently believe that he will agree with the Commission and order the decision of July 1st 1866, rendered in this case, affirmed.

Respectfully submitted.

L. B. Bell

J. S. Darnford

D. M. Hastings

Attorneys for the Cherokee Nation.

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

11

In the Matter of the Applications for the enrollment
of Nancy Starr et al as Cherokee Freedmen, consolidat-
ing cases No. C.F.D. 85-6-8-9, 998,1001.

SUPPLEMENTAL BRIEF OF THE CHEROKEE NATION.

In addition to the brief and argument hereto-
fore filed in this case setting forth why we do not
believe that the applicants should be enrolled as
citizens of the Cherokee Nation we desire to call spec-
ial attention to the force and effect and what credit
should be given the judgments of the Cherokee Courts
both in 1871 and in 1878, rejecting the principal ap-
plicants in this case.

The record in this case shows that Henry West
the father and grand-father of all these applicants
applied to the Supreme Court of the Cherokee Nation in
1871 which was then sitting as a court of Commission
duly authorized by an act of the National Council of
date December 31 1869, and that the Court rendered a
judgment after hearing all of his testimony and consider-
ing his case, rejecting the applicant. In 1878 this
same Henry West again applied to the Cherokee Commission
on citizenship known as the "Chambers Court" which
was authorized to hear and determine applications for
citizenship under an act of the National Council,
approved December 1867, and after testimony having
been introduced in this case, a written opinion was
rendered and signed by all of the members of the Court
rejecting the applicant.

Now all of the applicants in these consolidated cases claim through this same Henry West and it is a question therefore of what faith and credit shall be given these judgments of the Cherokee Courts.

In the case of Mehlin vs Lee, 36 Federal 12, the Circuit Court of Appeals, 9th Circuit, on May 1st 1908, held "That the proceedings in judgments of the Courts of the Cherokee Nation in cases within their jurisdiction are on the same footing as proceedings in judgments of the courts of the Territories of the Union, and are entitled to the same faith and credit"

This case was appealed from the District Court sitting at Muskogee, I.T. and the validity of the Cherokee judgment was directly brought in question and the Appellate court in a learned opinion exhaustively goes into the question of what faith or credit should be given to a decision of a Cherokee Tribunal. The same question was involved in the case of Exonline et al vs Pere 56 Fed. 777, and was also a appeal case from the United States court in the Indian Territory.

The Circuit Court of Appeals in the case of Standly vs Roberts, 39 Fed. 836 in passing upon what faith and credit should be given a court in the Cherokee Nation said "This court has held that the judgments of the courts of these Nations in cases within their jurisdiction, stand upon the same footing that those of the courts of the Union and are entitled to the same faith and credit."

The same was held by the Circuit Court of Appeals in the case of Cornells vs Shannon, 63 Fed. 304, and in this case the validity of the judgment of a Creek Court was involved.

It will be seen from these opinions that full faith and credit has been given the opinions from all three of these courts; where the court had jurisdiction to hear and determine the matter. And in this citizenship case there is no question that the Supreme Court in 1871 derived jurisdiction from an act of the National Council, approved December 1869 and that the "Chambers Court in 1878 derived jurisdiction from the act of December 1877. And as decided in the *Menlin vs Ice* case, where the parties appeared and submitted themselves to the jurisdiction of the Court, they could not be heard afterwards to complain. If the judgment is binding upon the Cherokee Nation in the case of *Harry Still*, as intimated by the Hon. Commissioner of Indian Affairs in that case, then it seems to us to be a logical conclusion that the Cherokee Nation should have advantage of an opinion rendered in its own favor.

These opinions were all rendered at an early date when there was a great number of witnesses alive who knew positively the facts to which they testified and could not possibly be mistaken. These courts having jurisdiction, the parties having appeared, submitted their case to the tribunal, the court having decided against them, we submit that the applicants rejected are as much bound by the rejection by these courts as the Cherokee Nation is bound by the admission of any applicant. The case of *Menlin vs Ice*, hereinabove referred to is an extremely strong case, sustaining our contention and we commend it to the consideration of the Department.

Respectfully submitted.

S. S. [Signature]
J. S. [Signature]
Attorneys for the Cherokee
Nation.

4107

COMMISSIONERS
TANS BIXBY,
THOMAS B. NEEDLE,
C. R. BRACKENRIDGE,
WM. O. BEALL
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D. 85-6-8-9, 998
& 1001.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

The Commission is in receipt of Departmental letter of April 4, inclosing a copy of Commissioner of Indian Affairs letter of February 6, recommending the reversal of the Commission's decision of July 1, 1903, rejecting the applications for the enrollment of Nancy Starr, et al., as Cherokee freedmen, cases Nos. C. F. D. 85-6-8-9, 998 & 1001.

In accordance with the Department's instructions you are advised that you will be allowed thirty days from date hereof in which to file with the Commission for transmission to the Secretary of the Interior any argument you may desire to submit in these cases, a copy of which argument you will be required to furnish the principal applicant in each case.

Respectfully,



Chairman.

COMMISSIONERS:
TAMM BROWN,
THOMAS B. HEDGECOCK,
C. R. HICKS,
Wm. O. BEALL,
Secretary.

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

Wm. O. Beall

REFER IN REPLY TO THE FOLLOWING:

Cherokee Freedmen
B 928, et al.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

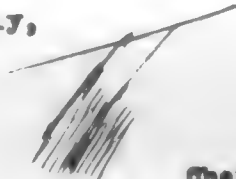
Muskogee, Indian Territory, October 6, 1904.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the Commission's decision dated July 1, 1903, rejecting the applications for the enrollment of Nancy, Samuel H., Sallie, Lillie, Leona, Annie, George, Turner, Henry, Henrietta, Jessie and Harry Starr, Sarah, Jennie, Samuel, Ella and Robert Barnes, Nellie, Lee, Maxie and Cassie M. McKain, Frances, William B. and Ernest Wilson, and Charles, Emanuel, Beulah, Royal, McKinley, Nathaniel and Bonnie Mayfield as Cherokee freedmen, was reversed by the Secretary of the Interior on September 17, 1904, and the Commission ordered to enroll the applicants as Cherokee freedmen.

Respectfully,



Chairman.

Cher fr D 999

Cher Fr D 999

Carrie Bell Ross 2

- Q They were all here when you got here? A They must have been.
- Q When did you first see Harry? A I saw him at Tylers.
- Q What time of the year did you come? A It wasn't cold yet, it must have been fall.
- Q You don't know what year it was? A They said it was '66, that is the first year I remember of; I never remembered then, of course I may have heard of them but I didn't remember them.
- Q You are about 49 years old now? A Yes sir.
- Q You were about 12 or 13 years old then? A Yes sir.
- Q How long did you stay here before you went back to Kansas? A I guess about '70 or '71.
- Q When did you first see Columbus McHair? A At my uncle's, on Grand river, uncle Jeff Lyons.
- Q When was that? A '67.
- Q Did you come back here at the same time Jeff Lyons did? A No, I don't know when my uncle came.
- Q It was after Lyons returned that you went down there? A Yes sir.
- Q I came in the fall, and we went the next year down to Jeff Lyons.
- Q You came the year before you went to Jeff Lyons? A Yes sir.
- Q And he was living over there when you got back, on Grand river?
- A Yes sir, he was living there.
- BY COM'R NEEDLES:
- Q Why is your name not on the 1880 roll, do you know? A No sir, I don't know.
- Q Did you ever apply to have it put on? A I didn't apply to the 1880 but I did in 1889.

1880 authenticated roll of citizens of the Cherokee nation examined and applicant not found;
1886 census roll of citizens of the Cherokee nation examined and applicant not found;
Kern-Clifton pay roll of citizens of the Cherokee nation examined and applicant not found;
Wallace roll of citizens of the Cherokee nation examined and applicant not found.

- Q You never drewed Strip money? A No sir, I never drewed any.
- Q Your name is not on any roll? A No sir.
- BY MR. DAVENPORT:
- Q You were not living at Vinita when the Kern-Clifton roll was paid? A No sir.
- Q Where were you living? A At Gibson.
- BY COM'R NEEDLES:
- Q Why didn't you apply for Strip money? A I didn't know then when I got back.

HARRY STILL, being sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Harry Still.
- Q What is your age? A 84.
- Q What is your post-office? A Hayden.
- Q You know the applicant, Carrie Bell Ross? A Yes sir.
- Q How long have you known her? A Since '66.
- Q You know whether she is a slave? A I know the first time I ever saw her she came to ~~Hayden~~ with John Tyler.
- Q Where? A In the fall of '66.
- Q Where did she come from? A I don't know sir.
- Q Where did you see her in the fall of '66? A On Lightning Creek, John Tyler settled a place on the middle prong of Lightning Creek.
- Q Where did you see her since that time? A At Vinita and Hayden.
- Q You know whether she has been a resident since the fall of the Cherokee nation? A I do not.

Q BY MR. DAVENPORT:

Q Is John Tyler dead or living? A I don't know sir. He lived on Lightning Creek about eight or nine years ago there.

Q Where was he when you next heard of him? A The last time I heard of him he was on John Whitmore's place under the hill.

Q How long ago has that been? A I don't know sir, he moved from the place where he first settled and moved over on Salt Creek.

Q How long has it been since you have seen John Tyler, or heard of him? A I expect it has been 10 or 12 years since I saw John the last time.

Q Out year where John is now was it he so that place in '66? A About two and a half or three miles.

Q And you came down before John died? A Yes sir.

Q What time of the year was John at that place? A About late in the fall.

Q Pretty cold weather? A Yes sir. It was kind of cold weather.

Q Winter time? A Yes sir.

Q About Christmas? A Little before.

Q Just before Christmas or a little after? A I ain't positive when it was.

Q It was getting cold weather? A Yes sir. And John Tyler moved from there and went on Salt Creek; moved from Lightning Creek over on Salt Creek.

Q You haven't seen much of him since that have you? A I have seen John a good many years.

Q You don't know where the applicant has been living since that time? A She first went away from there and came back to John Tyler's in '63, and she left there in '63. She is a sister of Willie Thornton's. She left there in '63 and I saw her in Muskogee; I saw her in Vinita at the Wallace enrollment on rollment, and I saw her here in Hayden, ~~at~~ I saw her several times.

Q She came from Vinita to the Wallace enrollment? A I don't know sir.

Q You didn't ask her? A No sir.

Q She had seen you and you talked to her at the Wallace enrollment? A No sir, ~~she~~ of course I talked to her like people generally talk.

JOHN LAUREN, being sworn and examined by the Court as a witness, testified as follows:

Q What is your name? A John Lauren.

Q How old are you? A 59.

Q You know the applicant, Carrie Bell Ross? A Yes sir, I am slightly acquainted with her.

Q How long have you known her? A Well, since '66.

Q Was she a slave? A I suppose so.

Q Do you know so? A Well, yes sir; how come is to know it, her sister said she was a slave.

Q You don't know it yourself? A No sir, I didn't get acquainted with her until she came here where I am living now on Lightning Creek.

Q When was that? A She came there in '66 on Lightning Creek.

Q What time in '66? A I couldn't tell you just exactly.

Q Who came with her? A John Tyler brought her.

Q You were living there then? A Yes sir.

Q How long had you been living there then? A I had been living there about a year.

BY MR. DAVENPORT, the same Rep'ed:

Q ~~What time of the year was it when you first saw her?~~ A It was in towards the last of '66 as it was said.

Q About what month of the year was it? A I couldn't tell you what month it was, I have been telling you that all the time, because I don't want to tell you a story.

Q Was it in August or September? A Before Christmas week.

Q About a week or two before Christmas? A Yes sir, it was in '66.

Carrie Bell Ross 4

Christy's.

Q When did you see her? A I saw in the fall of '06.

Q You didn't get there but a little before Christmas year self did you? A Oh no, I was in the fall.

Q How many years distinctly do you remember? A You sir, I remember August to the 15th of the year; that's only the first time I saw her, I never saw her before.

Q How old was she when you saw her? A She was a young woman, she seemed to be about 13 or 14 years old, maybe a little more.

Q What is your opinion of John Tyler from that place? A I could not tell you where he went to.

Q Was he a partner with her? A No sir, not as I know of, unless John might have been.

Q Any of her family? A No sir. Her sister was living there on ~~the~~ Lightning Creek below me.

Q What was her name? A Mattie Thornton.

Q Did she have a house? A Yes sir, where Mattie is living now, her father had built a cabin there.

Q Did she stay there until she had a house there? A Yes sir, she had a little cabin there.

Q You had been living there about a year or more when Carrie came? A Yes sir.

CHARLES McRAIR, being sworn and examined by Counsel for Plaintiff, testified as follows:

Q What is your name? A Charles McRair.

Q How old are you? A 51.

Q What is your post-office? A Vinita.

Q Are you a recognized People's Friend? A Yes sir.

Q You know the applicant, Carrie Bell Ross? A Yes sir.

Q How long have you known her? About all her life.

Q Was she a slave? A Yes sir.

Q How long was she a slave? A Lewis Ross.

Q What was she doing at that time? A Yes sir, worked in about the hills and valleys where she was.

Q Did she get out of the Charles McRair's place? A I guess she did, I wasn't here, I could not say for certain.

Q Where were you? A I was South.

Q How was your first time? A I saw her after the Civil War? A In '67.

Q Where was that? A On Grand river.

Q How far that up on Lightning Creek? A No, I wasn't up on Lightning Creek then.

Q That was in '67? A Yes sir.

Q You didn't know when she got free, or whether she went out or not?

A No sir, I don't.

BY MR. DAVIS:

Q You say she belonged to Lewis Ross? A Yes sir.

BY COUNSEL:

Q Lewis Ross of Grand river? A Yes sir.

Applicant, ~~CARRIE BELL ROSS~~, recalled and further examined;

BY COUNSEL:

Q What is your father's and mother's name? A Jake and Lillie Ann Ross.

Q They slaves of Lewis Ross? A Yes sir.

Carr's Rec. (leg) Carrie Bell Ross applies for the enrollment of herself; she avers that she was a slave of Lewis Ross, and her father and mother were slaves also of Lewis Ross; she avers

Carrie Bell Ross 5

that she was taken out of the Nation during the war, but does not exactly recollect when she returned; she makes satisfactory proof as to her having been a slave, but the testimony as to the time when she returned is somewhat indefinite; her name is not found upon any of the rolls of the Cherokee Nation; for some cause she has never been recognized by the Cherokee authorities as a Cherokee Freedman; she avers that she has lived both in the Creek Nation and the State of Kansas; she is not married; said Carrie Bell Ross will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she will be notified by mail of the decision of the Commission.

W. 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.

W. Green

Subscribed and sworn to before me this July 16, 1901.



Commissioner.

Off. No. 999

Proof of Service made
original filed with the
MARS COMMISSION.

SEP 28 1961

NOTICE!

IN THE MATTER OF the application of Carrie B. Ross
for enrollment as Cherokee Freedmen:
Case No. F. D. 999
To Carrie B. Ross, Vinita, 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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, on October, 26th, 1901, 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this October, 25th, 1901.

L. B. Bell

W. W. Hastings

Jess Drown
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 28th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Carrie B. Ross, C. F. D. 999.

Appearances:

W. W. Hastings for the Cherokee Nation
Applicant present in person.

W. A. JOHNSON being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation.

(By Hastings)

- Q What is your name? A W. A. Johnson.
Q What is your age? A 71.
Q What is your post office address? A Garnett, Kansas.
Q That has been your post office since before he war? A Yes sir.
Q Do you know this applicant here, Carrie B. Ross? A I do.
Q When did you first begin to know her? A When I first knew her it must have been about '67, or '18.
Q Did you know her father? A Yes sir.
Q What is his name? A Jacob.
Q Did you know her mother? A I knew her mother by sight only.
Q Did you know them in Garnett, Kansas? A Yes sir.
Q How long did you continue to know this applicant in Garnett, Kansas? A About three years.
Q You are a practicing attorney there? A Yes sir.
Q I will ask you if you had a trial in which this applicant figured?
A Yes sir.
Q What was the nature of that suit? A It was a suit in which instituted by her against Newton Spriggs charging him with being the father of a bastard child which was being carried at that time by her.
Q Was there some investigation at that time as to her pregnancy? A Yes sir.
Q Did she afterwards give birth to that child? A Yes sir.
Q Did you know that child's name? A That child was named Sadie.
Q Where was that child born? A In Garnett, Kansas.
Q Then you knew her up until after the child was born? A Yes sir.
Q Did she live with her father and mother? A Yes sir.
Q Did you know where they come from there? A No sir I dont know exactly.

(By the Commission)

- Q When was this trial? A In '68.
Q How long had you known her before that? A About a year before that

WILLIAM RAY being sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation:

(By Hastings)

- Q What is your name? A William Ray.
Q What is your age? A 63 past.
Q What is your post office address? A Garnett, Kansas.
Q I believe you testified that has been your post office since '67 or '18? A Yes sir.
Q Do you know this applicant here, Carrie B. Ross? A Yes sir.
Q How long have you known her? A I got acquainted with her in '68 or '19.
Q Did you know her before her child Sadie was born? A Just before—about the time the the Colonel said that law suit was filed.
Q Did you know her father? A Yes sir.
Q What was his name? A Jacob Lonier is what we called him.
Q Do you know if he went by the name of Ross? A Only from what I heard.
Q Did you know her mother? A Yes sir.
Q What was her name? A Liddie.
Q How long did she continue to stay at Garnett? A Not very long I think.
Q How long after the child was born did she stay there? A As soon

as I can tell, she left there as soon as the child got a little wiser.

Q Do you know where she went? A I don't know positively.

Q Did her father and mother continue to live here? A No sir—her mother died soon after she left there.

(By the Commission)

Q The first you know of this woman was in '68? A Either '8 or '9 at Garnett, Kansas? A Yes sir.

Q Do you know where she came from when she went to Garnett? A No sir, really that her father moved from off a farm into town.

Q You don't know where they were in '66 or '7? A No sir.

(By Hastings)

Q How long had you known her father before that? A I had seen him passing, but was not much acquainted with him.

APPLICANT recalled by Mr. Hastings for further cross examination:
Q What was your father's name? A Jacob Vann.

Q Did he ever go by the name of Londer? A Yes sir.

Q And Ross? A Yes sir.

Q And this is the same party that Col. Johnson and William Ray have been talking about? A Yes sir.

(By the Commission)

Q Where were you in '68? A I was here.

Q How long had you been here before going to Garnett? A I don't know exactly, come here about the time the soldiers was discharged.

Q How long did you stay here then? A Until the first part of '67 when I left here.

Q Where did you go then? A Chetopa, Kansas

Q Where then? A In my evidence I said that my father and mother were dead because when I was with those people I was told that—the news come that my mother was dead, and I didn't get back where my folks was then, and after that I heard that my father and mother were both living and that is the way I got amongst those people.

Q You say that afterwards you heard they were living? A Yes sir.

Q Where did you go after you heard they were living? A To Garnett

Q Did you have a child born there? A Yes sir.

Q How long did you stay there? A The child was born April 28th and I staid to 1871.

Q Did you then come back to the Cherokee Nation? A Yes sir.

Q Have you staid here ever since? A No sir I went out to work.

Q Were you ever married? A No sir.

Q Never have been married? A No sir.

Q What were you doing here in '66? A I were living with a family named Tylers.

Q Working for them? A No sir they just brought me along with them when they come.

(By Hastings)

Q Who did you say you came here with? A Tylers.

Q Where did you leave your mother? A They put me out with some white people at Central City, Kansas.

Q How old were you then? A I don't know.

Q They put you out with some white people? A Yes sir me and my brother Ross.

Q When was that? A Before the people come out of the army.

Q There was your mother then? A At home.

Q In town? A No sir my brother was in town.

Q Wasn't your mother in town then? A No sir.

Q You don't know how far she was from you? A No sir.

Q How was born when? A From what people tells me in '65.

Q And you come here with Tyler—was it John Tyler? A Yes sir.

Q Come in wagons? A Yes sir.

Q Why didn't you tell that before? A I did tell that before.

Q When did you go back to Kansas? A I don't know the date of the month

Q Don't you know the year? A I don't directly know the year, I didn't

know much about them things until I become a Christian.

Q How did you become a Christian? A I don't know

Q Was this man Tyler any kin to you? A No sir just acquaintances.

Q How many children have you had? A Two boys in Kansas.

Q What was the verdict in this case? A Never had no name.
Q Died small? A Yes sir.

=====

This will be filed with the original application and also a copy with the case of Sadie Ross et al., U. S. No. 158.

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 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 6th of November, 1901.



Notary Public

C.M.McR.

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

In the matter of the application of the enrollment of Carrie B. Ross, et al., as Cherokee Freedmen, consolidating the applications of--

Carrie B. Ross,
Sadie Ross, et al.,

Cherokee Freedmen D-999,
Cherokee Freedmen R-158.

DECISION.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Carrie B. Ross for herself, and by Sadie Ross for herself and her minor daughter, Eva Ross.

The evidence in this case shows that the applicant, Carrie B. Ross, was the slave of a Cherokee citizen at the commencement of the rebellion; that during said rebellion she left the Cherokee Nation and went to the State of Kansas. In her testimony given before the Commission at Nowata, Indian Territory, on July 1, 1901, she states that she returned to the Cherokee Nation in 1866, and attempts to support this statement by the testimony of Harry Still and John Landrum. Harry Still testifies that he saw her in the Cherokee Nation in 1866. The Commission has found in the case of Harry Still, Cherokee Freedmen -876, that the said Harry Still did not return to the Cherokee Nation within the time specified in the Cherokee Treaty of 1866 for the return of freedmen to said Nation; therefore he could not possibly have seen the applicant, Carrie B. Ross, in the Cherokee Nation in 1866; and if, as he states, he was living in said Nation when the applicant, Carrie B. Ross, returned thereto, then she did not return within the time specified in the Cherokee treaty of 1866. The testimony of John Landrum is that the applicant, Carrie B. Ross, came to the Cherokee Nation in 1866. This statement is contradicted by him later in his testimony when he testifies that he himself came to the Cherokee Nation in the fall of 1866, and that the applicant, Carrie B. Ross, did not come thereto until about a year afterwards. The testimony of the applicant is to the effect that she lived a short time in the Cherokee Nation and returned to the State of Kansas in 1867, where she remained until about the year 1873 or 1874, when she removed to the Creek Nation, where she lived for several years. The Cherokee Nation introduced three witnesses, then residents of the State of Kansas, who testified that they knew the applicant, Carrie B. Ross, in the State of Kansas as early as the year 1867, and that she lived in said State for several years after that time. The applicants, Sadie Ross and Eva Ross have been born since 1866, are the child and grandchild of the said Carrie B. Ross, and have no right to enrollment except through her.

It does not appear that any one of the applicants herein is identified upon the 1866 authenticated Cherokee Roll; neither does it appear that any one of them has ever been recognized by the

Cherokee tribal authorities as a Cherokee freedman.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Carrie B. Ross, Sadie Ross and Eva Ross as Cherokee Freedmen 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.

- T. B. Needles,
Commissioner.
- C. R. Breckinridge,
Commissioner.
- W. E. Stanley,
Commissioner.

Muskogee, Indian Territory,

this March 5, 1904.

MD9

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

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

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-999 et al.

ALLISON L. AYLESWORTH
SECRETARY

Muskogee, Indian Territory, March 24, 1904.

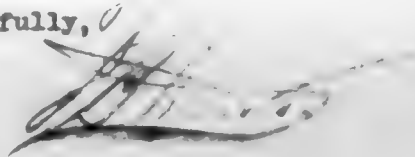
W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Carrie B. Ross et al., rejecting the applications for the enrollment of Carrie B. Ross, Sadie Ross and Eva Ross as Cherokee freedmen.

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,



Enc. D-84.

Commissioner in Charge.

209

COMMISSIONERS
TAMS RIXBY,
THOMAS B NEEDLES
C R BRECKINRIDGE

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

NEVER IN REPLY TO THE FOLLOWING

Cherokee Freedman
D. 999. R. 158

WM O BEALL,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

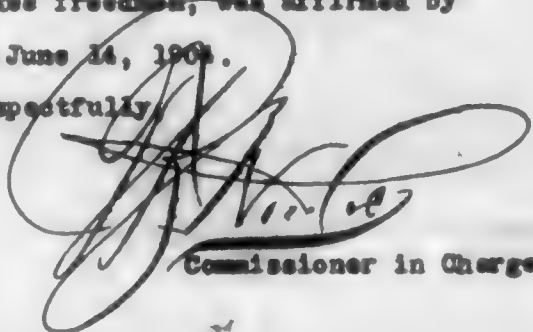
Muskogee, Indian Territory, June 23, 1904.

W. V. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Carrie B. Ross et al., rejecting the applications for the enrollment of Carrie B., Sadie and Eva Ross, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 14, 1904.

Respectfully,



Commissioner in Charge.

(COPY)

Coalgate, I. T., June 14, 1906.

D.C.26880

Mr. Hitchcock,

I am a citizen of the Cherokee Nation and was a slave of Lewis Ross which was proven but I was rejected on account of one of my witness which was Harry Still and now that he has proved himself all right and is recognized as a Cherokee freedman and has filed I would like to have my case looked into and also be recognized as a freedman as for witnesses I have got them if any more are needed I have my papers here that was sent me by the Commission yet. I came here with John Tyler and have witnesses that know him and knew that he did bring me back in 1866 and can prove it now. I would like to know if I will have to take them to Muskogee before the Commission or can I be recognized now without them as Harry Still is all right now I have four more witness that lived in the neighborhood of where Tyler lived and are good reliable citizens of this nation and are on roll members and know where I was born and who I belonged to and just when I came back for they were here when I came. Now I would like to know what to do please oblige by answering.

Garric E. Ross

ORDER IN REPLY TO THE MEMORANDUM

Cherokee Freedman
R 367.

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

Muskogee, Indian Territory, July 25, 1906.

V. V. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

For your information there is enclosed herewith a copy of a letter received June 25, 1906, from Carrie B. Ross, Coalgate, Indian Territory, June 14, 1906, requesting a rehearing in her Cherokee freedman case.

This letter will be treated as a motion for a rehearing and the applicant has this day been notified that she would be allowed 20 days from this date within which to file with this office a proper motion to reopen her case. She has also been advised that she will be required to serve copies of all papers filed on you.

Respectfully,

M.A. Encl. 25-10.


Commissioner.

--COPY-- --Copy--

LAND:
39584-1904.
92817-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

November 19, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 14, 1906, (I.T.D. 4694-1904), affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Carrie B. Ross, et al., for enrollment as Cherokee freedman, I now have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, reporting on the letter of Carrie B. Ross, of Coalgate, I.T., referred to him by Departmental reference of June 22, 1906.

The Commissioner reports that on July 25, 1906, he notified the applicant that there was not sufficient information contained in her communication to warrant favorable recommendation by him that a rehearing be granted to her, and also advised her that she would be allowed twenty days from that date within which to file a proper motion for rehearing. The Commissioner reports that she has failed to respond to his letter or to file any further motion in the matter, and recommends that the request contained in her letter for a rehearing be denied. The Office

concur in the Commissioner's recommendation.

The record in the case is transmitted herewith.

Very respectfully,

Acting Commissioner.

EVE-EH

D.C. 52096-1906.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

G.R.
LLB

COPY

I.T.D. 4694-1904.
23204-1906.

November 26, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

October 17, 1906, you reported upon a request of Carrie B. Ross dated June 14, 1906, for a rehearing in her Cherokee freedman enrollment case, wherein the Department on June 14, 1904 (I.T.D. 4694), denied her application for the enrollment of herself and children as Cherokee freedmen.

In accordance with the recommendation of the Indian Office of November 19, 1906 (Land 39584), copy whereof is forwarded, said request for a rehearing is hereby denied.

You will notify applicant of this action.

The record in the case has been returned this day for the files of the Indian Office.

Respectfully,

(Signed) Thos. Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 5 to Ind. Of.

CHB

REFER IN REPLY TO THE FOLLOWING
Cherokee Freed.
R 387.

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

Muskogee, Indian Territory, December 6, 1906.

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

Dear Sir:

There is enclosed herewith a copy of Departmental letter of November 26, 1906, in which the request of Carrie B. Ross for a rehearing in her Cherokee freedman enrollment case is denied.

Respectfully,

W. O. Bean

Acting Commissioner.

Encl. W-6.
S.W.

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number: D.....

ADDRESS:	
W. W. HUSTON	Tulsa, I. T.
J. L. BUSH	Cherokee, I. T.
TELEGRAMS:	
J. C. SMITH	Tulsa, I. T.
MAILING:	
JOHN PINKS	Tulsa, I. T.
W. B. WYLY	Tulsa, I. T.

W. H. Thurston

*Knows Corie B. Ross -
 Mother of Sadie Harris - Knew her
 father Jake Louian or Ross the
 brother Lydia Ann - Had a time
 over the birth of Sadie before birth -
 known Corie 100 yrs before -
 Sept was sent to Ottawa -*

*Also
 Murphy -*

Cher Fr D 1000

Cher Fr D 1000

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1, 1901.

In the matter of the application of Callie West for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Callie West.
Q What is your age? A About 49.
Q What is your post-office address? A Cottonwood.
Q What district do you live in? A Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a citizen of any other tribe or nation? A No sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A No sir.
Q Your name on any of the rolls of the Cherokee Nation? A Nothing more than the Wallace roll and Clifton.
Q Who do you want to enroll besides yourself? A Just myself.
Q What was your father's name? A Henry West.
Q What was your mother's name? A Phoebe West.
Q Were you a slave? A Yes sir.
Q Who did you belong to? A Walk Hayfield.
Q You a brother of Houston West? A Yes sir.
Q Were you taken out of the Cherokee Nation during the war? A Yes sir.
Q Did you return with Houston West, at the same time? A Yes sir.
Q You been living here ever since? A Yes sir.
Q Are you married? A Yes sir.
Q Your wife a citizen? A Yes sir.
Q She been enrolled? A Yes sir.
Q And your children? A Yes sir.
Q You just apply for yourself? A Yes sir.
Q And the same testimony that applied to Houston's case applies to yours? A Yes sir.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified on page 110 #2753 Callie West, Illinois District.
Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 147 #3079 Callie West, Sequoyah District.

- Q Have you lived in the Cherokee Nation continuously since your return? A Yes sir.
Q Never lived out? A No sir.
Q You know the reason your name is not on the roll of 1880? A Nothing more than my belief.
Q That's just a kind of suspicion? A Yes sir.
Q Don't care much about telling it? A No sir, I don't know as it would do any good, unless I could prove it.
BY MR. DAVENPORT, Cherokee Rep'v:
Q You say you have lived in the Cherokee Nation since your return after the war? A Yes sir.
Q What part of the Nation? A Right down there in Sequoyah, right by Mt. Smith, on the Blackburn Prairie.
Q How far do you live from Hanson, Dave Fortner place now? A I reckon about 17 or 18 miles.
Q Never lived in Arkansas or Kansas? A No sir.

Com'r Needles: Callie West applies for the enrollment of himself; if he cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton and the Wallace rolls; but he swears that he is a brother of Houston West, the testimony applying to the case of Houston West applies to him.

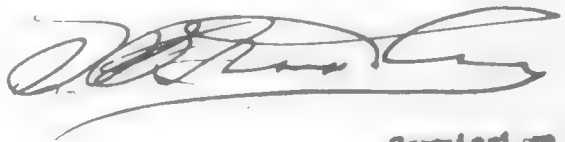
Callie West 2

case, consequently the testimony taken in the matter of the enrollment of Houston West, D card 989, will be read a part of the record in the case at bar, and a copy thereof will be filed herewith; and said Callie West will be listed for enrollment as a Cherokee Freedman on a doubtful card; he will be notified by mail of the action of the Commission in the premises.

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 July 16, 1901.



Commissioner

File with G. S. ...
1900, Galile West.

Department of the Interior,
Commissioner to the ...
November 1, 1900.

In the matter of the application of Houston West for the enrollment
of himself and five children as Cherokee Indians, as being named
by Commissioner E. S. Hoopes, testified as follows:

Q What is your name? A Houston West.
Q What is your age? A 47.
Q What is your postoffice address? A Houston, T. T.
Q In what district do you live? A Sagoyah district.
Q Do you want to be enrolled as a Cherokee Indian? A Yes sir.
Q What do you want to have enrolled besides yourself? A Five children.

Q What are their names? A Ida West.
Q How old? A 19 years.
Q Next? A Fanny.
Q How old? A 19 years.
A Next? A Maria.
Q How old? A 16.
Q Next? A Georgia.
Q How old? A 15.
Q Next? A William.

Q How old? A 3 years.
Q Is your name on any roll of the Cherokee Nation? A Yes sir the
Fern and Tall-oak rolls.
Q Are you married? A I have been, but not now.
Q Is your wife living? A The mother of these children is not living.
Q What was her name? A Maria Albert when I married her.
Q When were you married? A In '78.
Q Why is your name not on the roll of 1880? A I have always tried to
get in.

Q You have failed, though? A Yes, sir.
Q Is your wife a citizen? A Yes, sir.
Q Fern's roll examined? A The names of the applicants found
as follows:
Page 111, No. 2763, Houston West, Illinois District.
Page 111, No. 2764, Ida West,
Page 111, No. 2765, Fanny West,
Page 111, No. 2737, Maria West,
Page 111, No. 2738, Georgia West,
Page 111, No. 2722, Willie West.

Q Tall-oak roll examined and the names of the applicants found
as follows:
Page 147, No. 2812, Houston West, Sagoyah District.
Page 147, No. 2800, Ida West.

Q How long a citizen? A Yes, sir.
Q Did you go out of the Cherokee Nation during the war? A Yes, sir.
Q Where did you go? A I was in
Q When did you return? A In '65.
Q How long in '65? A It was in the winter.
Q Were you married then? A No, sir.
Q How long lived in the Cherokee Nation continuously since then? A
Yes, sir.

Q How long have you lived here? A Yes, sir.
Q How long have you lived here all the time? A Yes, sir.
Q How long have you lived here all the time? A Yes, sir.
Q How long have you lived here all the time? A Yes, sir.
Q How long have you lived here all the time? A Yes, sir.

- Q And you belonged to the Maxfields? A Yes sir.
- Q Where were you living when the war commenced? A On the old Blackburn place in Sequoyah.
- Q When did you go to Texas? A The second year of the war.
- Q Where did you stop at there? A At the old Maxfield place near Bellville, Texas.
- Q Did your father belong to Walk Maxfield at the beginning of the war? A Yes sir.
- Q When did your father return here? A In '66.
- Q Who with? A Walk Maxfield and his family.
- Q What was his wife's name? A Jane Blackburn before he married her.
- Q What ever became of your father? A Died.
- Q Is your mother alive? A No sir.
- Q Just you and Walk's family came together? A That is all.
- Q the Commission.
- Q When did your father die? A In '93 or '4.
- Q When did your mother die? A She died before he did.
- Q Your father and mother are not on the roll of 1880? A No sir but I have a sister on the 1880 roll.
- Q What is her name? A Mary Whitnire.
- Q Is she married now? A Yes sir.
- Q Did she go to Texas with you? A Yes sir.
- Q And did she return with you? A Yes sir.
- Q The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's sister found as follows--
Page 728 No. 1399, Mary Whitnire, Sequoyah District
- Q You say this is your full sister? A Yes sir.
- Q Your father and mother? A Yes sir.
- Q Harrison Foreman called and sworn as a witness for the applicant:
- Q What is your name? A Harrison Foreman.
- Q What is your age? A 48.
- Q What is your post-office address? A Catobosa.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q A Freedman? A Yes sir.
- Q Do you know the applicant? A Yes sir.
- Q How long have you known him? A Since the war.
- Q Was he a slave? A Yes sir that is what I hear.
- Q Where did you first see the applicant after the war? A I can't be positive as to the exact time, in '66 I believe.
- Q Where? A I was the ferryman at Fort Smith and I ferried him over the river.
- Q Who was with him? A Walk Maxfield and his family and the applicant's father and mother.
- Q And you think it was in '66? A Yes sir.
- Q Had he lived in the Cherokee Nation since '66? A Yes sir.
- Q Tell--
- Q What time of the year was that? A I don't know if it was in November or December, but along there.
- Q Walk Maxfield was his former owner? A Yes sir.
- Q Is Walk living? A No sir.
- Q Dennis Bean called and sworn as a witness for the applicant
- Q What is your name? A Dennis Bean.
- Q What is your age? A 45.
- Q What is your post-office address? A Muldrow.
- Q Are you a Cherokee freedman? A Yes sir.
- Q Do you know the applicant? A Yes sir.
- Q How long have you known him? A Ever since-- I think it was the fall of '66.
- Q Was he a slave? A Yes sir.
- Q Who owned him? A Walk Maxfield.
- Q Did this applicant go out during the war? A I guess they did.
- Q When did you first see them after the war? A They was coming through making their way up by where I lived in '66, I lived on the

bank of the Arkansas this side of Fort Hindman South.

Q Was he with this applicant then? A His father and mother and two sisters I think a man named Tom Barnage and a woman named Agrie and Dave West.

Q Was Walk Marshall with him? A Yes sir that was his name.

Q Has this applicant lived here ever since? A Yes sir.

By all-

Q Where were you living then? A On this side of the river on the place that belonged to Kenerve Taruton. The house is caved in now.

Q Was that the old George Johnson house? A No sir that was below at the Commission.

Q You are positive that that is correct as to these dates? Yes sir.

Q What circumstances make you think it was in '66? A Because they was all harping about the '66 treaty then.

Albert Johnson called and sworn as a witness for the applicant

Q What is your name? A Albert Johnson.

Q What is your post office address? A Benke.

Q What is your age? A 43.

Q Do you know the applicant? A I do.

Q How long have you known him? A Ever since I was a boy.

Q Was he a slave? A I guess he was, he was with Walk Marshall.

Q Did he go out of the Cherokee Nation during the war? A Must have he came back.

Q How do you know he came back? A Moved on the Lilly Starr place in the fall of '68.

Q Where is that? A This side of the Arkansas river.

Q Who was with him? A His mother and father.

Q How long have you known him ever since that time? A Yes sir.

Q You are sure that it was in '66? A As my memory serves me it was '66.

Q You was here yourself then? A Yes sir.

By all-

Q Who was with him, was Walk Marshall with him? A Yes sir at the Commission.

Q Was Walk Marshall a Cherokee citizen? A Said to be.

Q Do you know this applicant's wife? A Yes sir.

Q How long have they been married? A Yes sir.

Q Was you there when they married? A Yes sir.

Q And saw them married? A Yes sir.

Q Who married them? A Jenkins.

Q What was her name when she married him? A I dont know now.

Q Where were they married? A At the Fox place.

Q Have they lived together since then continuously as man and wife? A Yes sir.

Q And raised family? A Yes sir.

By Court Recorders,

How Tom West applied for himself and five children, Ida, Nancy, Fannie, Georgia and William West; he cannot be identified on the authenticated roll of 1880 or the census roll of 1881; he is identified on the Warm Clifton roll and the Wallace roll according to the page and number of the rolls as indicated in the testimony; he avers that he was the slave of Walk Marshall, that he was taken out of the Cherokee Nation during the war and returned in 1866 with his master Walk Marshall, and offers evidence to establish that fact. Examines satisfactory proof of his marriage to Marie Albert now deceased, who is the mother of his children; all of his children are identified on the Warm Clifton roll; he avers that he is the full brother of Mary Whitmore, they having the same father and mother, she is now married and enrolled on the authenticated roll of 1880; he avers that she returned to the Cherokee Nation with him at the same time as his father and mother and the balance of the family; the evidence so far presented is sufficient to justify the Commission in enrolling the said Houston West and his five children in said name, as Cherokee Freedmen, but now comes the Cherokee Na-

and proceeds to enroll me, swearing that they have signed
on which to report the evidence now given; consequently,
the said Houston West and his five children will be listed for en-
rollment as Cherokee Freedmen on a doubtful card, and when the
final decision is arrived at he will be notified by mail.

Chas von Weise, being sworn at the that as stenographer to the Com-
mission to the five civilized Tribes he reported in full all the pro-
ceedings in the above case and that the foregoing is a full, true
and correct transcript of his stenographic notes therein.

(signed) Chas von Weise.

Subscribed and sworn to before me this the 15th of July, 1901.

(signed) T. E. Needles,
Commissioner.

W. D. Green, being first duly sworn, states that as stenographer to the
Commission to the Five Civilized Tribes he made the foregoing copy
and that same is a true and complete copy of the original transcript.

W. D. Green

Subscribed and sworn to before me this September 17th 1901.

T. R. Beckwith

Commissioner.

INDIAN TERRITORY,

CHEROKEE NATION

I hereby certify that I have duly read with
due attention

by delivering a true copy thereof to the

day of _____ A. D. 1901

Given under my hand and

day _____ A. D. 1901

Marshal for Cherokee Nation

I, the undersigned attorney for the
within named applicant, do hereby certify
service of the within notice on the
day of _____ 1901

Attorney for applicant

UNITED STATES OF AMERICA

INDIAN TERRITORY

NORTHERN DISTRICT

I do solemnly swear that I have read
a true copy of the within notice to

on the _____ day of _____ A. D. 1901

Subscribed and sworn to before me

this _____ day of _____ A. D. 1901

NOTICE!

IN THE MATTER OF The application of Callie West
for enrollment as a Cherokee Freedman:

Case No. F. D. 1009

To Callie West, Cottonwood

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 Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Pt Gibson Indian Territory, on the following dates, to-wit: September 4th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 27th day of August, 1901.

W. W. Hastings
J. J. Davidson
Attorneys for the Cherokee Nation.

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT

ss

In the matter of the application of Calbe
for enrollment as a Cherokee Freedman.

West

No. F. D. 1000 Starr of lawful age, being duly sworn on

oath states that on the 28 day of August, A. D., 1901, he registered
to Calbe West whose postoffice is Cattalwood

Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at Vinita Indian Territory;

and that on the 4th day of Sept, 1901, he received the return
card which is hereto attached, signed by the said Calbe West, showing
that he had received said notice.

Subscribed and sworn to before me on this the 4 day of Sept, A. D. 1901.

West
Notary Public.

C.F. D- 1000, Callie West.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment
as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:

Applicant not present:

W. F. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of
service of notice that they will introduce testimony in this
case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, tes-
tified as follows:

Q What is your name? A W. T. Harnage.

Q What is your postoffice? A Tahlequah.

Q What is your age? A About 53.

Q You a Cherokee citizen by blood? A Yes, sir.

Q I believe you made a statement that you returned here in December
of 1865, after the war? A Yes, sir.

Q To what part of the Cherokee Nation did you come? A Sequoyah
district.

Q How far did you locate from Fort Smith? A Just across the river,
about half a mile from the line.

Q What relation are you to Eke Harnage? A Half brother.

Q Is he older or younger than you? A He is older.

Q Did you know Walk Mayfield? A Yes, sir.

Q What relation is he to you? A He is my uncle.

Q How long did you continue to remain down there in Sequoyah dis-
trict immediately after you came? A I stayed there in the bottom
until after Christmas, then I went up to Flint.

Q You stayed there until after Christmas of '66? A Yes, sir.

Q About the first of January? A About the first of January some-
time.

Q How did your uncle Walker Mayfield return when you lived there?

A No, sir.

Q How long did you remain up in Flint? A I stayed up there
till about the middle of April and went back down in the bottom.

Q And when you came back had he returned then? A Yes, sir, he was
there then when I went back to the bottom.

Q That was in April of what year? A '67.

Q But when you left there after Christmas of '66, about January,
he hadn't come? A No, sir, he hadn't come in, we left him in Texas
in the fall of '66.

Q You left him there? A Yes, sir.

Q Had he made a crop there in Texas that year? A Yes, sir.

Q You know what kind of a crop, cotton and corn? A Corn and
cotton.

Q Well, how far did he locate from your place and from the place
that you had stopped when you returned there in April of '67?

A About five miles.

Q He was your uncle? A Yes, sir.

Commissioner: He came there you say in April, '67? A I came
back to the bottom in April '67 and he was there when I came.

Q Walker Mayfield was? A Yes, sir.

Q You know when he came there? A No, sir, he came after I left,
I left the bottom in January, '67, and went up to my uncle's in Flint

and stayed there till April.

Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.

Q What brings it on your memory that it was in '67? A Because it was in '66 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.

Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came to here? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Corn and cotton.

EZEKIEL FARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Farnage.

Q What is your postoffice? A Foyil.

Q What is your age? A 39 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q How when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q How to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q How you came back, I believe you say, to Sequoyah District? A Yes, sir.

Q How you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q How far did you live from him down there, or did he from you?

A About a couple of miles, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You moved up there in Sequoyah about December 16, 1866?

A Yes, sir.

Q For what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had some boys, Houston, Callis and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16 up until the following April, March or April?

A Oh yes, I was there all the while.

Q About how far did Walk Mayfield depart from you when he came?

A I guess it was four miles and a half, or five.
 Commissioner: Did you know Houston West? A Yes, I knew them
 boys.
 Q Did he have a sister named Mary? A I don't know anything about
 the girls.
 Q Well, Houston West was a slave of Walk Mayfield? A Yes.
 Q When did you first see Houston, after the war? A I saw him
 after the war, after Mayfield came back to the Nation.
 Q With Mayfield's family? A Yes, sir.
 Q Are you positive Mayfield didn't come back to the Cherokee Nation
 until after January, 1867? A I am positive of it.
 Q Is he living? A No, he is dead.
 Q His wife living? A No, she is dead.
 Q What fact fixes the date of Mayfield's return in your mind?
 A The fact of the business is, the fact that fixes it in my mind
 was about going to work to make a crop.
 Q Well, as to the year? A Oh, I know when I moved, and Walk May-
 field came the next spring like.
 Q You know that you came in '67? A I know that, I am positive
 of the fact.
 Q Where were you living in '67? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Roodies,
 testified as follows:

Q What is your name? A D. M. Falkner.
 Q What is your age, Mr. Falkner? A I am about 50.
 Q What is your postoffice address? A Hudson, Indian Territory.
 Q You a Cherokee by blood? A Yes, sir.
 Q Mr. Falkner, you have been married, I believe, the second time?
 A Yes, sir.
 Q What was your first wife's name? A Her name was Rachel I. Adair.
 Q That was her maiden name? A Yes, sir.
 Q Was she the wife of Walker Mayfield? A Yes, sir, she
 claimed that Mayfield was her uncle.
 Q Did you know Walk Mayfield yourself? A Yes, sir.
 Q Where were you living in the year of '66 and the spring of '67?
 A I was living in Sequoyah District, Cherokee Nation.
 Q Did you know Walk Mayfield before the war? A Yes, sir.
 Q When did Walk Mayfield return to the Cherokee Nation after the
 war? A Well, he returned about the first week of April, 1867.
 Q Now Mr. Falkner, call the Commissioner why you fix that time,
 all the circumstances? A Well, this young lady that I married,
 Q Was she ever before married? A Yes; she was married to my
 sister, and she went to school, and she went down the river, and
 home from home, just from Texas, and I was with her, and she
 that is about the first part of April, the first week of the first
 of April, 1867, when she was here, and they stayed here, and she
 Q Well, now how do you know that you had to go? A I was there, and then
 I went with her to Texas, and she stayed there, and she stayed there,
 about it, and she stayed there, and she stayed there, and she stayed there;
 that is, she stayed there.
 Q Now, Mr. Falkner, call the Commissioner why you fix that time,
 all the circumstances? A Well, this young lady that I married,
 Q Was she ever before married? A Yes; she was married to my
 sister, and she went to school, and she went down the river, and
 home from home, just from Texas, and I was with her, and she
 that is about the first part of April, the first week of the first
 of April, 1867, when she was here, and they stayed here, and she
 Q Well, now how do you know that you had to go? A I was there, and then
 I went with her to Texas, and she stayed there, and she stayed there,
 about it, and she stayed there, and she stayed there, and she stayed there;
 that is, she stayed there.

116

- 4 -

Q You hadn't heard of them before that? A No, sir.

Q Did they have some slaves, colored people, with them?

A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.

Q Had they unloaded the wagons when you got there? A There was a covered wagon standing there at the house when we got there.

Commissioner: What year were you first married, Mr. Falkner?

A It was in April, '47.

Q You are positive of that? A Yes, sir, I have got it in the hills at home.

Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me that was his darkey, all I know.

Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.

Mr. Hastings: your first wife is dead? A Yes, sir, she is dead.

Commissioner: Walker Mayfield dead? A Yes, sir.

Q His wife dead? A Yes, sir.

Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys and they are all dead.

Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about four miles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.

Q Four or five miles from that place to Fort Smith? A Yes, sir.

Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.

Q There is where they all crossed? A Yes, sir.

Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callis West, D-1000, and George West, D-990.

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 correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 11th day of September, 1901.

C. R. Buckinridge

Commissioner.

0721000

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 7 1901



ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 23, 1901.

In the matter of the application of Callis West for enrollment as a Cherokee Freedman.

Callis West, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Callis West.
Q How old are you? A 21, going on 22.
Q What is your postoffice address? A Benge.
Q What district do you live in? A Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A No one.
Q What is your father's name? A Houston West.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Lizzie West.
Q Is she living? A No, sir, she is dead.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Annie West.
Q Is your wife living? A Yes, sir.
Q Have you any children? A No, sir.
Q Is your name on the 1880 roll? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation? A Wallace roll and the Kern Clifton roll.

The 1880 authenticated roll and the 1896 census roll of Cherokee Freedmen examined, and the applicant not identified on either of said rolls.

The Wallace roll examined, and the applicant identified thereon, page 147, No. 3068, Sequoyah district, Callis West.

- Q Is your father's name on the roll of 1880? A No, sir.
Q Your father been listed for enrollment? A I think so, he came before you.
Q He is on a doubtful card, is he? A Yes, sir, I guess he is.
Q Is your mother a citizen, a Cherokee Freedman? A She was a claimant but I don't know about that.
Q You claim citizenship through your father or mother? A Father.
The Kern-Clifton roll examined, and the applicant identified thereon, page 111, No. 2764, Illinois district, as Callus West.
Q Where were you born? A In Sequoyah district they say.
Q Have you always lived in the Cherokee Nation? A Yes, sir.
Q All your life? A No, sir, not all, I have been in the Choctaw Nation.
Q How long have you lived in the Cherokee Nation since you returned from the Choctaw Nation? A About six years, six or seven.
Q Where did you marry? A Married at Benge.
Q In the Cherokee Nation? A Yes, sir.
Q Your wife a non citizen? A Yes, sir.
Q Have you any testimony to give as to your citizenship other than that that was given in the application of your father? A No, sir.

Commissioner: Callis West applies for the enrollment of himself. His name cannot be found upon the authenticated roll of 1880 or the census roll of 1896. He is duly identified upon the Wallace roll according to page and number of the roll as indicated in the testimony, as well as the Kern-Clifton roll. He avers that he is the son of Houston West, and that he claims citizenship through his father, and that the said Houston West has been duly listed for enrollment on Freedman Doubtful card No. 1000. He makes satisfactory proof as to his residence. The testimony taken in the matter of the application of his father, Houston West, will be made part of the record in the case at bar, and a copy thereof will be filed herewith,

and the said Callie West will be listed for enrollment as a Cherokee Freedman upon a doubtful card to await the further consideration of the Commission.

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 4th of October, 1901.



Commissioner.

PC 111A B...

... ..

... ..

... ..

(... ..)

... ..

F. D-889.

To be filed with G. F. D. 1900, Callis West.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D. C., May 25, 1902.

In the matter of the application of Houston West for his
the enrollment of himself and children as Cherokee Freedmen.

Supplemental to F-800.

APPEARANCES:

A. S. McRae for applicants,
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision
of the Supreme Court in 1871, as taken from a book from the records
of the Executive Department of the Cherokee Nation entitled, Docket
of Doubtful Cases for Cherokee Citizenship tried in 1871, and
from that part of the book headed Doubtful Roll Sequoyah District,
No. 143, the following:

"Henry West.
Decided against claimant June 15, 1871."

The Cherokee Nation also desires to introduce in evidence a
decision of what is known as the Chambers Court, on June 12, 1871,
as shown from the citizenship record, No. 1, page 9, in the case
of Henry West vs. the Cherokee Nation, the same being signed by
John Chambers, President of the Commission, O. P. Brewer, George
Downing, Commissioners, countersigned D. L. Nicholson, Clerk of
Commission, as follows:

"No. 1. Henry West) Claim of Citizenship. Before the
vs) Commission on Citizenship, sitting at
Cherokee Nation.) Tallahassee, C. H. June 12th, 1871."

This case, comes under that class of cases, of which the
Commission have jurisdiction under act of Dec. 1877, claiming
citizenship under the 9th Article of the Treaty of 1866, in regard
to persons of African descent. His statement alleges that he was
a slave and owned by a citizen of the Nation, and both resident here
at the commencement of the rebellion. Claimant was afterwards sent
to Texas, by his owner, but returned in time, that is, within six
months after the ratification of the treaty of 1866.

The facts above are proven satisfactorily, except as to the
time of the return to the Nation. This is the turning point in
Henry West's case. The Commission find that the only testimony on that
point, is the statement of Walter Griffith, who says that he and
claimant returned to the Nation on the 4th day of April, 1867. This
is decisive of the case. Claimant came too late. The Commission
are confirmed by the Act establishing the Commission to the five mentioned
in the amendments to the Cherokee Constitution, so far as to the
exact time of the ratification of said treaty is concerned, which
places it, on the 19th day of July 1866; and hence claimant's return

in April 1867, is more than six months after the time specified in the said 8th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

Attest:

D. L. Nicholson,
Clerk Comm.

John Chambers,
President Commission.
O. P. Brewer)
George Downing,) Comrs.

Attention is called to the fact that at the head of the decision, dated June 12, 18-, that the date is omitted, but the decision on page 8 of the same book, in the case of Mary Ann Trimble vs. the Cherokee Nation, is dated June 7, 1878, and the case upon the page following this decision, the case being that of Grill Miller vs. the Cherokee Nation, is dated June 12, 1878.

MR. MCRAE: To all of which the applicant objects for the reason the cases cited does not tend in any manner to prove any issue in this case, and has no bearing whatever. Comes now the attorney for the applicant and objects to the introduction of the records above for the reason that neither of the records cited by the representatives of the Cherokee Nation in this case has any tendency whatever to prove any issue in his case, and for the further reason that the same is incompetent and irrelevant; and further, it appears that in the record as cited, the same being known as the Chambers record, that it appears upon the face of the same there is no year mentioned in the alleged decision of the said Commission as being rendered against Henry West, whose name is not mentioned in the application of the case at bar, and subsequently would have no bearing as to the rights and the status of those applicants. It would further appear that these applicants, Houston West et al, were slaves in the Cherokee Nation before the war of the rebellion, and was owned by a Cherokee citizen by blood. Consequently, the alleged decision as appears against Henry West would have no bearing upon these applicants, they being claimants in their own rights and status. Mr. Hastings, I'll swear you, without waiving any of the objections.

W. W. Hastings, being first duly sworn, testified as follows:

MR. MCRAE: Your name? A W. W. Hastings.

Q Age and postoffice address? A I am 35 years old and postoffice is Tahlequah.

Q Mr. Hastings, what knowledge or information have you as regards the appointment of the Chambers Commission, by what constituted authority was this Commission appointed? A By an act of the Cherokee National Council, so I am informed and the records show.

Q I will ask you if it is not the law under the Constitution of the Cherokee Nation that in the appointment of these alleged commissions on citizenship, if when the said commission has exercised its duty as regards the same, that before the same can become a law, either for or against the applicants as appear before these respective Commissions, would have to be ratified by the Council of the Cherokee Nation, ratified by the Council of the Cherokee Nation? A Well

I haven't that law before me, but I have no doubt from the evidence that I have read of it that it will result in a great number of people and it didn't take any subsequent action of the National Council.

Q Well do you know of your own knowledge or information whether or not there were any persons who appeared before these respective Commissions and their cases were submitted to the Council for admission or rejection? A There weren't any to the best of my knowledge except there weren't any submitted to the National Council except, so far as I know, except some in 1871; none of these later Commissions they had full authority to investigate and and and and themselves or reject, and this Commission had authority to admit or reject, and the Council have no supervisory control over it.

Q Then the action of the Commission as regards the enrollment of citizens was final? A Yes, sir. Now I mean this Commission, yes, sir.

Q The Chambers Commission? A Yes, sir. Well I was stating my judgment of the law, I wasn't there, you know, never practiced before it.

Q How about the commission of 1871, known as what's the name of that Commission? A Well, in 1868 an act was passed allowing certain people to go before a Chief Justice of the Supreme Court, and he had hearings up until some in 1871, I don't remember the exact date, but under that plan of cases, and under that act, my recollection was that it was December 3, 1869, but I wouldn't be positive as to that, but anyhow under that the justice of the Supreme Court heard applications, and referred the to the National Council, but I know of no other authorities that I don't recall any.

Q Who was the president of the Commission of 1871, chairman of the Commission appointed in 1871? A I would have to look that up. I believe John S. Vann; I know he was along about that time, but perhaps I am mistaken. Well, this record here shows that R. B. Daniels was Chief Justice in 1871. John S. Vann was along about that time, I don't know how just when he got in or out.

Q Who was the member of the Commission appointed to hear citizens who made application in '71? A This book shows that R. B. Daniels was Chief Justice of the Supreme Court in '71; that book shows that.

Q I want to make a further objection as regards the entries of the '71 docket. It is further objected to as regards the introduction of the entries upon the docket of doubtful cases for Cherokee citizenship tried in '71 for the reason that from the very face of the record produced, that the same appears more like the entries kept upon that of a day book than that of a regular record kept by a regular organized and a properly constituted court of record.

THOMAS A. WILLIAMS, being first duly sworn, testified as follows:

MR. MORAN: What is your name? A My name

Q Yes, sir? A Thomas A. Williams.

Q Your age? A I am 61, being on the 21st

Q Postoffice address? A Address, First and Third Sts., Savannah District.

Q Do you know the man associated with Houston West and brothers? A Yes, sir, I am acquainted with Houston West and especially acquainted with Dallas West.

Q How long have you known him? A Well, sir, in 1866 I had a bunch called Gypsy and Crosby, and we were keeping them on Camp Creek there right below old man Gentry, and some time in the early part of the winter perhaps, just before Christmas, two or three or four days, Falk Mayfield brought the family back there, they were chaps.

Q How was Falk Mayfield? A Falk Mayfield? That was a Cherokee I took him to be.

Q Where was he when you saw him in '66? A I saw them and camped just about about, when they first came there they came just above where the bridge is.

Q In the Cherokee Nation? A Yes, sir, in the Cherokee Nation, because I was ordering there with the rules.

Q Now I still ask you, Mr. Williams, how long have you lived in the Cherokee Nation? A Yes, sir, I have lived in an out of the Cherokee Nation, well, let me see, I came in there, I located one year in the Cherokee Nation before I was made a citizen of it.

I was in the Cherokee Nation in '67, the bigger part of the year in '67; then in '74 I came into the Cherokee Nation and made a crop, I believe it was in '74, and then in '78 I became an adopted citizen, and I have been here most of the time since.

Q Were you acquainted with the father and not one of these boys? A Why I have seen them hundreds of times, yes; I didn't have a close personal acquaintance with them because they were left to themselves.

Q You are positive that it was some time in the month of December, '66? A Yes, sir, to the best of my knowledge it was three or four days before Christmas.

Q In the Cherokee Nation? A They were in the Cherokee Nation, because I and Crosby was driving a little bunch of mules we had, taking them over.

Q Well to your knowledge, so far as you know, have they lived continuously in the Cherokee Nation since you first knew them in '66? A Yes, sir to the best of my knowledge their family has lived and remained right there.

Q You have had occasion to see the offspring since then? A Very often, we were hunting stock there very often.

Q And you say that your knowledge and acquaintance with Callis is of a very intimate nature? A Yes, sir.

Q And character? A Yes, sir, he is a truthful, honest, straight, upright man so far as I know.

Q You were at one time a recognized citizen of the Cherokee Nation, were you not? A Yes, sir, I was, and drew money from the Cherokee funds.

MR. HARRISS: When did you draw money? A I think it was in '79 and maybe '82, the record shows. David Commission could go on the record, and you can find me there very easy.

Q Don't you know that they didn't pay out any money either in '79 or in '82 to anybody in the Cherokee Nation, and the records will show it? A Well, I don't remember the exact year, but it was along there somewhere, I draw in Tahlequah and I draw in Vinita.

Q Do you remember more exact when you saw Callis next than you do when you drew money yourself? A I made no minute of that.

Q Well did you make any minute of seeing him? A I made a minute or two and saw that he had got in.

Q How about it they made some record, that I remember very well.

Q What's Callis' wife's name? A I didn't know both, which was his first wife?

Q Yes, sir. A I don't remember what his first wife's name was.

Q How many children did he have when you first saw him? A Why he
didn't have any one.

Q Did he have a wife? A No, sir, when he was here.

Q About how old was he when you first saw him? A I don't know;
he was a kid of a boy.

Q Don't have any idea about that? A No, I couldn't think anything
about it.

Q With whom were you living when you first saw him? A I was
living with myself.

Q Where? A Way I was going from Fort Smith to Terrell and
around; we had a bunch of cattle, they were scattered, and we had
some cattle in the Cherokee Nation, and quite a little bunch in
Arkansas.

Q Who owned them? A He and Jesse Crosby, that fell out of a
two-story window in Fort Smith and broke his neck in '66.

Q He isn't alive now? A No, sir, he's dead now.

Q Did you know any other Cherokees over there in '66? A Way I
think I did. Uncle Billie Wilson.

Q He's dead too? A Yes, sir.

Q Was he in '66? A He was quartered there in '66 I think.

Q Now, Mr. Williams, Walker Mayfield testified, and the record in
this case shows, that he returned to the Cherokee Nation there with
a crowd of people on the 4th day of April, '67, and the testimony
of a number of other reputable witnesses is to that effect; that do
you say about that? A Well I will say that I am not responsible
for what Walker Mayfield swore.

Q Well do you say that isn't true?

MR. MCRAE: You say that Walker Mayfield has testified to that
in this case?

MR. HASTINGS: No, I say he has testified and the record shows.

MR. MCRAE: This record?

MR. HASTINGS: Yes, sir.

MR. MCRAE: This judgment just offered here?

MR. HASTINGS: Yes, sir.

Fitness: Well, to the best of my recollection it was three
or four days before Christmas that I saw Walker Mayfield here, whether
he went back into the state and come back again into the Nation I
don't know.

Q Mrs. D. M. Faulkner swore in '90 that her uncle, Walker Mayfield,
came there about the first of April, '67, and that she was teaching
school in that vicinity, and that she went out there to see him.

Do you say now that you put your judgment, and your own, as
against those who were blood relatives? A I put my recollection,
I am telling just as I remember it; it certainly was just before
Christmas that he drove my mules over, and the family was certainly
there; to the best of my recollection it was just before Christmas.

Q E. M. Faulkner, who lives at Hanson, swears that Walker Mayfield,
who was his wife's uncle, came back in '67 in April, do you dispute
that? A Way I am not disputing; I am telling you the best of my
recollection, and I recollect where I first saw Walker Mayfield when
I came back from Texas.

Q Did you, not before the war? A I had seen him; I saw him in
Arkansas and in Texas.

Q Where did you see him? A He lived right along to where the road
crossed the river.

Q Did you see him there? A Not in Fort Smith, and I have seen
him over in the Nation.

Q In the Nation before the war? A Yes, sir, I saw him through
that country before the war.

Q Was Hall or any field partner before that time? A I don't know anything about his marriage history; I have no knowledge of that.

Q Did you ever leave the Cherokee Nation before the war? A I had a horse, a mule, some, in the Cherokee Nation before the war as a matter of fact.

Q Well now where did you keep those cattle in the Cherokee Nation in '67? A We bought some cattle in the Cherokee Nation.

Q Well where did you keep them then? A Just bought them and let them run until we were and drove them out.

Q Then they were just scattered on the range? A Scattered all around, they were all over there, and I bought some from a woman by the name of Price.

Q Where did she live? A Somewhere on Old Creek.

Q You have just now been rejected by the Commission as an applicant for citizenship, haven't you? A Yes, sir, I don't care anything about the rejection, I would rather be a white man than a Cherokee so far as my preference is concerned.

Q Well you have got your preference? A I have got it, too. The young clerk here, I like his friend for giving me my preference.

Q Well you just answer my questions. Now you are willing to swear as against these other people that the family came back there just before Christmas, '67? A To the best of my knowledge.

Q Then you are not positive about it? A To the best of my knowledge. That's what the young man qualified me to swear, to the best of my recollection.

MR. MORSE: You have knowledge of years, haven't you? A It seems to me like I ought to have; I was born in '41, and I was a United States soldier, and I ought to have been old enough to have some knowledge of things. I wouldn't story for Callie West to get into the Cherokee Nation.

Q Well you aren't any more likely to be mistaken in your statement than Mr. Hayfield would be in his? A No, sir.

MR. HASTINGS: But Mr. Hayfield testified in '73, only 12 years after that time.

COMMISSION: This testimony will be filed in and made a part of the record in the following freedom cases: D-993, being that of Nancy Starr; D-996, being that of George West et al; D-1000, being that of Callie West; D-1032, being that of Lugenia Harris et al; and D-1054, being that of Callie West, and in the same matter, D-382, the same being the case of Burton West et al. It appears from the records of the Commission that the above named applicants are all represented by A. S. Holmes.

Arthur S. Greninger, being first duly sworn, states that as stenographer to the Commission on the Civilized Indians, he is called to fill the testimony and statements in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) Arthur S. Greninger.

Subscribed and sworn to before me this 20th day of Aug., 1902.

(Seal)

(Seal) J. S. Fisher.

Notary Public.

I, Arthur G. Jones, a Notary Public in the Commission to the
First District of the State of Ohio, do hereby certify that the above and foregoing
is a true and correct copy of the original now on file with the
Commission, and the same has been copied by me.

Arthur G. Jones

Subscribed and sworn to before me this the 20th day of Aug., 1902.

B. C. Jones
Notary Public.

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

In the matter of the application of Houston West, et al., for enrollment as Cherokee freedmen, counsel dating the applications of:

Houston West, et al.,.....Cherokee freedmen D 900,
George West, et al.,.....Cherokee freedmen D 900,
Callis West,.....Cherokee freedmen D 1000,
Callis West,.....Cherokee freedmen D 1004.

Motion to Review and Reject.

The records of the Commission show that, among others, the applicants in the above consolidated cases were rejected by the Commission on August 3, 1904, and that the said decision was reversed by the Department on September 13, 1905, and the applicants herein ordered enrolled. The records further show that all of said applicants claim through Henry West, the father of some of the principal applicants, and the grandfather of all of the other applicants herein.

For grounds of said motion it is insisted that the record in this case shows that Henry West, the father of all of the principal applicants herein, and through whom they all claim, was denied the by the Supreme Court of the Cherokee Nation on the 18th day of June, 1871.

That thereafter, the said Henry West applied to the citizenship Court commonly known as the Chambers Court, wherein the following decision was rendered, denying the applicants, to-wit:

No. 1.	Henry West vs. Cherokee Nation.	}	Claim of Citizenship. Before the Commission on Citizenship, sitting at Tahlequah, C. N. June 18th, 18
--------	---------------------------------------	---	---

This case, comes under that class of cases, of which the Commission have jurisdiction under act of Dec. 1877, claiming citizenship under the 9th Article of the Treaty of 1864, in regard to persons of African descent. His statement alleges that he was a slave and owned by a citizen of the Nation, and both resident here at the commencement of the rebellion. Claimant was afterwards sent to Texas, by his owner, but returned in time, that is, within six months after the ratification of the treaty of 1864.

The facts above are proven unsatisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The Commission find that the only testimony on that point, is the statement of Walter Mayfield, who says that he and claimant returned to the Nation on the 4th day of April, 1867. This is decisive of the case. Claimant came too late. The Commission are confined by the Act establishing the Commission to the time mentioned in the amendments to the Cherokee Constitution, so far as to the exact time of the ratification of said treaty is concerned,

which places it, on the 19th day of July 1866, and hence claimants return in April 1867, is more than six months after the time specified in the said 9th Article of said treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee nation under said treaty in the opinion of the Commission, and consequently they decide that said claimant is an intruder, on the Public Domain of the Cherokee Nation.

John Chambers,
President Commission.
G. P. Brewer } Comrs.
George Downing }

This decision shows that the applicants appeared before the Court under the Act of December, 1877, claimed under the 9th Article of the treaty of 1866, and submitted testimony and admitted their case to be adjudicated by the court, and the decision further shows that their owner, Walter Mayfield, was present and testified in the case and testified that he returned on the 4th day of April, 1867, and the court upon this testimony decided that the claimants had come too late and were, therefore, not entitled to be enrolled as freedmen citizens of the Cherokee Nation.

The Department held in the John Morgan case on March 8, 1906 (10716-1906), the following:

"The record shows, a fact not mentioned in said decision, that the Supreme Court of the Cherokee nation on June 9, 1871, denied John and Cynthia Morgan rights in the Nation.

In a similar case that of Harry Still, in which such court admitted the applicant to all rights of Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 8, 1904, approved, stated that the adjudication of this court has the same effect as the adjudication of 'similar cases by the United States Court under the act of June 10, 1866;' that when responded to inquiry upon the facts, such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the court and that now available, show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong; that 'The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial, than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.'

"No allegation is made in this case that the determination of the court in 1871 was vitiated by fraud, and no attempt has been made to show that it was made on account of 'lack of evidence then available.' The motion for review is accordingly hereby denied."

We have quoted at length from the decision in the John Morgan case which quotes from the approved opinion of the Assistant Attorney General for the Department of the Interior in the Harry Still case. We have always insisted that this should be the position of the Cherokee Nation. Courts have held time and again in effect that "The proceedings and

Judgments of the courts of the Cherokee Nation in cases within their jurisdiction are on the same footing with those of the courts of the territories of the Union and entitled to the same faith and credit.^o *Behm versus Lee* 36 Federal Reporter 12, *Stanley versus Roberts* 50 Federal Reporter 226, *In re Mayfield* 141 U. S. 107, *Barber versus Shannon* 40 U. S. 264, *Montana versus Peor*, 36 Federal Reporter 777.

It will be observed from this record that these applicants were not only rejected by the Supreme court in 1871, within five years after the war, when Walter (Walker) Mayfield, their former owner, was alive, when a number of his relatives were alive, when the exact date of his return could be definitely ascertained, but they also applied to the Cherokee Court under the act of December, 1877, some ten years after they returned and at that time Walter (Walker) Mayfield, their former owner, was alive, and he appeared before the Court, so the judgment recites, and testified definitely and positively that he returned with these claimants on the 4th day of April, 1867, too late to acquire rights under the 9th Article of the treaty of 1866 as freedmen citizens of the Cherokee Nation.

No allegation is made in this case that the determination of the Court in 1878 was vitiated by fraud, and there is not a line of testimony which goes to show, nor has there been any attempt to show, that these judgments were made on account of lack of evidence then available. But upon the other hand, the last judgment definitely shows that the most trustworthy testimony available, being that of the former owner, Walter Mayfield, was obtained; that he appeared before the Court and testified, and we cite this case as a strong illustration of the wisdom of the opinion of the Assistant Attorney General in the *Harry Still* case, because now some 40 years after Walker Mayfield, and every member of his family, is dead, and in fact most all of his near relatives. No one was able to speak as definitely as he as to the time of the return, and this case being twice rejected before courts of competent jurisdiction, entitled to the same faith and credit as courts in the other territories or states of the Union, and it not having been shown that any fraud was practiced against the claimants or that these decisions were made adverse to them because of lack of evidence, we submit that the motion herewith made for the rejection of these consolidated cases in accordance with the

opinion of the Assistant Attorney General in the Perry Bill case and the opinion of the Department in the John H. Morgan case, heretofore cited, should be allowed.

Respectfully submitted,

W. W. Hastings

W. W. Hastings, being first duly sworn states that the facts set forth in the above motion he believes to be true; that he believes said motion is meritorious, and that the same is not made for delay, but that justice might be done.

Subscribed and sworn to before me this the 25th day of June, 1906.

W. W. Hastings

Notary Public.

Cher Fr D 1001

Cher Fr D 1001

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Charley Mayfield for the enrollment of himself and five children as Cherokee Freedman; said Mayfield being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Charley Mayfield.
Q How old are you? A About 53.
Q What is your post office address? A Papaw.
Q What district do you live in? A Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or Nation? A No, sir.
Q Who do you want to enroll besides yourself? A Myself and five children.
Q Is your name on any of the rolls of the Cherokee Nation?
A Wallace roll and Clifton roll.
Q Give me the names of your children, please? A Emanuel is the oldest one.
Q How old is he? A 11.
Q The name of the next one? A Beulah, nine.
Q The next one? A Royal, six.
Q The next one? A McKinley.
Q How old is McKinley? A Four.
Q The next one? A Nathaniel.
Q How old is Nathaniel? A Two years one.
Q The next one? A That is all.
Q What was your mother's name? A Nancy Starr.
Q Your father's name? A Caesar Mayfield, my father.
Q Where were you born? A Cherokee Nation, Sequoyah District.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Lizzie.
Q Is she a citizen? A I don't know; she is a claimant just like myself.
Q Well, has she been enrolled? A No, sir, her mother has been enrolled before this Court.
Q Do you apply for your wife? A No, sir.
Q Have you got any proof of your marriage to your wife?
A Yes, sir.
Q When were you married? A 13 years last Christmas.
Q Whom by? A George Vann, Parson Vann.
Q Is he living? A Yes, sir.
Q Are these children all living at this time? A Yes, sir.
Q Born in the Cherokee Nation? A Yes, sir.
Q Are all your children by your wife, Lizzie? A Yes, sir.
Q Are you her first husband? A Yes, sir.
Q Is she your first wife? A Yes, sir.
Q Are you living with her now? A Yes, sir.
Q Well, what proof have you got of your citizenship; have you got any witnesses or do you want to follow Nancy Starr?
A Follow her I reckon.
Q Has Nancy Starr a brother of Houston West? A Yes, sir.
Q Houston West is your uncle? A Yes, sir.
Q You were born in the Cherokee Nation? A Yes, sir.
Q Lived here all your life? A Yes, sir.

The 1840 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.

The Yern-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:
Page 111, #2780, Charles Mayfield, Illinois District.
Page 111, #2781, Emanuel Mayfield, Illinois District.
Page 111, #2782, Beulah Mayfield, Illinois District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 120, #2822, Charles Mayfield, Sequoyah.

Charley Mayfield.--2.

Q These children are all living at this time? A Yes, sir.
Q What was your wife's name before you married her? A Lizzie
Gunter was her name.

COM'R FREEDMAN: Charley Mayfield applies for the enrollment of himself and five children, to-wit: Emanuel, Beulah, Royal, McKinley and Nathaniel. He avers that he was born in the Cherokee Nation; that he was married to one Lizzie Gunter, and by said marriage he has the children for whom he applies. It will be necessary for him to make satisfactory proof of his marriage by filing a certificate of marriage. He avers that the Minister who married him is still living. He cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll and Wallace roll. He is duly identified upon said rolls. His two older children, Emanuel and Beulah, are identified upon the Clifton roll. It will be necessary for him to file with this Commission satisfactory proof of the birth of his three younger children, their names not appearing upon any of the rolls. He avers that he is the son of Nancy Starr, who has been listed for enrollment upon doubtful card #988, and that he is a nephew of Houston West who has been listed for enrollment upon doubtful card #989. The testimony in the matter of the enrollment of Nancy Starr includes the testimony taken in the application of her brother, Houston West, consequently all the testimony in the matter of the application of Nancy Starr, including the testimony of Houston West, will be made part of the testimony in the case of the applicant, and copy thereof filed herewith. For particulars as to residence reference is made to the testimony. Now Charles Mayfield and his five children, as enumerated herein, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. He will be notified by mail of the action of the Commission in the premises.

---000000000---

J. O. Reason, 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. Reason

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



Commissioner.

To be filed with case of Charles Mayfield, C. J. No. 1000.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1, 1901.

In the matter of the application of Nancy Starr for the enrollment of herself as a Cherokee freedman, being sworn and examined by Commissioner Needles, she testified as follows:

- Q What is your name? A Nancy Starr.
Q How old are you? A I guess I am about 52; will be, my birth.
Q What is your post-office address? A Cottonwood.
Q What is your district? A Sequoyah.
Q You want to be enrolled as a Cherokee freedman? A Yes, sir.
Q Did you ever try to be enrolled in any other Nation? A No, sir, no, sir.
Q Who do you want to enroll besides yourself? A I have got one boy, he is 33.
Q Well he is old enough to chop wood himself; is your name on any of the rolls of the Cherokee Nation? A Yes, sir.
Q On the 1880 roll? A No, sir, it is on the Kern-Clifton and the Wallace roll.
Q Are you married? A No, sir.
Q Were you ever married? A Yes, sir.
Q What was your husband's name? A Sam Starr.
Q Is he living? A No, sir.
Q What is your father's name? A Henry West.
Q Your mother's name? A Phoebe West.
Q Are you living? A No, sir.
Q Your father living? A Yes, sir.
Q Have you any witnesses here? A Yes, sir.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Walk Mayfield was my boss. Jane Mayfield was my mistress.
Q Were they Cherokees? A They said they was.
Q What do you think about it, were they Indians? A Yes, sir; they was Indians, said to be.
Q Did you go out of the Cherokee Nation during the war?
A Yes, sir, went to Texas.
Q When did you come back? A I come back next year after peace.
Q What year was that? A I don't know what year after I come they called it '66 I come back here next year after peace, in the winter.
Q Where did you come to? A I come to Lila Starr's place, that's where we stopped.
Q Have you been living in the Cherokee Nation ever since that?
A Yes, sir.
Q Never lived out of it? A No, sir.
Q Were you married when you came? A No, sir.
Q You have been married since? A Yes, sir.
Q Are you living with your husband now? A He is dead.
Q You haven't married since his death? A No, sir.
BY MR. JAMES DAVENPORT, Cherokee Rep'v:
Q Where were you living when you first remember? A I was born in Texas; I can't hardly remember when I was in Texas first time.
Q You were born in Texas after Walk Mayfield and the Mayfield family went to Texas? A After they went there?
Q Yes, you were born in Texas? A Yes, sir.
Q They were in Texas at the time you were born? A I don't know; when I remember good I was here.
Q Did you ever see Walk Mayfield in Texas? A Yes, sir, I went to Texas with Walk Mayfield in time of the war.
Q You were born in Texas? A Yes, sir.
Q What were you born in Texas, way before the war? A Yes, sir.
Q When did you come from Texas to the Cherokee Nation? A I can't remember, I was small.

Q You came with walk Mayfield when you did come and his family?
 A I come from Texas when I was small child.
 Q You remember that you came with Walk Mayfield don't you?
 A I do when I went to Texas time of the war.
 Q You had come from Texas up here, and then went back during the war, that the way of it? A That's the way they said it was, I don't remember it; they said I was born in Texas; that's all I know.
 Q You don't remember going to Texas with Mayfield? A I remember going there time of the war.
 Q What part of Texas did Mayfield go? A Went down there near Bellview.
 Q When did he come back? A Next year after the war, way in the fall like.
 Q You came back direct to the Cherokee Nation, or did you go back through Arkansas? A Where is Arkansas?
 Q Don't you know where Arkansas is? A I don't know.
 Q You don't know where Arkansas is? A We come back through Ft. Smith.
 Q Ain't that in Karkansas? A I don't know, sir.
 Q How far is Cottonwood post office from the line of Arkansas?
 A Cottonwood is in Sequoyah.
 Q You know it is not but a little piece from the line of Arkansas don't you? A Like of the river?
 Q No, line of the State? A I don't know where that is.
 Q You never have been in Arkansas have you? A I have been to Ft. Smith.
 Q About how old were you when you come back to the Cherokee Nation after the war? A 15 I believe.
 Q Where were you living when you married? A Living in Sequoyah.
 Q What place in Sequoyah were you livin? A There where I am living yet.
 Q On whose place was that? A I live on my father's place.
 Q What is your father's name? A Henry West. Henry Mayfield, was his name in slavery.
 Q Who lives near you there and who did live near you when you located there after the war? A Cherokee named Crying Bear lived there when we first built the place.
 Q Anyone else living there? A Marion Johnson and uncle Tom Ragsdale and Billy Sanders and his wife.
 Q How far is Cottonwood from where Muldrow is now? A 4 or 5 miles, I reckon.
 Q How far do you live from John Gunter, or do you know?
 A 10 or 12 miles.
 Q How far do you live from Dave Fortner, you know him? A Yes, sir, I don't know how far I live from him.
 Q Your father living? A No, sir.
 Q Your mother living? A No, sir.
 Q When did your mother die? A She has been dead 9, or 8 years.
 Q When did your father die? A I don't remember how long; he died since my mother died.
 BY COM'R NEEDLES: You say your husband is not living?
 A No, sir.
 Q You are a widow now are you? A Yes, sir. He and Houston West is brothers and sisters.
 Q Did you come at the same time as Houston West? A Yes, sir.
 Q Was Houston West born in Texas? A No, sir.
 Q Are you older than Houston? A Yes, sir.

Here-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified on page 111, #2779, Nancy Starr, (No district.)

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 118, #2912, Nancy Starr, Sequoyah district.

1860 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

COMMISSIONER'S RECOMMENDATION: Nancy Starr applies for the enrollment of herself; she cannot be identified upon the authenticated roll of 1860 or the census roll of 1896; she is identified upon the Kern-Clifton Pay roll and the Wallace roll, according to page and number of the rolls as indicated in the testimony; she avers that she was a slave of Walk Mayfield, and Jane Mayfield; she avers that she was born in the State of Texas she is a sister of Houston West, who was listed for enrollment as a Cherokee freedman on D card 989, and the testimony taken in the application of said Houston West for his own enrollment will be made a part of the record in the case at bar, and a copy thereof will be filed herewith; as to her residence, reference is made to the testimony; she will now be listed for enrollment as a Cherokee freedman on a doubtful card, and will be notified by the Commission at her post-office address by mail of its decision.

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 July 15, 1901.
(Signed) T. B. Needles,
Commissioner.

---0000 00000---

J. C. Reason, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript in the above case.

J. C. Reason

Subscribed and sworn to before me this September 7th, 1901.

[Handwritten Signature]

Commissioner.

DEPARTMENT OF THE TREASURY
COMMISSION TO THE FIVE COUNTRIES

FILED

SEP 23 1901

File with O. J. D.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 1st, 1901.

In the matter of the application of Houston West for the enrollment of himself and five children as Cherokee Freedmen, he being sworn by Commissioner T. B. Hood, as follows:-

- Q What is your name? A Houston West.
Q What is your age? A 47.
Q What is your present office address? A Muldrow, I. T.
Q In what district do you live? A Sequoyah district.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to have enrolled besides yourself? A Five children.
Q What are their names? A Ida West.
Q How old? A 19 years.
Q Next? A Fanny.
Q How old? A 17 years.
Q Next? A Fannie.
Q How old? A 15.
Q Next? A Georgia.
Q How old? A 13.
Q Next? A William.
Q How old? A 9 years.
Q Is your name on any roll of the Cherokee Nation? A Yes sir the Kern and Wallace rolls.
Q Are you married? A I have been, am not now.
Q Is your wife living? A The mother of these children is not living.
Q What was her name? A Lizzie Albert when I married her.
Q When were you married to her? A In '79.
Q Has your name been noted on the roll of 1880? A I have always tried to get it on.
Q You have failed though? A Yes sir.
Q Is your wife a citizen? A Yes sir.
Yarn Blifton roll examined and the name of the applicants found as follows:-
Page 111, No. 1765, Houston West, Illinois District.
Page 111, No. 2765, Ida West, "
Page 111, No. 2766, Fanny West, "
Page 111, No. 2767, Fannie West, "
Page 111, No. 2768, Georgia West, "
Page 111, No. 2770, William West, "
Wallace roll examined and the name of the applicant found as follows:-
Page 147, No. 3063 Houston West, Sequoyah District.
Page 147, No. 3062 Ida West, "
Q Were you a slave? A Yes sir.
Q What did you belong to? A Walk Hayfield.
Q Was he a Cherokee citizen? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A Texas.
Q When did you return? A In '60.
Q What time in '60? A It was in the winter.
Q Were you married then? A No sir.
Q How long did you live in the Cherokee Nation continuously since then? A Yes sir.
Q Where were these children born? A Yes sir.
Q And have they lived here all the time? A Yes sir.
Q How do you prove your marriage? A Yes sir Lizzie Albert.
Q Is a negro spirit? A Yes sir.
By L. B. Hall, Cherokee Representative.
Q Is that your father? A Houston West.
Q And your mother? A Fanny.

Q And you belonged to the "Harris Roll" Yes sir.
Q Where were you living when this war commenced? A On the old plantation place in Seagovub.

Q When did you go to Texas? A The second year of the war.
Q Where did you stop at there? A At the old "Spyt" old place near Bellville, Texas.

Q Did your father want to talk "Harris" at the beginning of the war? A Yes sir.

Q When did your return home? A In '60.
Q Who with? A Walk Mayfield and his family.

Q What was his wife's name? A Jane Jackson before he married her.
Q What ever became of your father? A Died.

Q Is your mother alive? A No sir.
Q Just you and Walk's family came together? A That is all.

By the Commission-
Q What did your father die? A In '73 or '4.
Q When did your mother die? A She died before he did.
Q Your father and mother are not on the roll of 1860? A No sir but I have a sister on the 1860 roll.

Q What is her name? A Mary Whitman.
Q Is she married now? A Yes sir.
Q Did she go to Texas with you? A Yes sir.

Q And did she return with you? A Yes sir.
The 1860 authenticated roll of the Cherokee Nation examined and the name of the applicant's sister found as follows-
Page 728 No. 1399, Mary Whitman, Sequoyia District

Q You say this is your full sister? A Yes sir.
Q Same father and mother? A Yes sir.

Harrison Foreman called and sworn as a witness for the applicant:

Q What is your name? A Harrison Foreman.
Q What is your age? A 48
Q What is your post-office address? A Catossa.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q A Freedman? A Yes sir.
Q Do you know the applicant? A Yes sir.

Q How long have you known him? A Since the war.
Q Was he a slave? A Yes sir that is what I hear.
Q When did you first see the applicant after the war? A I can't be positive as to the exact time, in '66 I believe.

Q Where? A I was the ferryman at Fort Smith and I ferried him over the river.
Q Who was with him? A Walk Mayfield and his family and the applicant's father and mother.

Q And you think it was in '66? A Yes sir.
Q Has he lived in the Cherokee Nation since '66? A Yes sir.

By call-
Q What time of the year was that? A I don't know if it was in November or December, but along there.
Q Walk Mayfield was his former owner? A Yes sir.

Q Is Walk living? A No sir.
Dennis Bean called and sworn as a witness for the applicant:

Q What is your name? A Dennis Bean.
Q What is your age? A 42.
Q What is your post-office address? A Kaskaw.

Q Are you a Cherokee freedman? A Yes sir.
Q Do you know the applicant? A Yes sir.
Q How long have you known him? A Ever since-- I think it was the fall of '66.

Q Was he a slave? A Yes sir.
Q Who owned him? A Walk Mayfield.
Q Did this applicant go out earlier in the war? A I guess they did.
Q When did you first see them after the war? They was coming through making their way up by where I lived in '66. I lived on the

Q Was this applicant then? A Yes sir and mother and
 two sisters I think a new name Tom Harnage and a woman named Agric
 and Day West.
 Q Was Walk married with him? A Yes sir that was his own
 Q Was this applicant lived here ever since? A Yes sir.
 Q Where were you living then? A On this side of the river on the
 place that belonged to Menerva Th. rated. The house is paved in now.
 Q Was that the old George Johnson house? A No sir that was below us
 Commission
 Q You are positive that you or court as to these dates? Yes sir
 Q What circumstances make you think it was in '66? A Because they
 was all harping about the '66 treaty men.
 Albert Johnson called me to be a witness for the applicant
 Q What is your name? A Albert Johnson.
 Q What is your post office address? A Benca.
 Q What is your age? A 43.
 Q Do you know the applicant? A I do.
 Q How long have you known him? A Ever since I was a boy.
 Q Was he a slave? A I guess he was, he was with Walk Marshall.
 Q Did he get out of the Cherokee Nation during the war? A Must have
 he came back.
 Q How do you know he came back? A Moved on the Lilly Starr place
 in the fall of '68.
 Q Where is that? A This side of the Arkansas River.
 Q Who was with him? A His mother and father.
 Q How you know this ever since that time? A Yes sir.
 Q You are sure that it was in '66? A As my mother serves
 me it was '66.
 Q You was in the Cherokee Nation? A Yes sir
 Q Who was with him, was Walk Marshall with him? A Yes sir
 Q Was Walk Marshall a Cherokee citizen? A Said to be.
 Q Do you know this applicant's wife? A Yes sir.
 Q Do you know they were married? A Yes sir.
 Q Was you there when they married? A Yes sir.
 Q And saw them married? A Yes sir.
 Q What was her name when she married him? A I don't know now.
 Q Where were they married? A At the Fox place.
 Q Have they lived together since then continuously as man and
 wife? A Yes sir.
 Q And raised a family? A Yes sir.
 Q How many children? A Five children.

He then West applied for himself and five child-
 ren, Ida, Nancy, Fannie, Georgia and William West. He cannot be
 identified on the authenticated roll of 1880 of the census roll of
 1868; He is identified on the Fern Clayton roll and the Wallace roll
 according to the page and number of the rolls as indicated in the
 testimony; he swore that he was the slave of W. H. Marshall, that he
 was taken out of the Cherokee Nation during the war and returned in
 1866 with his master Walk Marshall, and offers evidence to establish
 that fact. He makes a satisfactory proof of his marriage to Elsie Al-
 bert now deceased, who is the mother of his children; all of his
 children are identified on the Fern Clayton roll. He swears that he is
 the full brother of Jerry Whitacre, they having the same father and
 mother; he is now married and enrolled on the authenticated roll
 of 1880. He swears that she returned to the Cherokee Nation with him
 at the same time as his father and mother and the balance of the
 family; the evidence so far presented is sufficient to justify the
 Commission in enrolling the said Houston West and his five children
 as free citizens, as the rolls establish, but give copies of the Cherokee Na-

Chas. W. Weir, being sworn by the said stenographer to the
mission to the Five Civilized Tribes he reported in full all the pro-
ceedings in the above case and that the foregoing is a full, true
and correct transcript of his stenographic notes therein

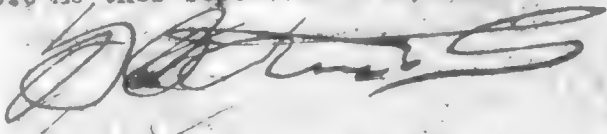
(signed) Chas. W. Weir.
Subscribed and sworn to before me this 15th of July, 1901.

(signed) T. B. Needles,
Commissioner.

W. D. Green, being first duly sworn, states that as stenographer to the
Commission to the Five Civilized Tribes he made the foregoing copy
and that same is a true and complete copy of the original transcript

W. D. Green

Subscribed and sworn to before me this September 17th, 1901.



Commissioner.

WITTE

CONFIDENTIAL

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. 1901.

Given under my hand this
day A. D. 1901.

Marshal for Cherokee Nation

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the
day of , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

NOTICE!

IN THE MATTER OF The application of Charles Mayfield,
for enrollment as a Cherokee Freedman:

Case No. F. D. 1901

To Charles Mayfield, Pawpaw 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 Freedman ~~before the United States Commission to the Five Civilized Tribes in the town of~~
Indian Territory, on the following dates, to-wit: September 4th

A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this .. day AUG 25 1901, 1901.

W. W. Hastings
J. S. Davidson
Attorneys for the Cherokee Nation.

INDIAN TERRITORY,
CHEROKEE NATION

I hereby certify that I served the within notice on *Charles*

Mayfield

by delivering a true copy thereof on the *5th* day of *Sept* A. D. 1901

Given under my hand this *5th* day *Sept* A. D. 1901

John P. ...
Marshal for Cherokee Nation

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the _____ day of _____ 1901

Attorney for applicant

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT

I do solemnly swear that I delivered a true copy of the within notice to

on the _____ day of _____ A. D. 1901

Subscribed and sworn to before me this _____ day of _____ A. D. 1901

NOTICE!

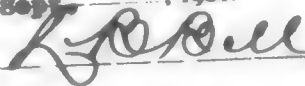
IN THE MATTER OF The application of Charles Mayfield,
for enrollment as a Cherokee Freedman:

Case No. F. D. 1001

To Charles Mayfield, Pawnee 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 Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Pt Gibson Indian Territory, on the following dates, to-wit: September 18th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 5th day of Sept, 1901.



Attorneys for the Cherokee Nation.

Cher Fr D 1002

Cher Fr D 1002

To be filed with case of Eli Archer, D.N. D. 1862.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 27th, 1901.

In the matter of the application of Thomas Archer for the enrollment of himself and wife as Cherokee Freedmen, he having been first duly sworn by Commissioner T. H. Needles, testified as follows:

James Savenport, Cherokee representative;
Kellotte & Smith, attorneys for the applicants.

- By Com'r Needles: What is your name? A Thomas Archer.
Q How old are you? A I am about 50 years old.
Q What is your post office address? A Lenapah.
Q In what district do you live? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who else do you desire to have enrolled besides yourself?
A Myself and wife.
Q What is your wife's name? A Georgeann Archer.
Q How old is she? A About 38 years old.
By Mr. Smith, of Counsel for applicant:
Q How old are you? A About 50 years old I guess.
Q Were you born a slave? A Yes, sir.
Q Who did you belong to? A Mrs. Archer.
Q Was she a citizen of the Cherokee Nation? A Yes, sir.
Q A Cherokee Indian? A Yes, sir.
Q Where did you live before the war? A In Saline district.
Q Where were you living when the war commenced? A Living at Mrs. Archer's, in Saline district, at Spring Cree Prairie in the Cherokee Nation.
Q Were you taken out of the Cherokee Nation during the war?
A Yes, sir.
Q Where to? A Fort Scott, Kansas.
Q When did you get back after the war? A In '66.
Q What time in '66? A Long in the fall like.
Q Where did you come to in the Cherokee Nation then? A Fort Gibson.
Q How long did you stay there? A Until '67.
Q Where did you go then? A Went to the salt works on the west side of Grand river.
Q In the Cherokee nation? A Yes, sir, the Bryant's salt works, or the Alberty's.
Q Where did you go then? A To Tahlequah.
Q Where do you live now? A In Coowescoowee Bend on the Verdigris.
Q How long have you lived there? A 25 years.
Q Are you on any of the rolls of the Cherokee Nation? A Yes, sir.
Q What rolls? A The Wallace and Kern Clifton rolls.

The Kern-Clifton roll of citizens of the Cherokee Nation examined and the name of the applicant found as follows thereon, page 145, No. 3604, Thomas Archer, Coowescoowee district.

The Wallace roll of citizens of the Cherokee Nation examined and the name of the applicant identified thereon as follows: page 186, No. 3446, Thomas Archer. (District not given.)

The 1860 Authenticated roll of citizens of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1866 census - all of citizens of the Cherokee Nation examined and the name of the applicant not found thereon. The name of the applicant's wife not found on any of the rolls of the Cherokee Nation in the possession of this Commission.

By Mr. Dayneport: You claim to have belonged to Mrs. Archer?

A Yes, sir.

Q Where did you live when the war broke out? A In Saline district.

Q On the Archer place there? A Yes, sir.

Q And you went to Kansas during the war? A Yes, sir.

Q Who with? A I can't tell you that, a whole lot of them darkeys.

Q How old were you then? A I don't know.

Q Were you grown? A I reckon.

Q What family did Mrs. Archer have at that time? A There was

Leu, Ada Carrie, Mary that's Major Lie's wife, she is the eldest.

Q Was Carrie the youngest one of the family? A I think it was Carrie.

Q Mrs. Archer had four children that were born before the war did she? A Yes, sir, four, and one born since.

Q Was Carrie born before you went out of the Territory? A I don't know if it was Carrie or not, the three eldest ones I know were.

Q Where did you go when you came back to the Territory? A To Fort Gibson.

Q Who came back with you when you went to Fort Gibson? A Went by myself.

Q Did you walk? A No, sir.

Q Where did you go there, on what place did you stay? A On the old Shaw place.

Q Who lived there? A An old woman that used to belong to Mrs. Ore.

Q How long did you stay there? A Staid there until '67.

Q Where did you go when you left there? A Fort Gibson.

Q I thought you said you went to Fort Gibson first? A I went to the Shaw place first and then went to Fort Gibson.

Q What direction is that place from Fort Gibson? A West between the Grand and Verdigris rivers.

Q Then where did you go? A Went from there up on Spring creek.

Q Who was running the stores in Fort Gibson when you got there? A Jess Bushyhead.

Q Who did you know there besides that? A I don't know who all, I met some there, but I didn't know many as I was never there before.

Q And you went there by yourself from Kansas? A Yes, sir.

Q How old was you when you came back to the Cherokee Nation after the war? A I don't know.

Q Was you grown when you came back? A I had been a soldier in the army.

Q Had you been mustered out before coming back? A Yes, sir.

Q What outfit did you belong to? A Company "H" 79 U.S.

Q Where were you mustered out? A In Arkansas.

Q Where did you get your discharge? A In leave worth.

Q Well after you left the Shaw place where did you go—I mean after you left Fort Gibson? A To Spring creek.

Q Did you ever go back to Mrs. Archer's? A Yes, sir, in the spring of '67.

Q Was she living in Saline district then? A Yes, sir.

Q Where did you go from there? A I went to the Liberty or Bryant salt works from there.

Q Where have you been living since? A I have lived on the Verdigris and knocked around to a good many places were I has been working.

Q Where were you married? A In Kansas.

Q What year was your married? A The year after I was mustered out.

Q What year? A '65, a week before Christmas, just took my Christmas present so to speak.

Q Then did you bring your family to the Cherokee Nation?

A I didn't have any family, I brought my wife with me.

Q Who else came along? A No one, just me and my wife.
Q How did you come? A In wagons.
Q Where did you cross the Neosho river? A On the Military road.
Q At what point? A I can't tell.
Q Where did you cross the Grand river? A We ferried it.
Q Did you see Clem Rogers in Fort Gibson? A He was on Canadian river then.

Q How do you know? A He came there in '67 and took the lick from us.

Q Did you see Houston Rogers about that time? A I saw him on Spring creek in '67.

Q Did you see Jake Lips in Fort Gibson then? A I didn't know him then.

BY MR. SMITH: What was it you said about Clem Rogers taking a lick from you? A He came there and took it from Lieutenant McCullough or something like that.

Q Took what? A The salt lick, the works where they made salt.

BY MR. W.V. HASTINGS, (Cherokee Representative.)
Q Did he take it the next year after you came back? A He taken he the year I was there.

Q Was that the next year after you came back? A It was in '67.

Q What time of the year? A In July.

Q You had returned in the fall of the year before had you?

A I came from Kansas in '66.

Q When was this salt works taken, you said in July now with reference to the time you went there, when was it taken? A I went there in February and went to work and got my feet burned, stepped in a salt pan,--

Q Well, we don't care about all that, when was it taken from the men that had it in charge when you worked there? A In July, '67.

Q Was Col. Bryant there then? A He came there and helped take it in July.

BY MR. SMITH: Where were you during the war? A In the United States service.

Q When were you mustered out you came back did you? A Yes, s r, I came here in '66.

Q Were you here any time in before that? A Yes, s r, I was mostly in Fort Gibson in '63.

Q Where were you in in '67? A I told you I worked in the salt works from prebruary until July of '67.

BY MR. DAVENPORT: You hadn't been back to the Territory more than a year when they came and taken the salt lick from you? A I hadn't left the Territory, that is I was all over the Territory during the war.

Q Well after the time you were mustered out and came back to the Cherokee nation in '66 you had not been here more than a year before they taken the lick from you? A Yes, sir.

Q You came back one fall and the following July they taken the lick from you? A Yes, sir.

BY SMITH: Is your wife a state woman? A No, sir, she belonged to Joe Martin.

Q Was he a Cherokee Indian? A Yes, sir.

Q Where was she living when the war broke out? A On Fryer creek

Q When did you marry her? A In '63.

Q Where? A In Lawrence, Kansas.

Q When did she come back here? A With me.

Q In the fall of '66? A Yes, sir.

Q Was she with you through all these moves you mentioned?

A Yes, sir, but that woman is dead now.

Q You married again did you? A Yes, sir.

Q Where were you married your present wife? A In Chickasaw land

Q Did you have a license? No, sir.

Q Who married you? A Joe Smith.

Q Where is he? A He is here.
Q What year did you marry her? A I married her 15 years ago.

GEORGE VANN, called and sworn by Commissioner T. B. Needles, as a witness for the applicant, testified as follows:
By Smith: What is your name? A George Vann.

Q What is your age? A 51.
Q Where do you reside? A East of Lenapeh in Coowescoowee district, Cherokee Nation.
Q How long have you lived here? A All my life.
Q Do you know this applicant? A Yes, sir.
Q Did you know him before the war? A Yes, sir.
Q Was he a slave? A Yes, sir.
Q Who owned him? A Pells Archer.
Q Was she a Cherokee Indian? A Yes, sir.
Q A recognized citizen of the Cherokee Nation? A Yes, sir.
Q Where was Tom Archer at the time the war broke out?
A With Mrs. Archer on her place.
Q Where was that? A In saline district.
Q In the Cherokee Nation?
Q Did you yourself go out of the Cherokee Nation during the war?
A Yes, sir.
Q After you went out were you ever back here until you came back after the war closed? A I went out in '64 and got back in '66.
Q When did you first see this applicant in the Cherokee Nation after the war? A Just before Christmas at Fort Gibson.
Q What year? A '66.
Q In the Cherokee Nation? A Yes, sir.
Q How many times did you see him there? A Once.
Q When was the next time you saw him? A I seed him in July after that Christmas on Spring Creek, he came to where I was living.
Q The following year? A Yes, sir.
Q How many times did you see him after that? A Seed him several times.
Q How far was that from the salt works? A 20 miles.
Q Did you ever go up to the salt works? A I didn't go there right at that time.
Q Do you know of your own knowledge that he worked at the salt works? A He worked there some time for a man named Mc Callough.
Q Do you know when? A No, sir.
BY DAVIDPORT: How old were you when the war broke out?
A I don't know, Clem Rogers kept my age.
Q Were you gorns then? A No, sir.
Q How far from Mrs. Archer's did you live when the war broke out?
A 10 miles.
Q How old was you then? A I don't know.
Q Was he bigger or smaller than you? A About the same size.
Q Do you know where Tom went during the war? A He was a soldier.
Q You knew that? A Yes, sir, I seed him in soldiers clothes when he come back.
Q Do you know where he was mustered out? A Leavenworth.
Q Do you know that by your own knowledge? A No, sir.
Q Where has he lived since he returned? A I never seed him to know where he was living until '78.
Q How many times has he been married? A Twice I think.

DAVE FRENCH called and sworn as a witness for the applicant: By Smith:
Q What is your name? A Dave French.
Q What is your post office? A Lenapeh.
Q Do you know the applicant, Tom Archer? A Yes, sir.
Q How long have you known him? A A long time.
Q Before the war? A Yes, sir.

-3-

Q Was he a slave? A Yes, sir.
 Q Who did he belong to? A Follie Archer.
 Q Was she a Cherokee Indian? A Yes, sir.
 Q Lived in the Cherokee Nation then? A Yes, sir.
 Q Living here when the war commenced? A Yes, sir.
 Q Where was the applicant when the war commenced? A On Grand
 river.
 Q Where did he go during the war? A With the Soldiers, they was
 backwards and forwards.
 Q Did you see this man Tom Archer long about the time the war
 closed? A Yes, sir.
 Q When? A Christmas of '66.
 Q Where? A Fort Gibson.
 Q Cherokee Nation? A Yes, sir.
 Q How long did he stay there? A I left him there, I don't know
 how long he staid.
 Q Where did you next see him? A On grand river.
 Q When was that? A Sometime after that.
 Q Was it a year or two? A Wk'm't a year, 2 or 3 months.
 Q What was he doing there? A Working at the salt lick.
 Q You don't know how long he staid at the salt lick? A No, sir.
 Q Where is he living now? A Above me.
 Q How far? A 3 or 4 miles.
 Q How long has he lived there? A Long time.
 Q How many years? A I don't know exactly, I moved there 24
 years ago and he was there.
 Q Has he been there ever since? A Yes, sir.
 Q Do you know his present wife? A Yes, sir.
 Q Has he lived with her as her husband all that time?
 A I think so, I never heard of them parting.
 Q Do they live as husband and wife there now? A Yes, sir.
 Q Did you see them married? A No, sir.
 BY DAVENPORT: You remember distinctly that it was just
 before Christmas that you saw this applicant there at Fort Gibson?
 A Yes, sir, as near as I can come.
 Q You think it was '66? A I know it was.
 Q Who did you see there besides this applicant? A Lots of them.
 Q Did you see all the people that were there? A No I guess not.
 Q We'll name some of these you did see? A I saw several, I cannot
 call their names now.
 Q I only want you to tell some one name? A I can't think of the
 names now.
 Q You and George Vann have talked over this case haven't you and
 agreed as to what you were to testify to? A I haven't talked
 with George Vann at all.
 Q You have never talked with him? A No, sir, not about this
 case.
 Q Was he a grown man there? A Yes, sir.
 Q You saw his family there? A No, sir.
 Q Who was he living with? A Just there by himself when I saw him.
 Q You long did you see him there? A All that Christmas.
 Q How long was you there then? A I don't know.
 Q Did you see him a week? A Yes, sir, longer than that.
 Q What kept you there? A Just nothing.
 Q With whom were you staying? A I staid with Cinda Beck.
 Q With whom was Tom staying? A I don't know that he was staying
 with anyone.
 Q Where was his wife? A I don't recollect.

AGGIE LITTLE, called and sworn as a witness for the Appli-
 cant. By Smith:
 Q What is your name? A Aggie Little.
 Q What is your age? A 35.
 Q Where do you live? A 8 miles northwest of Leitch.

Q Do you know this applicant? A Yes, sir.
Q Know his wife? A Yes, sir.
Q What is her name? A Georgeann.
Q Were you present when he married her? A Yes, sir.
Q Where did they marry? A At my house.
Q Who married them? A Joe Smith, a preacher.
Q Have you known them to live together as man and wife ever since?
A Yes, sir.
Q How far do they live from you? A 7 or 8 miles.

BY THE COMMISSIONER (of Applicant)
Q Have you any children by Georgeann? A No, sir.
Q Why is your name not on the 1880 roll? A I don't know.
Q Did you ever try to have it put there? A Yes, sir.
Q Did you ever apply to the Cherokee authorities? A Yes, sir.
Q Where? A Tahlequah.
Q Did you have any children by your first wife? A Just Eli and Rose that are living.

BY SMITH: Where were you married to your first wife?
A At Ottawa.
Q Did you get a license? A The Squire married us, didn't get no license in those days.
Q You brought that wife back with you? A Yes, sir.
Q What was her name before you married her? A Delsie Martin.
Q How long did you live with her? A Until she died.
Q When did she die? A In 1880?
Q Were these children born while you and she were living together?
A Yes, sir, the only ones I have.
Q Had you married before that? A No, sir.
Q Had she been married before that? A No, sir.

By Hastings: In as much as the applicant states that he was married in the state of Kansas, the presumption is that a record has been made of it, and I think that the representatives of the Cherokee Nation ought to object to the allowing of oral proof of this marriage because the better evidence would be the record if there is one.

By Smith: "He stated as a matter of fact that he didn't have a license."

BY COMMISSIONER OF APPLICANT:
Q When did you marry your wife in Kansas? A In '65.
Q Is she dead? A Yes, sir.

NELSON MURRELL, called and sworn as a witness for the applicant: BY SMITH:

Q What is your name? A Nelson Murrell.
Q Do you know this applicant? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q Is he married now? A Yes, sir.
Q What is his wife's name? A I can't think of her name now.
Q Is this the only wife he ever had? A No, sir, he had one before that.
Q What was her name? A I can't think of it.
Q Do you know this man's children? A Yes, sir.
Q What are their names? A Rosa and Eli.
Q Did you know their mother? A I was some acquainted with her, not much.
Q Do you know whether the mother of these children and this applicant were married or if they lived together as man and wife?
A They were living together as man and wife when I got acquainted with them.
Q When was that? A 20 years ago.
BY THE COMMISSIONER: Were these two children living with them?
A Yes, sir.

BY HASTINGS OF THE APPLICANT:

Q Who was your oldest child by your first wife? A Will.
 Q How old is he? A I don't know.
 Q Is he as much as 500 years old? A I know he ain't that old
 cause I would be 1000 then.
 Q Is he over 25? A He is over that.
 By Hastings: "Cherokee representatives ask for the enrollment
 of the applicants' oldest child."
 By Roll Clerk: "Given as 19 years of age, died after May 3rd,
 '94; dated October first, 1896."

By Hastings: "Comes now the representatives of the Cherokee Nation and moves that the applicant be required to produce documentary evidence and proof of his marriage, or to show that a license or record thereof was not required of him at the date of his marriage, or alleged marriage, in the State of Kansas."

By Com'r Needles: Thomas Archer applies for himself as a Cherokee freedman and for his wife as a Cherokee freedman by intermarriage. He avers and proves that he was a slave of one Mrs. Archer and went out of the Cherokee Nation as a United States soldier and returned to the Cherokee Nation in 1866 and has resided here ever since. He avers that he was first married in Kansas, but presents no documentary proof of said marriage, but presents satisfactory oral proof. He avers that he married his present wife after the death of his first wife about 16 years ago, and makes satisfactory proof of said marriage; he is identified on the Kern Clifton roll and the Wallace roll, but not on the authenticated roll of 1860 or the census roll of 1896. It will be necessary, if possible, for the applicant to produce documentary proof as to his first marriage, in order that the testimony may be used in the identification of his older children if they apply for enrollment. The testimony indicates to the mind of the Commission that the said Thomas Archer is entitled to be enrolled on a straight card, however, the Cherokee Nation protests against his enrollment at this time and he will be listed as a Cherokee freedman on a doubtful card, and his wife, as a Cherokee Freedman by intermarriage on a doubtful card. They will be notified by mail of the final decision of the Commission.

 Chas. von Weise being sworn states that as stenographer to 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.

(Signed) Chas. von Weise.

Subscribed and sworn to before me this the 11th of July, 1901.

(Signed) T. B. Needles,
 Commissioner.

---00000000---
 J. O. Rossen, being duly sworn, states that as stenographer to the Commission to the five civilized tribes he copied the foregoing and that same is a true and complete copy of the original.

Subscribed and sworn to before me this September 9, 1901.

J. O. Rossen
MB
 Commissioner.

12

3D100V

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUL 27 1907

[Handwritten signature]
SPECIAL AGENT IN CHARGE

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Eli Archey for enrollment as a Cherokee Freedman; said Archey being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Eli Archey.
Q How old are you, Mr. Archey? A About 25.
Q Post office address? A Lupton.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Just myself.
Q What is your father's name? A Thomas Archey.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Dilsa Archey.
Q Is she living? A No, sir, she is dead.
Q Is your father a citizen? A Yes, sir.
Q Has he been enrolled here? A Yes, sir.
Q Do you claim your citizenship through him? A Yes, sir.
Q Are you married? A I have been married I ain't married now.
Q Where were you born? A Cherokee Nation.
Q Is your name on any of the rolls of the Cherokee Nation?
A On the Wallace roll and Kerns Roll.

The 1880 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 148, #3606, Eli Archie, Coowescoowee District.

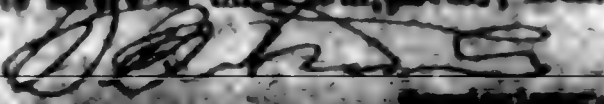
The Wallace roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 188, #3448, Eli Archer, no district given.

- Q Have you lived in the Cherokee Nation all your life? A Yes, sir.
Q Never lived out of it? A No, sir.
Q Has your father's citizenship been proven up? A Yes, sir.
Q You think your citizenship will follow your father's then?
A Yes, sir.
Q Are you a farmer? A Yes, sir.

COM'R NEEDLES: Eli Archey applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or census roll of 1896. He is identified upon the Kern-Clifton and Wallace rolls according to the page and number of the rolls as indicated in the testimony. He makes satisfactory proof as to residence, and avers that he is the child of Thomas Archey, who has been listed for enrollment upon doubtful card #901, and claims his citizenship through his father, and that his testimony taken in the matter of the application of Thomas Archey will be made part of the record in that case at bar and copy thereof filed herewith. Said Eli Archey will now be listed for enrollment as a Cherokee freedman upon a doubtful card. He will be notified at his post office address when the decision of the Commission is arrived at.

J. O. Rossan, being first duly sworn, it aids 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 1st day of July, 1901.


Commissioner

THE CHEROKEE NATION
1920

TO THE CHIEF OF BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C.

FROM THE CHIEF OF THE CHEROKEE NATION
CHEROKEE NATION

RE: [Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

RECEIVED AT THE CHIEF OF BUREAU OF INDIAN AFFAIRS

OCT 13 1920

RECEIVED AT THE CHIEF OF BUREAU OF INDIAN AFFAIRS

OCT 13 1920

(1920-1921)

1920-1921

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 15th 1901.

In the matter of the application of Thomas Archer, C. F. N. 901.

Appearances:
James S. Davenport for the Cherokee Nation;
Mellette Smith for the applicants;

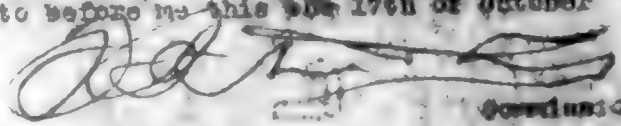
CLEM V. ROGERS, being first duly sworn by Genl. T. B. Needles,
testified as follows on the part of the Cherokee Nation:

- (By Davenport)
- Q What is your name? A Clem V. Rogers.
- Q Where do you live? A Claremore.
- Q What is your age? A 63.
- Q How long have you lived in the Cherokee Nation? A All my life except during the war.
- Q Do you know the applicant Thomas Archer? A Yes sir.
- Q How long have you known him? A Since '60.
- Q Where was he when you first saw him to know him? A Coweeseowee district.
- Q Where were you in '67? A Fort Gibson.
- Q Did you have anything to do with the Roger's Salt Works on Grand river in '67? A No sir.
- Q Did you go there yourself or with anyone else in '67 and take them away from Thomas Archer or any other person? A No sir, in '67 I was freighting.
- Q Did you ever drive him or any one else away from there? A No sir.
- (By Mr. Smith)
- Q There are several gentlemen that are Cherokee citizens by your name are there not? A Yes sir.
- Q It is a right prominent name in the history of the Cherokee Nation? A Yes sir.
- Q If Thomas Archer testified that you took the salt works away from him he was mistaken about that? A Yes sir.
- Q You dont know when he came back? A No sir.
- Q Did you know him before the war? A I dont know that I did.
- (By Davenport)
- Q There was only one Clem Rogers in the Cherokee Nation in '67 that was a grown man? A I didn't know of any other at that time, there is several now.

=====
This will be filed in Cherokee Freedmen cases, D-901; D-1002; D-485;
D-486; D-487; D-488; D-489; D-490; D-491; D-828; D-850; D-864;
and D-868.

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 17th of October 1901.

Chas. von Weise

Stenographer.

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 23rd, 1901.

Supplemental testimony in the matter of the application of David
Martin C. F. D. 486.

APPEARANCES:

Chas. S. Davenport for the Cherokee Nation.
Mellette & Smith for the applicants'

By Mr. Davenport: I have the honor to call to the attention of the Commission, the following as follows on the part of the Cherokee Nation:

Q What is your name? A H. G. Hartford.

Q Where do you live? A Ottawa, Franklin County, Kansas.

Q How old are you? A 44.

Q How long have you lived in Ottawa, Kansas? Since 1865.

Q Since you have been living in Ottawa, Kansas, did you become acquainted with a colored man named David Martin? A Yes sir.

Q When did you become acquainted with him? A In the summer of '67.

Q Have you seen the gentleman since you came down here? A Yes sir, I met him on the street.

Q How long after you became acquainted with him did David Martin reside at Ottawa or near there, or about how long? A David Martin lived at Ottawa and left there about 81 years ago, 20, or 21 years ago, and from the time he came there he was there off and on all the time. I missed him for a while and saw him for a while, he would be gone a good deal, but I don't know how long.

Q Did he come to Ottawa recently? A Yes sir.

Q You say you met him this morning? A Yes sir.

Q Did you recognize him as the David Martin that you knew up there? A Yes sir, I did.

Q Did he recognize you? A He didn't for a while, after he studied he finally made up his mind who I was.

(By Smith)

Q What time did you first know David Martin? A To the best of my knowledge it was in '67; I got acquainted with David Martin when I had been there a couple of years.

Q How old were you then? A I guess I was about 11 years old.

Q How old was David Martin then? A I don't know.

Q Was he a man? A Yes sir, he was a man grown when he came there.

Q You are not sure as to the year you met him in? A I can't positively swear as to the year, I know he came there about a year and a half or two years after I came.

Q That is as long as you can remember after that length of time? A Yes sir.

Q You say he was there part of the time and the other part of the time you missed him? A Yes sir, probably I would see David Martin every couple of months or so.

Q You didn't see his family? A Yes sir.

Q Where? A In Ottawa there, I knew one of his daughters, the oldest one.

This will be filed in the original case and also in C. F. D. 485 and the sub-references thereto.

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 case and that the foregoing is a true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 24th of October, 1901.

(Signature)
Commissioner.

Department of the Interior
 Commission to the Five Civilized Tribes.
 Muskogee, I. T., February 18, 1902.

In the matter of the application of Thomas Archer, for the enrollment of himself and wife as Cherokee Freedmen:

Appearances:

McIlletta & Smith, Vinita, I. T., for applicants;
 James S. Davenport, attorney for Cherokee Nation.

TESTIMONY IN BEHALF OF CHEROKEE NATION.

HAYWOOD ROWE, being sworn and examined, testified as follows:

Examined by James S. Davenport:

- Q What is your name ? A Haywood Rowe.
 Q Where do you live ? A In the Cherokee Nation, Cooweescoowee District.
 Q What is your post office ? A Tallula.
 Q How long have you lived in the Cherokee Nation ?
 A I was raised here.
 Q How long have you lived in the Cooweescoowee District ?
 A About 25 years.
 Q Do you know a colored man by the name of Thomas Archer ?
 A Yes sir.
 Q How long have you known him ? A I have known him for 20 years, I guess.
 Q Where were you when you first got acquainted with him ?
 A At Glen Rogers.
 Q In what district ? A Cooweescoowee District.
 Q Where was Thomas Archer living at that time ? A Coffeyville.
 Q About how long has that been ? A Over 20 years.
 Q When you say Coffeyville, what do you mean ?
 A Coffeyville, Kansas.
 Q About how long did he live there after you got acquainted with him ? A I don't know just how long.
 Q Did he have a family at that time ? A Yes sir.
 Q Do you know whether he had any children ? A Yes sir, I think he had one or two.
 Q He had a wife ? A Yes sir.
 Q Do you know whether that wife is living ? A No she's dead.
 Q Where were they living ? A Coffeyville.
 Q Coffeyville, Kansas, you mean ? A Yes sir.
 Q About how long did he live in Coffeyville, Kansas, after you got acquainted with him; did he remove to the Cherokee Nation ?
 A I don't remember; he lived there quite a while.
 Q He lives now somewhere in the Cherokee Nation ? A Yes sir.
 Q Has he married the second time ? A Yes sir, I think he married old Mrs. Little's daughter.
 Q What is Little's first name ? A I know the name, but am not well acquainted—
 Q Was it Grandison Little ? A Yes sir.
 Q The one that lived near Lempah ? A Yes sir.
 Q You never knew Tom Archer until after he removed from the Cooweescoowee District ? A Yes sir.
 Q When you first knew him he was living in Coffeyville, Kansas ?
 A Yes sir.
 Q Was he keeping board there ? A Yes sir.
 Q He lived there until after his wife died ? A Yes sir.
 Q Do you remember her name ? A Think her name was Alice.
 Q Where was she buried ? A Coffeyville, Kansas.

Examined by Mr. Smith:

- Q How old are you now? A Close to 45 years old.
 Q How long have you lived in the Cherokee Nation?
 A Was born and raised in the Cherokee Nation.
 Q You don't remember the commencement of the war? A No sir.
 Q You don't have any recollection, or you don't know whether this applicant, Thomas Archer, was a soldier in the service of the United States during the war? A Don't know anything about it.
 Q You don't know where he was in 1875? A No sir.
 Q You don't know when or where he was mustered out of the service?
 A No sir.
 Q Have no recollection of the man following the year of the war; 1866? A No sir.
 Q You don't know where Thomas Archer was until you got acquainted with him 20 years ago? A No sir.
 Q How far is Coffeyville, Kansas, from the Indian Territory line?
 A They call it two miles; right along there.
 Q A good many of the people who live in Coffeyville have farms in the Indian Territory do they not?
 A Yes sir.
 Q You say you think Archer had some children; how old were they when they were living in Coffeyville?
 A I don't know how old they were; they were small children.
 Q Do you know how many he had? A It seems to me there were 2.
 Q Don't you know he had a farm and worked in the Cherokee Nation during the time he lived in Coffeyville? A No sir.
 Q You don't know that he didn't have? A No sir, don't know that he didn't have.
 Q Is that all you know about this matter? A Yes sir, that's all I know about it.

(The rolls of 1880 and of 1896 examined and names of applicants do not appear thereon)

The Commission: This testimony will be filed and made a part of the record in the following Cherokee Freedmen cases:
 D 1002; D 485; and the present 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 20 day of February, 1902

[Signature]
 Commissioner.

MOTION

For Review of Decision of
Commission denying the
application for enroll-
ment as Cherokee Freedmen
of

BLUE & BULGER,
Attorneys for Applicants.

McGOWAN & SERVEN,
Of Counsel.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Eli Archer, et al'

1002

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 26, 1866.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this _____ day of _____, 1906.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

Cher fr D 1003

Cher fr D 1003

12

30103

COMMISSIONER OF THE
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C.
FILED
JUL 20 1907

[Handwritten signature]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CHEROKEE TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Louis Hayes for the enrollment of himself as a Cherokee Freedman; said Hayes being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Louis Hayes.
Q How old are you? A 24.
Q What is your post office address? A Coffeyville.
Q What district do you live in? A Coconococoo.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A No one.
Q Is your name on the roll of 1860? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation? A Yes, sir.
Q What roll? A I suppose it is on the Kern-Clifton.
Q What is your father's name? A Brady.
Q What is your mother's name? A Phillis Hayes.
Q Do you claim through her? A Yes, sir.
Q She has been here, has she? A Yes, sir.

The 1860 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of freedmen of the Cherokee Nation examined and name of applicant found thereon, page 173, #4243, Louis Hayes, Coconococoo.

Q How long have you lived in the Cherokee Nation, Lewis?
A Ever since I can remember.
Q Living here now? A Yes, sir.
Q Are you married? A No, sir.
Q Been married haven't you? A No, sir.
Q Are you a farmer? A Yes, sir.
BY MR. J. B. DAHERPORT: Cherokee representative witness:
Q Where do you live now, Lewis? A Timbered Hill.
Q Which Timbered Hill, the one in Delaware District or Coconococoo-
wee district? A Coconococoo.
Q How far do you live from Granville Craig? A I don't know.
Q Where is the Timbered Hill you live now? A Right up here,
(indicating.)
Q How far do you live from Mr. Shall Hays? A Three miles.
Q How long have you been living there? A Three years.
Q Where did you go from to that place? A We was there by Frank
Looney's place.
Q Where did you go from to Frank Looney's place? A I had been
living down there at Mill Seat.
Q What stream? A Verdigris.
Q Have you lived in the Cherokee Nation all your life?
A No, sir.
Q Have you lived in Kansas? A No, sir.
Q You said you had lived in here off and on; what part have you
lived off and what part on? A I have lived here all the time.
Q Have you stayed away any at a time? A I was down to Vinita
and Muskogee.
Q How long did you stay down to Forest Smith when you were down that?
A I never was down there.
Q How long did you stay in Kan now? A About two weeks or such a
matter.
BY MR. DAHERPORT:
Q Have you a farm here in the Cherokee Nation? A Yes, sir.
Q Are you married? A No, sir.
Q Never been married? A No, sir.
BY MR. DAHERPORT:
Q Where from does that farm you own join? A Joins the old Ste-
vens place.
Q That is the Mill Stevens place? A I don't know.
Q Well, it is the same place that Joe Lewis now owns?
A Yes, sir.

Lewis Hayes, -2.

- Q How, how long have you owned that farm? A My brother owns it.
Q Why did you swear the Commissioners that you owned a farm there?
A I have a claim.
Q Have you really got any farm in the Cherokee Nation?
A I have got a claim.
Q Does that claim of your join the Bill Stevens place?
A No, I don't know as it does.
Q Well, whose farm does it lay next to? A Ervin's.
Q How long have you owned that farm? A About a year.
Q What is on it? A A little house and a tent.
Q Did you put it there? A Yes, sir.
Q It was when you came from Kansas you put up that house?
A No, sir.
Q How long had you been down there when you put up that house?
A About three years.
Q Is anybody here knows that you have got that farm up there?
A Yes, sir.

BY COM'R KEEDLES:

- Q You lived in Kansas the last three years? A No, sir, I never lived in Kansas as my home.
Q Never married up in Kansas? A No, sir.
Q Is there anybody here that knows you? A No, sir.


COM'R KEEDLES: Lewis Hayes applies for the enrollment of himself. His name cannot be identified upon the authentic roll of 1890 or census roll of 1896. He swears that he is a son of Phillis Hayes, who has been listed for enrollment on a doubtful card #902, and that the testimony taken in the matter of the enrollment of Phillis Hayes will be made part of the record in the case at bar and copy thereof filed herewith. No testifactory testimony is given to the Commission as to the residence of the said Hayes, and when he satisfies the Commission as to his residence, he will be listed for enrollment as a Cherokee Freedman upon a doubtful card.

---00000000---

I. O. Reason, 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.

I. O. Reason

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



Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 11 1901

[Handwritten signature]
ALBINO CHAMBERLAIN

To be filed with case of Lewis Hayes, C.F. D. 1885.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 27th, 1901.

Kellette & Smith for applicants;
V. W. Hastings for the Cherokee nation.

In the matter of the application of Phyllis Hayes for enrollment as a Cherokee Freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Phyllis Hayes.
Q What is your post office? A Coffeyville.
Q What is your age? A 50.
Q What district do you live in? A ~~Cherokee~~.
Q Who do you want to have enrolled besides yourself? A No one.
Q Are you married? A No, sir.
Q Were you ever married? A Yes, sir, I lived with a man.
Q What was his name? A Gray Lynch.
Q What is your father's name? A Peter Rogers.
Q What was your mother's name? A Sophia.
Q Are you married to a man named Hayes? A I married a man named John Baldrige and went by the name of Hayes when married him.

Applicant not found on the 1880 or 1896 rolls.
Kern Clifton roll examined and applicant found as follows:
Page 173, No. 4242, Phyllis Hayes, Co ~~Cherokee~~ district.

- BY SMITH: Q Were you a slave? A Yes, sir.
Q Who did you belong to? A Lewis Rogers, and after his death to his widow Ellen.
Q Who did you belong to at the time of the war? A Ellen Rogers.
Q Was she a Cherokee Indian? A Half Ojage, her husband was a Cherokee.
Q Was he a recognized Cherokee citizen? A Yes, sir.
Q Where did he live? A On pavinaw in the Cherokee Nation.
Q Were you there when the war commenced? A Yes, sir.
Q Where did you go during the war? A To the mountains.
Q Where was that? A To the hills above the house somewhere.
Q Did you remain in the Cherokee Nation during the war?
A They took me to Neutral Land on the Neesho.
Q Was the Neesho a town or a river? A Town.
Q When did you first come back after the war? A When they moved the refugees back.
Q Where did you come to then? A Fort Gibson.
Q Cherokee nation? A Yes, sir.
Q How long did you stay there? A Good while.
Q Well how long? A May have been 2 years.
Q Where did you go then? A On Brady.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you stay there? A Quite a while.
Q Where have you been since that time? A In the Cherokee Nation.
Q Where do you live now? A Timber Hill.
Q How long have you lived there? A 2 or 3 years.
Q Is that in the Cherokee Nation? A Yes, sir.
Q Have you any grown children? A Yes, sir.
Q What are their names? A Sam Rogers.
Q Who else? A Lewis Brady, Frank Brady, Bettie Lynch.
Q Is Bettie married? A Yes, sir, to Cal Cash.
Q Have you been married more than once? A Yes, sir, three times.
Q Who was your first husband? A Gray Lynch.
Q When were you married to him? A Never married him, just lived with him.
Q Before the war? A Yes, sir, in slavery times.
Q Who was the next one you lived with? A I lived with my boss next.

- BY THE COMMISSION:** You are not married to him were you?
A No, sir.
BY SMITH: Who were you married to next? A Mr. Brady.
Q You married him? A Yes, sir.
Q When? A Time of the war.
Q How long did you live with him? A 5 or 6 years as man and wife.
Q He was the father of Frank and Lewis? A Yes, sir.
Q Who was the father of the girl you named? A Crap Lynch.
Q Who was the father of the other boy? A My boss.
Q Where are these children living? A With me on Timber Hill.
Q In the Cherokee Nation? A Yes, sir.
BY HASTINGS: Where are these boys now? A With me.
Q Was Lewis born before the war? A After the war.
Q Where was he born? A On Brushy Mountain this side on Fort
Gibson.
Q How far from Chouteau? A I don't know.
Q How old is Lewis? A I don't know.
Q Where was Frank born? A On Brushy.
Q Who were you living with then? A Brady.
Q Where did you go from Neosho after the war? A Fort Gibson.
Q Who did you live with there? A Mary Rider.
Q In town? A Yes, sir.
Q Did she have a family there? A No, sir, just one son.
Q What was his name? A Jim.
Q Did she have no husband with her? A No, sir.
Q How long did you stay there? A I don't remember.
Q Year? A May be, might have been 2, 3 or 4, I don't know.
Q Where did you first see Charles Chambers? A I saw him several
times there at Fort Gibson.
Q Did you see him before the war? A I think it was during the
war. It was either at Neosho or else at Fort Gibson, one of those
two places.
Q Where did you first see the witness Baldrige? A I think it was
during the war, he was a soldier there.
Q How long after the war was it that you saw them? A I can't
tell.
Q These are your witnesses? A Yes, sir.
Q And you don't know when or where you met them for certain?
A I might have met them at Neosho?
Q Where did you go from Brushy? A Up on Verdigris.
Q Did you go direct from Brushy to Verdigris? A If I am not
mistaken; I stayed at Fort Gibson a long time.
Q When did you go up to Fort Scott, Kansas? A I didn't go there
until long after the war.
Q How long after? A Some time after, I don't know just when.
Q What did you do there? A I worked.
Q Who for? A For Mr. Diamond in the hotel.
Q Your daughter Bettie was with you? A Yes, sir, two of them,
y s, all three of them.
Q Bettie is there still? A No, sir, she lives with me.
Q Hasn't she lived there ever since and isn't she living there now?
A No, sir, she is living with me, she says with me.
Q How long has she staid with you? A Off and on.
Q I mean continuously the last time? A She has been with me 3
or 4 years off and on.
Q She came from Fort Scott down there? A No, sir, she has been
with me off and on since she married.
Q Five years ago when the Kern-Clifton court was sitting, Bettie
was in Fort Scott, wasn't she? A No, sir.
Q Her husband was there? A Yes, sir.
Q Her children were there? A No, sir, they has been with me.

Chas. von Weise, being sworn that as stenographer to the Commission to the Five Civilized Tribes he correctly reported in full all the proceedings in the above cause and the foregoing is a full, true and correct transcript of his stenographic notes therein.
(Signed) Chas. von Weise.

Subscribed and sworn to before me this the 11th of July, 1901.
(Signed) F. B. Needles,
Commissioner.

CONTINUED, former portion taken by stenographer Chas. von Weise.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 27, 1901.

In the matter of the application of Phillis Hayes for enrollment of herself as a Cherokee Freedman;
JOHN C. BALDRIDGE, being sworn by Commissioner Needles, testified as follows:

APPEARANCES:

Mr. Smith, of McKelitte & Smith, for the applicant;
Mr. W. W. Hastings, for the Cherokee Nation.

BY MR. SMITH: Q State your name? A John C. Baldridge.
Q How old are you? A 71 years old.
Q Where do you live? A I live in Coowessocowee district, on Verdigris river.

BY MR. HASTINGS: Mr. Baldridge, have you ever been convicted of larceny in the United States Court? A I have been convicted in your own court too.

Q Have you been convicted in the United States Court?
A You have got it there, yes.

Mr. Hastings: I examined him to test his competency to testify as a witness. I object to his testifying.

Mr. Smith: The applicant objects upon this examination to any other proof than the record of the conviction. Now, if the Court please, there are two rules upon that; if he is examined, and he can be asked those questions as affecting his inability, but when it comes to the question of competency then you have got to have the record of conviction.

Com'r Needles: I don't know that his examination is to be conducted according to the strict rules of evidence; the object of this Commission is to get the facts in these cases, and when the case is examined for final hearing, the testimony can be entirely stricken out if it is not received at that time; let the objection in that he not be permitted to testify on account of any knowledge of his having been convicted of larceny, and then on the final hearing in this case, if it is decided by the Commission to adhere to strict rules of evidence that will be discussed at that time, and his testimony if decided upon at that time as being illegal will be stricken out.

Mr. Smith: Applicant objects to the introduction of anything except a record of the conviction upon an examination touching the competency of the witness.

By Mr. Hastings, examining witness!

Q Where were you convicted, in what court, and when?

MR. SMITH: I object to that, because the records will show it.

MR. HASTINGS: We have got to find out; this is not intended to inculpate him.

COM'T NEEDLES: No, it is not intended to inculpate him.

MR. SMITH: I object to that.

BY MR. HASTINGS, examining witness:

Q Where were you convicted? A Ft. Smith.

Q About when? A I couldn't tell just exactly.

Q As much as 10 years ago? A I expect about that.

Q Under what name? A John Beldridge. And on Dog Creek, in the Cherokee Nation; they wouldn't allow me no witness.

BY MR. SMITH: Do you know this applicant, Phillis Hayes?

A Yes, sir.

Q How long have you known her? A I have been knowing her for years I believe I got acquainted with her in the year 1863.

Q Where did you know her first? A She come to the army where we was camped at Ray's Mill.

Q You didn't know her before the war? A No, sir.

Q You don't know who she belonged to? A Well it was said she belonged to the Rogers family, but I didn't know.

Q You don't know of your personal knowledge? A No, sir.

Q When did you see her next after you saw her there in '63 when she come to the army? A After the refugees got so heavy where I was camped, we moved the refugees to Neosho; it was called Neutral land at that time, and we moved them out at the Neutral land for safe keeping.

Q Where was you or where was the army when she came to the army? Well she was right there after they moved them, she was right there at Neutral Land yet.

Q Where did she come to you? A We soldiers went to the refugees at Neosho to bring them down to Ft. Gibson.

Q Well did she go with you, with the soldiers? A First time she come to us at Ray's Mill; that was in '63, we camped there, and we taken them from Ray's Mill down the the Neutral land, and kept there until '65 and in '65 we moved the refugees to Ft. Gibson, and she was along.

Q How long did she stay about Ft. Gibson? A I don't remember how long she did stay.

Q That was in what year? A That was in the year of 1866.

Q Was it '66 when you moved the refugees? A '66 we moved the refugees, you see we was to stay in the year '65 in '66 and then the whole refugees was in Ft. Gibson, the Cherokees, the colored all together.

You know where this woman, Phillis Hayes, was in '66? A She was in Ft. Gibson.

Q You know how long she stayed about Ft. Gibson? A No, sir, I don't.

Q When did you next see her after 1866? A Well it was years, I couldn't tell you exactly how long, but then it was a good while.

Q Where was she living when you saw her next? A She come down from Kansas down and I was with her and I took her and married her and I took her home with me then and lived with her.

Q When was that? A I disremember what year that was.

Q Did you and she live together? A Yes, sir, we lived together for years.

Q How long? A 6 or 7 years.

Q Where did you live? A Goosecreek Bend.

Q How far from Nowata? A About three miles I guess, 4 miles; she left me in the year, I don't know what year, remember it though, the people took small-pox on Grand river, that's the year she left.

Q You know where she has been living since that? A She went up in Kansas but the boys stayed there at her place there.

Q What place? A On the place where they is now, on my place.

Q Where is that place? A Up on Geosneak Bend, they live now at Timbered Hill, a little ways fro me now.

BY MR. HASTINGS: You testified in this case before the Kern-Clifton Court? A Yes, sir.

Q Did you say anything about knowing her during the war then?

A Yes, sir, I knew her time of the war.

Q Did you tell it before the Kern-Clifton court that you knew her during the war? A Yes, sir.

Q Did you tell anything about seeing her on the Neutral Land then?

A Yes, sir, I said I stood guard over there right there at Neesho.

Q You told that right before the Court? A Yes, sir.

Q You first saw her at Ray's Mill did you? A Yes, sir, that's where she came.

Q Where did you join the army A At Leavenworth.

Q In what year? A '61, and come on down then--

Q Who did you go up to Leavenworth with? A A good many of them.

Q Who? A I couldn't tell exactly.

Q Well anybody? A Captain Darby.

Q Where did you meet up with him? A I went to Kansas City to him; now let me show you: when these Injuns got stirr'd up in the year '66 I took my young master and went to the army; we dodged around we got to Leavenworth; that was in '61.

Q Your young master? A Yes, sir.

Q What was his name? A George Ross.

Q You and George Ross joined the army together, ran off?

A Yes, sir, I too. I him with me, and met a young Downing that was there in camp at Lawrence, Kansas, and then we was at Kansas City, Kansas, and we come on down to Ray's Mill; I belonged to the 6th Regiment, and the Indians was camped there.

Q You saw this woman after the war did you? A Yes, sir, I saw her in the year '66.

Q She went down with the refugees? A Yes, sir, she went with the refugees from Neesho to Ft. Gibson.

Q That was the town of Neesho? A No, sir, it wasn't no town, it was just a camp.

Q On which side of the river was it? A On You der side.

Q That would be the east side of the river? A Yes sir, next to Ft. Scott. We got out rations from Ft. Scott.

Q How far from Ft. Scott, was it? A I couldn't tell you exactly.

Q You remember her particularly? A I knowed her particular, because she was in wanss sick and I was ministering to her, I made medicine for her.

Q You was practicing medicine then? A Yes, sir, all through the army.

Q Was her mother along with her at that time? A I don't know her mother.

Q Was her father along with her? A I don't know her mother.

Q About what aged girl was she at that time? A I couldn't tell, she was the mother of two children.

Q About how old were they? A Sam Rogers was a little baby; had a little girl.

Q Were these children along when you first saw her over at Kansas line? A She had Sam and Bettie.

Q Were they with her when you saw her at Ray's Mill? A Yes, sir, when she come to us she had one little baby, little girl.

Q What time did she live at Ft. Gibson? A I couldn't tell you.

Q Didn't she stay in nobody's house there? A I couldn't tell you.

Q How long did you live around Ft. Gibson at that time?

A I moved away from Ft. Gibson, I stayed there, 30 years ago now.

Q You lived there a number of years after the war? A Yes, sir, I was a soldier and stayed right there.

Q You don't know who she lived with? A No.

Q Don't know whose house she lived in? A No, sir, we never had no houses, just shed and tents made out of saw hides.

- Q When did you next see her after that? A I couldn't tell you.
- Q About how many years? A I couldn't tell you that to be sure.
- Q When you commenced living with her she had come down from Ft. Scott? A Come from Kansas, but I don't know what part of Kansas.
- A She bring anybody with her from up there? A She brought boys along.
- Q How many? A She had three boys when she come down here, and I married her, and then she had three more others, two more boys and one girl.
- Q Where was her daughter Bettie at that time? A I don't know exactly where she was at that time.
- Q Was she living with her? A I don't know.
- Q Wasn't you living with her? A She wasn't living with her when I first married her.
- Q Did she ever live with her while you lived with her? A Yes, sir, every one of them lived with her.
- Q Didn't you swear before the Kerns-Clifton Commission with reference to Bettie Cash, did you say she has never lived here, but always lived in Ft. Scott? A You asked me the question, where is she now, and I told you in the Clifton Court, she was in Ft. Scott; you never asked me about living with me; you asks me now if she is living with me, but at the time you asked me I told you just how it was.
- Q She lived with you how long, this woman? A I couldn't tell you exactly.
- Q Can't you give us any idea how long that was? A I told you a while ago she left me the year all the people had small-pox down on Grand river.
- Q That's the year she left? A Yes, sir.
- Q Where did she go? A She went up in Kansas I guess.
- Q You continued to live up there on Big Creek? A Not Big Creek, I lived in Goesneck.
- Q Well you lived there? A Yes, all the time.
- Q How long since you saw this woman after that? A I seen her off and on sometime he past two or three months.
- Q How long was it until you saw her then after she left?
- A I couldn't tell exactly how long.
- Q Where did you see her the next time keeping house?
- A Next time I saw her keeping house at Timbered Hill.
- Q Where is that? A That's about 7 miles of where I live now.
- Q I don't know where that is? A I told you I live at Goesneck Bend.
- Q What town is the nearest to you? A Coffeyville.
- Q How long has she been living there? A I don't know.
- Q You don't know how long she lived there? A No.
- Q She been there a year? A Oh yes.
- Q Two years? A Over 2 years I guess, I don't know.
- Q Is that your best judgment? A Yes, that is my best judgment, I don't know.

CHARLEY CHAMBERS, being sworn by Com'r Needles, testified as follows: BY MR. SMITH:

- Q State your name? A Charley Chambers.
- Q How old are you? A 70 years old.
- Q Where do you live? A On Big Creek.
- Q How long have you lived in the Cherokee nation?
- A I have lived in the Cherokee nation all my life.
- Q Do you know this applicant Philka Hayes? A Yes, sir.
- Q How long have you known her? A I knowed her before the war.
- Q Was she a slave? A Yes, sir.
- Q Who did she belong to? A Lewis Rogers.
- Q Was he a Cherokee Indian? A Yes, sir.

Q Citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living and where was she living time the war commenced? A On the other side of Grand river.
Q In the Cherokee nation? A Yes, sir.
Q Did you see her during the war at any time?
A That was after the war.
Q When did you first see her after the war? A I seen her after I come up from Ft. Smith, I see a her there at Ft. Gibson, living right on the river.
Q When did you see her at Ft. Gibson? A That was along in '65, I seen her.
Q Did you go out of the Cherokee nation yourself? A Yes, sir.
Q When did you come back? A I come back in '65.
Q You know what time in '65 you come back? A I come back along in the spring.
Q How long after you come back was it until you saw this woman?
A I come somewhere along up in the summer, corn was tasselling when I come from Ft. Smith, that was along in '65.
Q Well what was it doing when you got up to Ft. Gibson, still tasselling? A Yes, sir, still tasselling.
Q When did you see her, how long had you been at Ft. Gibson when you saw this woman? A Oh I had been up there I guess a couple of weeks.
Q How long did you stay at Ft. Gibson at that time then? A I didn't stay there but a little while I knocked around there a day or two, first one place and another.
Q When did you next see Phillis after you saw her there that time?
A I saw her on Big Creek, not Big Creek, but on this side of the Verdigris river.
Q About how long after you saw her at Ft. Gibson? A That was about a year afterwards I guess, as well as I can remember, it was about a year afterwards, or two years.
BY MR. HASTINGS: Who was her master before the war? A Lewis Rogers.
Q You was up there before the war? A I passed along rrough by there, yes sir.
Q Where were you going? A I don't know where my old master was going, I was along with him.
Q What kind of a house did her master live in? A I couldn't say now.
Q Where was it at? A On the other side of Grand river I know.
Q Was that in Tahlequah district? A I don't know whether it was Tahlequah district or Flint district, I don't know what they called it then.
Q Where did you live? A I lived at Park Hill.
Q How far was it from the town of Tahlequah that she lived, where she and her owners lived from Tahlequah? A I don't know, sir, now far it was.
Q Was it as much as ten miles? A Oh it was I guess about 15 or 20 miles, I don't know, I guess so, I don't know exactly how far it was.
Q You don't know what sort of place it was they were living?
A No, sir, we just passed along there, the old man stopped there a little while, and I would always go along with him to take care of the horses.
Q You recognize her as being there? A Yes, sir.
Q And you saw this woman there at that time? A Yes, sir, if it wasn't her, it was her sister.
Q And that's all the acquaintance you had with her before the war?
A Yes, sir.
Q How long did you stay there at Rogers? A Didn't stay there but a little while.
Q How long, just to rest? A I reckon that's what he stopped for.
Q What sort of looking was old Rogers? A There were two or three men there, and I didn't know which one was Rogers, there were two or three men there.

- Any creeks, river or branches near their house?
I don't just recollect now.
You didn't see her mother there at that time? A No, if I did
I don't know it.
Well, Charley; about how old was she, your best judgment, at
that time? A Well I couldn't tell you just about how old she
was, seems to me like she was pretty near grown.
Was she a young woman? A Looked to me like she might have been.
Did you talk with her at that time? A No, sir.
Never had any talk with her? A Hadn't talked with her at all,
I just saw her.
Just happened to see her in the house? A Yes, sir, she was
in the house and I was out at the outside fence with the horses.
You just say her in the house? A I saw her walking about
in the year.
That's all your knowledge of her before the war? A Yes, sir.
Where did you see her next? A She was at Ft. Gibson.
Who was she living with then? A She was living by herself
then, I guess her children was there, I don't know who it was, she
was living right there on the river.
On what river? A Grand river.
How far from the old garrison? A It was I reckon a quarter
of a mile.
Above or below? A Below.
Next the old Bushyhead house? A Yes, sir, right in there.
Did she have a husband then? A If she did I didn't know it,
I was you at her house? A No, sir, she told me where she lived,
and I saw her going up there from the city.
You recognized her as having seen her before the war?
A I thought I did, and I talked with her and she told me where she
lived.
That was after the war? A Yes, sir. That was in the summer of
'65.
She was living up there? A Yes, sir.
Then you saw her after the war, later? A It was a year or two,
yes.
And she was living on the same place then? A No, sir.
Where was she living? A She was living up on the Verdigris,
A year or possibly two years later? A Yes, sir.
You put it then in '66 or '7 you saw her up there? A Yes, sir.
I think as well as I can come at it, it was about '67.
Who was she living with then? A When I saw her then she was
living with this man Hayes.
That was in '67? A Yes, sir.
That was in Coonsneck? A No, sir, it was up about Goose Lake,
up about where there used to be an old mill set right in the bend
of the river.
You was at their house? A Yes, sir, I went to their house
over there, that's where I used to haul lumber from.
You hauled lumber from that mill up there? A Yes, sir.
In '67 about what time in '67 was it? A It wasn't in '67 I
hauled lumber from there, it was about a year or two after that.
Who was running that mill? A I don't know who the mill did
belong to.
But you was at their house in '67 up here about Coonsneck on
Verdigris? A Yes, sir.
She was living with John Baldridge at that time? A Yes, sir.
How long after that until you saw her again? A I saw her
often and on after that every three or four weeks, sometimes it
would be a month or two, I would see her at that and on.
Where was she living? A They lived right there.
How long did she live there at that place? A I don't know how
long they did stay there.

Q Does she live there yet? A No, sir, she don't live there now.
 Q How long have you ever know her in Ft. Scott, Kansas? A No, sir.
 Q You never? A No, sir, I never did.
 Q You know she lived on Verdigris all the time? A She lived there all the time when she wasn't working in Coffeyville.
 Q You knew she was working in Coffeyville awhile? A Yes, sir.
 Q Where did you live? A I lived right on the river, on the other side.
 Q Have you ever been tried for perjury in the United States Court at Ft. Smith? A No, sir.

Com'r Needles: Phillis Hayes applies for the enrollment of herself; she cannot be identified upon the authenticated roll of 1880 or the census roll of 1896; she is identified upon the Kern-Clifton roll according to page and number of the roll as indicated in the testimony; she avers that she was a slave, and belonged to one Lewis Rogers, a Cherokee; she has been married once or twice, and is now married to one James, and avers that she has resided in the Cherokee Nation continuously since the year 1866; she returned here in that time; she will now be listed for enrollment as a Cherokee freedman on a doubtful card; awaiting further consideration of the Commission. She will be notified at her post office address of the disposition of her case.

-----0-----

F. 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) F. D. Green.

Subscribed and sworn to before me this July 10, 1901.
 (Signed) T. B. Needles,
 Commissioner.

---00000000---

J. O. Fosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the above is a true and complete copy of the original transcript in the above case.

J. O. Fosson

Subscribed and sworn to before me this September 9, 1901.

Commissioner.

M. A. Green
 M. A.

201003

INDIAN TERRITORY,
CHEROKEE NATION

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

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 , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public

Proof of service made
and only SEP 30 1901
SEP 30 1901

NOTICE!

IN THE MATTER OF the application of Lewis Hayes
for enrollment as a Cherokee citizen:

Case No. D 1003

To Lewis Hayes Coffeyville Kans.

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 _____

Indian Territory, on Oct. 7th at 3 o'clock A. M. from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, 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 Sept. 18th 1901.

L. B. Bell
W. W. Hastings
Attorneys for the Cherokee Nation.

COY

THE UNIVERSITY OF CHICAGO
LIBRARY

Louis Hayes, J. W. D. 1903.

2
11
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

Department of the Interior,
Commission to the Civilized Tribes,
Wash., D. C., Oct. 3, 1901.

SUPPLEMENTARY TESTIMONY in the case of Phillis Hayes, C. P. No. 1903.

Appearance:
S. T. Hastings for the Cherokee Nation
Marlette & Smith for the applicants.

Witnesses placed under the rule.

1. THOSE being first duly sworn by Gen'l T. B. Needles, testified as follows on the part of the applicant Cherokee Nation.

- (By Hastings)
- Q What is your name? A J. E. Thorp.
- Q What is your post office address? A Iola, Kansas.
- Q How long has that been your post office address? A Ever since it was a post office.
- Q When was that? A In '59.
- Q How large a place was Iola at the close of the war? A Two, three or four hundred.
- Q How large a place is it now? A 5000, about.
- Q Do you know a colored woman that went by the name of Phillis Hayes? A Yes sir.
- Q Where did you know her? A At Hubbard's Mill adjacent to Iola.
- Q When did you first know her? A October or November of '57.
- Q Did she have any children that you know of then? A I think she had.
- Q Did you know them after that? A I never knew but Sam and Lewis that was after that.
- Q Where was Phillis Hayes when you first knew her? A Half a mile from Iola at Hubbard's Mill.
- Q You don't know when she first came there? A No sir.
- Q How long after that did you know her? A 3 or 4 years.
- Q Did she ever do any work for you? A I don't remember if she did or not.
- Q Do you know where she went to from Iola? A She went to Humbolt, I heard.
- Q How far is Humbolt from Iola? A Eight miles.
- (By Smith)
- Q The woman you are talking about, you first became acquainted with in 1877? A Yes sir.
- Q It might have been in '58? A I don't think it was.
- Q Are you absolutely positive as to the date? A So sir, in October or November though.
- Q Are you positive as to the year? A I think I may say so.
- Q Do you say so? A Yes sir I will.
- Q You know a colored woman named Phillis Hayes about Iola Kansas in '57 in the fall, now do you know if it is the same woman who is an applicant here for citizenship? A So sir.
- Q Do you know her at the time she was there?
- Q At Iola Kansas about '57, '58, '59?
- Q Have you ever seen her since? A Yes sir, once or twice.
- Q When? A 10 or 12 years ago.
- Q When did she marry there? A I won't say as to that.
- Q How it appeared years ago? A In '57 or '58.
- Q Names that like what was the name? A Hastings.
- Q Where? A Yes sir.
- Q You don't know if she was there voluntarily or only a part of the time? A Voluntarily at that time I think.
- Q You can't state positively that she was there all the time? A So sir.
- (By Hastings)
- Q Do you know Bettie Cash? A Not well quite recently.
- Q Is there any relationship between Bettie Cash and Phillis Hayes? A

A I don't know, report says there is; she lived at Fort Scott and came back to Iola--I presume that it is her ch'ld.
By Mr. Smith) " I object to the presumption of the witness."

Q Have you been informed that Phillis Hayes is the mother of Bettie Cash?
By Mr. Smith)

Q Who informed you that? A I heard it talked by several.
Q By whom? I want name any individual.

Q Of what stated persons who were not connected with the family? A Yes sir.

By Mr. Smith) " I object to the above testimony and move to strike it out because it refers to the relationship between Bettie Cash and Phillis Hayes and that it is not within the rule to allow him to testify that he heard any statement from any person not connected with the family as to that relationship."

PHILLIS HAYES, being first duly sworn by Com'r T. B. Needles testified as follows on the part of the Cherokee Nation--

Q How long was she married? A Reese Cravens.
Q How long was she married? A Between 4 1/2 and 5.
Q How long was your office address? A Vinita.
Q How long has Vinita been your post office? A Between 5 and 6 years.
Q How long do you live in Iola, Kansas? A Yes sir.
Q How long in Humbolt, Kansas? A Not exactly.
Q How far is Humbolt from Iola? A 8 miles.
Q How long have you ever known a colored woman named Phillis Hayes? A Yes sir.
Q How long in Iola and Humbolt Kansas.

Q How long did you know her in Iola? A '80 and '81, maybe further back than that.
Q Was she living there? A Yes sir.
Q Did she have any children? A Yes sir.
Q Name them? A One Lewis Brady, Sam Rogers, Little Nadie, he is dead.
Q Where did he die? A Humbolt.

Q How long did they first live in Iola? A Yes sir.
Q Where did they go, to from Iola? A Humbolt.
Q How long did they live at Humbolt? A I knew her living in Humbolt--
Q Can't tell exactly what year she went there; she married a man named Hayes after that; it was the year she married.
Q When did she leave up there? A She left up there-- I don't know exactly
Q the time, she left there right away after she married sometime in '81
Q or '2 and came here to the Nation.
Q How long did she stay here? A Only about six months.

Q Where did you next see her? A Humbolt.
Q Living there? A Yes sir came back there.
Q How long did she continue to live there that time? A When I left
Q Iola Kansas and goes to Wichataw she was living there in Humbolt.
Q When was that? A When the Missouri Pacific was built from Fort Scott
Q to Wichataw.

Q About how long ago was that? A After '80 and '81 that was when I left
Q there, she was then living in Humbolt at that time.
Q You stated she married and came here six months and then come back
Q have you seen her since that? A No sir, but I have seen her in Kansas
Q but not at either of these places.
Q Do you know where she is living now? A No sir not exactly.
Q Did you see her here during the last payment? A Yes sir.
Q Do you know where she came from then? A I don't know exactly where she
Q came from that time.

(By Mr. Smith)
Q Where did you first know this woman Phillis Hayes in Kansas? A Iola.
Q How long she live in Iola before she lived in Humbolt? A I knew her first
Q in Iola.

Q When did you first know her in Iowa? A In '80.
Q Didn't know her up till '80? A I might have known her before that.
Q It was somewhere around '80 or '81 that you first knew her? A Yes sir.
Q What was she doing there? A Washing.
Q Cooking? A Yes sir.
Q Day's work? A Yes sir.
Q Have you ever been convicted of any offence? A Shooting a man
Q When? A '84.
Q What did they do with you? A Sent me to the Pen.
Q For how long? A Three years.
Q Where? A Leavenworth.
Q Anything else? A Fighting.
Q Convicted of peddling whiskey? A I was convicted but I wasn't guilty.
Q You pleaded guilty to it didn't you? A Yes Sir.

=====
This will also be filed in Cherokee freedman Doubtful cases, D-926,
D-1003 and D-825.

=====
Chas. von Weise, being first duly sworn states that as stenographer
to the Commission to the Five Civilized Tribes he reported in full and
the proceedings in the above cases 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 12th of October, 1901.



Commissioner.

Q How long did she stay there?
A I can't tell myself, except that she had enough money to spend most of her money there.

Q Do you know how long she would be gone and gone over a month or so at a time, once she came and got a lot of money and then come back.

Q How long did she stay there after she came back?

A I can't tell myself, except that she had enough money to spend most of her money there.

Q Are you personally acquainted with her?

Q Have any dealings with her?

Q What was the last time that you saw her?

Q Where?

Q Did she live then at the same place?

Q How long did she stay there?

Q Is her and her husband living together?

(By the question)

Q Do you know a woman or a man by the name of ...

Q Where were they?

Q Do you recollect anything about ...

Q Were the children at Fort Scott while she was ...

Q Did she live there when she was ...

Q Would she come back to ...

Q I think so; ...

Q You don't know if she is separated from ...

This will be filed in Cherokee ... and D-1004.

I, the undersigned, do hereby certify that the above is a full, true and correct transcript of his stenographic notes.

Subscribed and sworn to before me this 28th of October, 1901.

File with Lewis Hayes, C. F. D. 1993.

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 Bettie
Cash et al., C. F. D. 226.

Appearances:

James S. Davenport for the Cherokee Nation.
Joseph Scribnie agent for the applicants.

THOMAS LAHAY being first duly sworn by Commissioner T. B. Needles,
testified as follows on the part of the Cherokee Nation:

(By Davenport)

Q What is your name? A Thomas Lahay.

Q Where do you live? A Fort Scott, Kansas.

Q How long have you lived there? A Ever since '82, I have resided
continuously there; I have been in the country there for 30 years.

Q Are you in business in Fort Scott? A Yes sir, I have been in dif-
ferent kinds of business.

Q Since you have been residing in Fort Scott, have you become ac-
quainted with a colored woman by the name of Bettie Cash? A Yes
sir, knew her well.

Q Where was she living when you first got acquainted with her? A I
don't know exactly what house she lived in, she lived in the bottom
there near the mill.

Q When did you first get acquainted with her? A In '85.

Q She was then living at Fort Scott or in the bottoms near here?

A Yes sir.

Q After that time did you see anything of her? A Yes sir, I had a
good deal of dealings with her about three or four years ago.

Q What kind of dealings did you have with her? A They bought a
house and moved it on a lot and then they never paid any taxes
for it and I bought it in and got a tax deed after three years; I
first paid the taxes in '88 and got a deed in '91.

Q Where was she living during that time? A On that place.

Q After that, what dealings did you have with her? A She rented from
me after that for a dollar a month.

Q For how long? A I never charged her anything free two years and
she staid there, but I had to get possession of the place or lose
what interest I had in it and so then I made a rent contract with
her and Cal, her husband for a dollar a month.

Q What was her husband's name? A Cal Cash.

Q How long did you rent that place to her and her husband? A I think
it was in '83 that I commenced to charge, and they paid it up to
about 3 or 4 years ago when they left, that is I got as much out
of them as I could during that time.

Q Do you remember any circumstance of their leaving, or with
reference to her going away for any time? A Yes sir she was gone a
while, she came here to the Nation and recovered some money, I
know I tried to sell her the place after she came back with the money
but she didn't seem disposed to buy it, it was not worth much anyway.

Q Did you rent that place to her any after she came here and got
that money? A Yes sir.

Q For how long? A About a year.

Q After that what became of her? A She quit her rent, she left
Cal and she went traveling around doing Missionary business as she
called it. I had some dealing with her then and she wrote me a
letter from up north somewhere.

Q What kind of business did you have with her then? A She was owing
me some.

Q What kind of business did you say she was engaged in when she was
traveling around? A She called it Missionary business, collecting
money for churches, to build churches, she followed that for several
years.

- Q Do you know where she is living now? A I do not know.
(By Mr. Bequith)
- Q What is your name? A Thomas Leahy.
- Q What is your business? A I have been in different kinds of business I have been principally in the loaning business.
- Q Ever loan Mrs. Cash anything? A Yes sir.
- Q What was it? A I kept a pawn shop and make loans in large amounts and small amounts.
- Q How long have you been loaning her? A I have had more or less dealings with her when she left there.
- Q When did she leave there--when was it? A She pawned some things there when she left.
- Q When did she leave? A I dont exactly remember, three or four years ago.
- Q You dont remember exactly? A No sir.
- Q You say she lived at Fort Scott in the bottoms? A Yes sir in the city
- Q Did she own the property she was living on? A Yes sir.
- Q Who transacted for the property? A Her and Cal.
- Q Cal who? A Her man.
- Q Did she own that property? A Well she didn't have a clear title to it.
- Q You say she didn't have a clear title to it? A She had a mortgage on it, and --
- Q Then she didn't own it? A Well she held possession of it and had it mortgaged.
- Q Did she ever have a clear title to that property? A No sir.
- Q How long did she live in that house that wasn't really hers? A She had an equity in it, but there was a mortgage on it.
- Q How long did she live there? A They moved that house there in '87 that was that last house, the one I got a tax title to, they were renters before that.
- Q For how long before that? A 3 or 4 years.
- Q What were they doing there? A Cal was working at the Mill and she took in washing.
- Q Was it in '87 that you made that loan to them and had to take the property? A No sir I never said I made a loan to them on the property, I got the property for taxes.
- Q How much did you loan them on that property? A I never loaned them anything on it, they failed to pay the taxes and it was put up by the County Treasurer and I bought it in and afterwards got a tax title to it.
- Q How long did they live in that house? A From '87 until 3 years ago.
- Q Was she living there ever day? A No sir.
- Q Every week? A I cant say as to every week.
- Q Every month? A They was always there when I went after the rent.
- Q Did you go after the rent every month? A Not every month.
- Q She was not there continuously then? A I know she came here once and got some money.
- Q Did you have any conversation with her about her citizenship here? A I dont know that I did.
- Q How long did she stay here that time she came after the money? A Two or three weeks.
- Q How long since you saw her the last time? A 3 or 4 years.
- Q Where was she living when you last saw her? A Fort Scott.
- Q Was she keeping house and taking in washing when she left there? A No sir.
- Q What was she doing then? A Misstery work.
- Q What was she doing, building churches? A I dont know.
- Q Did she ever build a church in Fort Scott? A No sir, I dont think she even belonged to a church there.
- Q Did she ever tell you what kind of Misstery work she was doing?

A No sir I dont think she told me exactly.

Q Did she say that she had any personal interests in the Cherokee Nation? A She claimed that she got money here.

Q Isn't it a fact that you dont know from your own personal knowledge that she lived there from the time you knew her to this day? A That was her residence from '87 until she left, that one house.

Q Do you know of your own personal knowledge that she lived there continuously from the first time you saw her in Fort Scott until she left? A I saw her frequently and I know she was not gone any length of time.

(By Davenport)

Q Have you the lease that was signed up by her and her husband for that property? A Yes sir. (Hands attorney the lease)

(B Sequichie)

Q You said a while ago that the property was not worth much? A Not very much.

Q Well you made loans on it? A I never made any loans on it.

Q Thought you said you got it from them by reason of a loan? A No sir I said I got it at a tax sale.

Q What did she ever pawn to you then? A I dont know exactly, yes, when she got her money she came back and went to great extravagance and bought one of things they call a shirt waist and paid twelve dollars for it, and she pawned it to me for \$3.00 and I didnt make anything on it for I had to sell it for \$2.00.

Q Then she wasn't very extravagant was she if you only got \$3.00 for the waist? A She paid \$12.00 for it.

Q How do you know she paid \$12.00 for it? A That was what she said

Q What she said, do you know that she paid \$12.00 for it? A Only from what she said.

Q Dont know it of your own personal knowledge? A Never saw her pay the money for it, but she said she paid \$12.00 for it and it was a very fine piece of goods.

Q And you only got \$3.00 for it, who much did you make on that transaction? A Never made anything, I lost, I let her have \$2.00 on it and sold it for \$3.00.

Q You were not much of a trader then were you? A Well I never made anything on that.

(By the Commission)

Q When did she leave Fort Scott? A 3 or 4 years ago.

Q She lived there until that time? A Yes sir.

Q Was she gone a good deal running backwards and forwards through the country? A Of late years she did, there was a preacher there, a Bishop, Bishop W. V. Johnson who was getting women to collect money for him to build churches with and he gave the women half what they collected; he had no church and I told Bettie that she had a right to all of it; he was renting from me too.

Q What year was this that she commenced the Missionary business? A I think Bishop Johnson was sent to the pen for some offence a short time after she commenced.

Q What year was it? A About 8 or 9 years ago I think think that she commenced it.

Q And before that she lived there and took in washing? A Yes sir.

(By Davenport)

Q Did she live there after she commenced this Missionary work? A Yes sir.

* The representatives of the Cherokee Nation offer in evidence the original lease between Thomas Labay and Bettie and Oai Cash for the rent of property in the city of Fort Scott Kansas. *

BY COM'R NEEDLES: The lease will be filed.

WILLIAM STAYTON, being first duly sworn by Com'r T. B. Needles, deposes as follows on the part of the Cherokee Nation:

- Q What is your name? A William Sexton.
- Q Where do you live? A Fort Scott, Kansas.
- Q How long have you lived there? A Since '69.
- Q Since you have been living there did you get acquainted with a colored woman by the name of Bettie Cash? A I did.
- Q Did you know any of her family? A I knew her husband.
- Q What is his name? A Nelson Cash.
- Q About how long ago was it that you got acquainted with her, with Bettie Cash? A Some 15 or 16 years ago.
- Q How long did they live there to your knowledge? A They remained there until a few years ago.
- Q How many years back? A I think they have been gone from here probably some five or six years.
- Q Did they keep house there? A They did.
- (By Jas Sequichie)
- Q What did you say the husband of Bettie Cash was named? A Nelson.
- Q You are positive about that? A Yes sir.
- Q How long did he live there? A I got acquainted with them about 15 or 18 years ago.
- Q Where were they living when you first got acquainted with them? A When I got acquainted with him he was working in the mill there.
- Q How many mills did they have there in Fort Scott? A There one flouring mill there now.
- Q How many different kinds of mills did they have then? A When he worked at the Goodlander mill that had a custom mill there.
- Q How long did he work there at that mill? A I can't say.
- Q Were you near neighbors of these people? A I was acquainted with them.
- Q How often did you see Mrs. Cash? A Probably once or twice a week.
- Q How often did you see them every once or twice a week? A Probably for 15 years.
- Q Was Mrs. Cash living in Parsons continuously from the time you first knew her until she left? A Parsons?
- Q I mean Fort Scott? A Yes sir until perhaps 5 or 6 years ago, he left there and I don't know where he went and she remained there a short while after and then she left there.
- Q Where did they go? A I don't know where.
- Q Did you know anything about this woman, whether she ever claimed to be a Cherokee freedman? A I never knew it until she made the draw down here.
- Q What is Mrs. Cash's occupation? A Same as any other laboring woman, washing or working round.
- Q Did you know anything about her being a Missionary woman? A I think she claimed to be.
- Q You think, do you know? A I know it because one time she came to where I was working and asked for a contribution for church and said she was making collections.
- Q Did you give her anything? A No sir.
- Q Did she ask these donations from churches in Fort Smith or elsewhere? A Both there and elsewhere.
- Q You don't know when she was gone? A I could hear of her at different places.
- Q What year was the first year that you ever saw Mrs. Cash at Fort Scott? A It has been about 15 or 16 years since I got acquainted with her.
- Q That was in about '85? A Probably in about '80.
- (By Davenport)
- Q Did you learn of her doing any other business besides washing or Missionary work? A No other business.
- Q What was her reputation there as being in any other business there than taking in washing or Missionary business? A No more than by reputation.
- BY Sequichie: I object to that because he don't know. And the agent for the applicant calls the attention of the Commission that

he refers to the husband of Bettie Cash as Nelson, and this is not the person in question.

(By Davenport.)

Q What kind of looking man was Nelson Cash? A Tall dark looking man.

Q Do you know if he ever went by any other name than Nelson, of your own knowledge? A No sir.

Q You know he was the husband of Bettie Cash? A Yes sir.

Q And that Bettie Cash was the woman who solicited contributions for churches? A Yes sir.

Q What portion of the city did they live in? A Buck Run, some calls it, there by the Goodlander mills in the Bottom.

JOHN FORBS called and sworn by Gen'l T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

Q What is your name? A John Forbes.

Q Where do you live? A Fort Scott, Kansas.

Q How long have you lived there? A 33 years.

Q Since you have been living there did you get acquainted with a colored family named Cash? A Yes sir.

Q What name did the husband go by? A We always called him Cal.

Q What was the woman's name, if you know? A Bettie.

Q What kind of looking woman was Bettie, if you know? A She was a brown or yellow looking woman.

Q About how long did you know her at Fort Scott? A I knew her for over 15 years.

Q When did you first get acquainted with her? A I think I first got acquainted with her in the Police Court.

Q About what year? A I think in '84 or '85.

Q They didn't have you and Bettie both up in the Police Court did they? A We were both there.

Q Do you know where they were living at that time, what part of Fort Scott? A Yes sir.

Q Where? A They were living in the portion that is now called Tudor-look, down by the Goodlander mill.

Q About how long did they live there after you got acquainted with them? A They lived there from about '84 or '85 up to within about six years ago, 5 or 6.

Q Do you know what business they were engaged in there? A Bettie used to wash there some and Cal used to work in the mill.

Q Did Bettie engage in any other work after that? A Yes sir she told me several times that she had gone into, what she called the Missionary business, I called it begging.

Q How long since you saw Bettie Cash or her husband? A I think it has been a couple of years since I saw Bettie Cash, she was gone for some time and then came back, I met her there in front of a clothing store and she got to talking to me and the proprietor of the clothing house.

Q You have been living there at Fort Scott how long? A 33 years.

Q What business have you been engaged in there? A Mostly in the newspaper business.

Q Editing a newspaper? A City reporter there for different papers and had a paper of my own for some time also.

(By Mr. Seguchie)

Q How far did you live from Mrs. Cash? A I think five or six blocks.

Q How long did you live that close to them? A I have been living that close for ten or twelve years.

Q Was Mrs. Cash at that house continuously from the time they moved there? A I don't know what you mean by continuously.

Q Every day week or month? A As far as I know.

Q How is often did you see her at that house? A Not very often at the house, I saw her pass every day on the street.

- Q What is your business, are you a broker too? A No sir.
- Q What is it? A I have been doing newspaper work for some.
- Q How long have you been doing newspaper work? A For 30 years.
- Q What is Bettie Cash's husband's name? A Gal.
- Q What did he do? A Worked in the coal mines and the most of the time I know him.
- Q Did you ever hear of Mrs. Cash leaving Fort Scott for other parts of the country? A Yes sir.
- Q Do you know how long she would be gone each time? A She wasn't gone over a month or so at a time, once she came to this country and got a lot of money and then came back.
- Q How long did she stay here then? A Couple of months I reckon.
- Q How long did she stay there after she came back with her money? A I can't tell myself, except that she said herself she staid long enough to spend most of her money there.
- Q Are you personally acquainted with her? A Yes sir.
- Q Have any dealings with her? A No sir.
- Q When was the last time that you saw her? A About six months ago.
- Q Where? A Fort Scott.
- Q Did she live then at the same place? A I dont know, I think she did, I wouldn't be positive about that.
- Q How long did she stay there? A I dont know.
- Q Is her and her husband living together now? A I dont know.
- (By the commission)
- Q Do you know anything about her family, Bettie Cash's family, when she lived there, did she have any children? A Yes sir she had some children.
- Q Where were they? A They were there.
- Q Do you recollect anything about her being away on this Missionary business? A Yes sir for the last three or four years.
- Q Were the children at Fort Scott while she was gone? A I think Gal had some of them and I think some of them were somewhere else.
- Q Did Gal live there when she was off on the Missionary business? A Part of the time he did.
- Q Would she come back to Gal when she came back from this business? A I think so; Gal and she had been fighting a good deal and didn't get along well.
- Q You dont know if she is separated from him? A No sir.

=====

This will be filed in Cherokee Freedman cases, F-825; D-903; D-926, and D-1005.

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 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 22 of October, 1901.

A. R. Meester

Commissioner.

Cher Fr D 1004

Cher Fr D 1004

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Thomas Paok for the enrollment of himself and three children as Cherokee Freedmen; said Paok being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q Your name is Thomas Paok? A Yes, sir.
Q How old are you? A About 39.
Q What is your post office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My mother has three children.
Q What are the names of your children? A Thomas. (Jr.)
Q How old is Thomas? A About 14.
Q How old is Howard? A 13.
Q The next one? A Albertha.
Q How old is Albertha? A 11.
Q Are these children all living at this time? A Yes, sir.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Annie Paok.
Q What was her name before you married her? A Dunham.
Q Is she a citizen? A No, sir.
Q Is he living? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir.
Q On what roll? A Clifton roll.
Q Do you claim citizenship through your father or mother? A Both of them.
Q What is your father's name? A Lem Cowett.
Q Is he living? A No, sir.
Q What is your mother's name? A Katie Paok.
Q Is she living? A Yes, sir.
Q Were you born a slave? A Yes, sir.
Q To whom did you belong? A Betsy Paok.
Q Is he a Cherokee? A Yes, sir.
Q Were you taken out of the Cherokee nation during the war? A No, sir; that is my second wife, Annie.
Q Well, it is your present wife, isn't it? A Yes, sir, it is not the mother of my children.
Q You say you were never taken out of the Cherokee nation? A No, sir.
Q You were in the Cherokee nation all the time during the war? A Yes, sir.
Q Have you ever lived outside of the Cherokee Nation after the war? A No, sir.
Q Never have? A No, sir.
Q What is your first wife's name? A Emma Griffin.
Q Was she a citizen? A No, sir.
Q Where did you marry her? A Colorado Springs.
Q Colorado? A Yes, sir.
Q When were you in Colorado? A Oh, I have been there off and on; I am a caterer.
Q Where were these three children born? A They were born in Colorado, all three of them.
Q Well, you never lived out of the Cherokee nation? A No, sir.
Q You say your wife is a citizen? A Yes, sir.
Q The mother of these children was a citizen? A No, sir, she was no citizen.
BY MR. J. S. DAVENPORT, Cherokee Representative:
Q Tom? what part of Vinita did you live? A I have lived for about four years in Swain's house, just down below the Katy Depot.
Q Where do you live now? A I don't live anywhere, I am a cook on the rail road, I live everywhere.
Q Where is your wife? A My wife is traveling with a troupe.
Q Where are your children? A My children, one with my mother and the other two are in New Mexico, *Albertha full*

Thomas Park, et al.--2.

Q When you give your post office why did you give it here? A I always got my mail here.

Q Your mother you say is in Montana? A Yes, sir.

Q How long since you came from Montana? A I have never been to Montana.

Q How long since you came from Colorado? A I haven't been to Colorado in five years.

Q Where is the first place you can remember? A Big Creek.

Q When were you living with? A My grandfather, Andy Daugherty.

Q Well, how long did you stay there before you left and went away? A I could not say; I guess a long time.

Q Well, how long until you went to Colorado?

A I guess I went to Colorado the last 12 or 13 years.

Q You went there before you were married that last time?

A Yes, sir.

Q Your children were living up there at the time they were born?

A I never have kept house there.

Q Did you stay up there with your wife? A Yes, sir; my business is with a wild cat in Colorado known as the Mountaineer.

Q When did you come back to the Cherokee nation to live?

A I never was out of here a year.

Q When did you move your family back here to live after that?

A My first wife has never lived here.

Q Has your second wife ever lived here? A Yes, sir.

Q Where did she live? A We lived down here, Mr. Foreman's house, Luster's house.

Q Now, when was that? A We have been living there for the last three of our years, right there in Vinita.

Q You are keeping house there now? A No, sir.

Q How long since you have been keeping house in Vinita?

Q It has been pretty near two years.

Q You came down there and kept house just while the Kern-Clifton payment was going on? A No, sir.

Q Well, before then or after the Kern-Clifton payment?

A Before that I lived on the farm.

Q Did you come to Vinita when the Commission, Clifton roll was made? A Yes, sir.

Q You came from Colorado? A Yes, sir.

Q You came and went away when it was over? A No, sir.

Q You went away before it was over? A Yes, sir.

Q And you haven't lived in Vinita since then?

A Yes, sir.

Q Have you lived in the house across the street from Luster Foreman since '97? A Yes, sir.

Q Who lived across the street from you? A He lived in the little white house.

Q Call his name? A Relay News and Collins, he lived there.

Q What did you do while you were living in Vinita?

A I was running a restaurant and cooking at the Cobb Hotel.

BY COUNSEL:

Q How long? A Oh, just several months I would cook there.

Q How large were you when you left the Cherokee nation?

A I was very near a man, I worked in Vinita until, I could not tell you how many years; I was about the second colored family there.

Q Your first wife is dead is she? A No, sir.

Q You are not living with your first wife then? A No, sir.

Q She is the mother of your children? A Yes, sir.

Q Has she possession of any of those children? A Yes, sir.

Q First wife? A Yes, sir, two of them.

Q Where, Colorado? A No, she is in New Mexico.

Q Which one? A She has got Henry and Albertina.

Q Where is Thomas? A I think Thomas is with my mother, or my sister.

Q Where is your mother now? A She is at Delta City, she has been at Delta City.

Thomas Pack, et al.--3.

WILSON MERRILL, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Wilson Merrill.
Q What is your age? A 77.
Q What is your post office address? A Cuffeyville.
Q Do you know the applicant, Thomas Pack? A No, sir, I don't know him.
Q Do you know his mother? A Yes, sir.
Q What is her name? A Katie Pack.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A Betty Pack.
Q Did she go out of the Cherokee Nation? A I don't know, sir, whether she did or not.
Q Where did you see her since the war?
A I haven't seen her since the war.

The 1860 Authenticated and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Turn-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 174, #1235, Wax Pack, Cowascoochee District.

LUSTER FORSMAN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Luster Foraman.
Q How old are you? A I am between 50 and 60.
Q What is your post office? A Vinita.
Q Are you a Cherokee Freedman? A Yes, sir.
Q Do you know the applicant, Thomas Pack? A Yes, sir, slightly.
Q How long have you known him? A I got well acquainted with him far ten or 12 years.
Q Do you know whether he was a slave or not? A Yes, sir.
Q Do you know his mother? A Yes, sir.
Q What is her name? A Katie Pack.
Q Was she a slave? A I don't know.
Q When did you see her last? A In '66 at Gibson.
Q Did you see this boy with her? A She had a boy, I don't know whether this is the one or not, I guess it is.
Q How long did you know her? A I knew her for about two or three years.
Q Only two or three years? A Yes, sir.
Q Do you know whether she has been since that? A No, sir.
Q You never did know this boy? A No, sir.
Q You don't know whether she had a child Thomas?
A Not personally.
Q You don't know that Katie Pack was a slave? A No, sir.
Q You saw her though at Fort Gibson in 1866? A Yes, sir.

THOMAS PACK, the applicant, recalled:

- Q You lived in the Creek Nation, now did you? A Yes, sir.

COLLEMAN McHALL, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Coleman McHall.
Q What is your age? A 51.
Q Your post office? A Vinita.
Q Do you know the applicant, Thomas Pack? A Yes, sir.
Q How long have you known him? A I don't tell how long, I have known him.
Q Was he a slave? A I don't know.

Thomas Pack/)-3.

- Q Did you know his mother? A Yes, sir.
Q Was she a slave? A I don't know.
Q When did you first see his mother after the Civil war?
A I can't tell what year it was, I seen her; it was a good while after the w.r.
Q How long have you known Thomas Pack, the applicant?
A I have known him ever since he was a boy.
Q Was he a slave? A I don't know about that.
Q Do you know where he has been living for the last 15 or 20 years? A No, sir.

FRANK PACK, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Frank Pack.
Q What is your age? A 40.
Q Are you a recognized Freedman? A Yes, sir.
Q What is your post office? A Tqhlequah.
Q Do you know the applicant, Thomas Pack? A Yes, sir.
Q How long have you known him? A I could not say exactly how long, somewhere along about '90 I first seen him.
Q Do you know whether he was a slave or not? A Nothing more than I hear the old folks say.
Q Do you know his mother? A Yes, sir.
Q Was she a slave? A That is what they say, I don't know.
Q When did you see his mother after the war? A I seen him and her about the same time.
Q About 1890? A Yes, sir.
Q Do you know whether he and his mother were here in 1866 or not?
A No, sir.
Q Where has Thomas been living? A I don't know.
Q Do you know his children? A No, sir.

THOMAS PACK, the applicant, recalled:

- Q you say you have been living in the Creek Nation? A Yes, sir.
Q How long did you live there? A Oh, as a child I lived there.
Q Did you ever apply for enrollment in the Creek Nation?
A No, sir.
Q Did you ever draw any Creek money? A No, sir.
Q What part of the Creek Nation? A lived at Muskogee.

The 1880 Authentic Roll, the 1896 Census Roll and the Wallace Payroll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicants found thereon as follows:
Page 174, #4280, Tom Pack, Coowescoowee District.
Page 174, #4281, Howard Pack, Coowescoowee District.
Page 174, #4282, Alberttha Pack, Coowescoowee District.

- Q These children all born in Colorado? A Yes, sir.
Q Their mother's name was Emma Griffin? A Yes, sir.
Q Have you any proof of marriage betw een yourself and their mother? A I have got my divorce.
Q You were married you say in the state of Colorado?
A Yes, sir, I was married at Colorado Springs.

COM'R NEEDLES: Thomas Pack applies for the enrollment of himself and his three children, Thomas Jr., Howard and Alberttha. He cannot be identified upon the authenticated roll of 1880 or census roll of 1896. He is identified upon the Kern-Clifton roll as well as his three children according to the page and number of the roll as indicated in the testimony.

Thomas Pack, et al.--4.

He avers he was born a slave of one Betsey Pack, a Cherokee citizen, that he was not taken out of the Cherokee Nation during the war, and that he was here in the year 1866. He brings no proof to that effect, the only testimony being his own. He avers that he married Emma Griffin in the State of Colorado, who is the mother of his three children, all born in the State of Colorado. He avers that he separated from said wife, but presents no proof of marriage. He avers that he can produce proof of his divorce. He has since married to Annie Dunham, a non-citizen. He avers that his two younger children are now living in the State of New Mexico, and his older child, Thomas, Jr., is in Montana with his mother. Reference is made to the testimony as to his residence; No satisfactory permanent residence being satisfactorily proven. Because of the fact as set forth in the testimony, said Thomas Pack and his three children, as enumerated in the testimony, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. They will be notified by mail of the action of the Commission in the premises. It will be necessary for him to make satisfactory proof of his marriage to the said Emma Griffin and while he was living with her as man and wife the said children were born.

---00000000---

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.

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



Commissioner.

Cherokee Freedmen
B 1004.

Q. M. J.
1004

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

In the matter of the application for the enrollment of
Thomas Pask Sr., et al., as Cherokee Freedmen.

D E C I S I O N.

The record in this case shows that on July 1, 1901, Thomas Pask Sr., appeared before this Commission at Nowata, Indian Territory, and made application for the enrollment of himself and minor children, Thomas Pask Jr., Howard Pask and Alhertha Pask, as Cherokee Freedmen.

After ample opportunity afforded, the principal applicant, Thomas Pask Sr., has failed to establish by satisfactory evidence, that he possesses any rights to enrollment as a Cherokee freedman, and he cannot be identified on the Cherokee authenticated tribal roll of 1860. The minor applicants herein are children of the principal applicant, Thomas Pask Sr., were born since 1860, and possess no rights to enrollment other than as descendants of their said father.

Three letters addressed by this Commission to the principal applicant, Thomas Pask Sr., at Vinita, Indian Territory, requesting that he appear and establish by satisfactory evidence his rights to enrollment as a Cherokee freedman, have been returned unclaimed.

It is, therefore, the opinion of this Commission that,

following the rulings of the Department in the cases of Eliza Bryant
et al (I.T.D. 544-04), William Rector (I.T.D. 1488-04), Minnie
Duncan et al (I.T.D. 1490-04), Samantha Chambers (I.T.D. 2896-04),
Ed Williams (I.T.D. 4230-04), Martha Albert et al (I.T.D. 4632-04),
and Moses Ross (I.T.D. 6096-04), the application for the enrollment
of Thomas Pack Sr., Thomas Pack Jr., Howard Pack and Alberta Pack,
as Cherokee Freedmen, should be denied, under the provisions of
section twenty-one of the Act of Congress approved June 20, 1898
(30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

James Birby.

SIGNED,

Chairman

F. B. Needles.

SIGNED,

Commissioner

L. S. Breckinridge.

SIGNED,

Commissioner

Dated at Muskogee, Indian Territory,

JUL 10 1905

COMMISSIONERS:
TAMM BEESY,
THOMAS B. NEEDLES,
C. R. BRACKENRIDGE.

W. O. HALL,
Secretary.

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

Old

COPIES TO BE MADE TO THE FOLLOWING: Cherokee Freedmen D-1094
--

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 30, 1894.

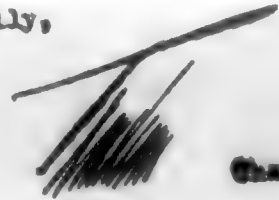
Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 30, 1894, rejecting the application for the enrollment of Thomas Pack, et al., as Cherokee freedmen.

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

Incl. 8-27

Land.
50938-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

July 15, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 30, 1905, transmitting the record of the application for enrollment as Cherokee Freedmen by Thomas Pack Sr., for himself and his minor children, Thomas Jr., Howard and Albertha Pack.

June 30, 1905, the Commission decided adversely to all the applicants.

The record shows that after ample time and opportunity the principal applicant has failed to establish by satisfactory evidence that he possesses any rights to enrollment as a Cherokee Freedman and he cannot be identified on the 1880 authenticated Cherokee roll; that the minor applicants are his children, born since 1880 and possess no rights to enrollment other than as his descendants.

In view of the record the approval of the Commission's decision adverse to all the applicants is recommended.

Very respectfully,

C. E. Larrabee

Acting Commissioner.

H.N.H. (V)

D. C. 48140-1905.
I.T.D. 8386-1905. DEPARTMENT OF THE INTERIOR,
LES WASHINGTON.

W. C. F.
Y.P.
LIB

October 14, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 30, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application of Thomas Pack, Sr., for the enrollment of himself and his minor children, Thomas, Jr., Howard, and Albertha Pack, as Cherokee freedmen.

Reporting July 15, 1905, the Indian Office recommended that the Commission's decision, adverse to all the applicants, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation and the Commission's decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

1 inclosure.

Secretary.

REFER IN REPLY TO THE FOLLOWING:

Cherokee Fr.

D-1004

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

Muskogee, Indian Territory, October 31, 1905

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 30, 1905, rejecting the application for the enrollment as Cherokee Freedmen of Thomas, Thomas, Jr., Howard, and Albertha Pack, Cherokee Fr. D-1004, was affirmed by the Secretary of the Interior on the 14th day of October, 1905.

For your information, a copy of the decision of the Department above referred to is enclosed you herewith.

Respectfully,


Commissioner.

Encl. J-16

Cher Fr D 1005

Cher Fr D 1005

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of George Rowe for enrollment as a Cherokee Freedman; said Rowe being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A George Rowe.
Q How old are you? A About 38.
Q What is your post office address? A Inola.
Q What district do you live in? A I am living in the Creek Nation
at now, I lived in this Nation but I am now in the Creek Nation.
Q Who do you want to enroll besides yourself? A Just myself.
Q Are you married? A Yes, sir.
Q What is your wife's name? A My wife is already enrolled.
Q Has she got a name? A Yes, sir.
Q What is it? A Dinah McIntosh.
Q Is she a Creek? A Yes, sir.
Q Was she enrolled in the Creek Nation? A Yes, sir.
Q Is her name on the Dunn roll? A Yes, sir.
Q Are her children enrolled there with her? A Yes, sir.
Q What is your father's name? A Daniel Rowe.
Q Is he living? A No, sir.
Q What is your mother's name? A Harriet Rowe.
Q Is she living? A No, sir.
Q Were you a slave? A I was born a slave.
Q Who was your owner? A Lewis Ross.
Q Is he a Cherokee citizen? A Yes, sir.
Q Who did your mother belong to? A Lewis Ross.
Q Well, were you taken out of the Cherokee Nation during the Civil
War? A Yes, sir.
Q Where to? A Kansas.
Q When did you return? A '66, as near as I can come at it.
Q Did you come back with your mother? A Come back with my
father, my mother died in the time of the war.
Q You come back with your father? A Yes, sir.
Q Where can you first recollect being? A I was in Grand River
between Spavinaw.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you live in the Cherokee Nation?
A I have lived there up to '91.
Q Then you married in to the Creek Nation? A Yes, sir, I brought
my wife over here and married and found out I could not give my
children any schooling and I moved them back in the Creek Nation
in '91.
Q You have been living there ever since? A Passing.
Q The old lady is living over there? A Yes, sir.
Q You stop as you pass? A Yes, sir.
Q What part of the Creek Nation do you live in George?
A Six miles from the line; five miles and a half from the line
south.
Q From the line, south to the Cherokee line? A Yes, sir.
Q Is Inola in the Cherokee Nation or Creek Nation?
A It is a quarter from the line, it is in the Creek Nation.
BY MR. J. S. DAVENPORT, Cherokee Representative:
Q Where did you see Jim Alberty after the war?
A Down in Belah are district.
Q At what place? A Cherokee Nation.

JIM ALBERTY, being sworn and examined by Commissioner
T. B. Needles, testified as follows:

- Q What is your name? A Jim Alberty.
Q What is your age, Mr. Alberty? A 70.
Q What is your post office? A Chouteau.
Q Do you know the applicant, George Rowe? A Yes, sir.
Q How long have you known him? A 25 or 30 years.

George News...-2.

Q Did you know his mother and father? A Didn't know his mother.
Q Did you know his father? A Yes, sir.
Q What was his father's name? A Dan News.
Q Was Dan a slave? A Yes, sir.
Q Was George born a slave? A Yes, sir, I can't tell.
Q When did Dan belong to? A Lewis News.
Q He was a Cherokee? A Yes, sir.
Q Well, did Daniel News and the applicant go out of the Cherokee
Nation during the war? A He says he did.
Q Who says he did? A Daniel.
Q Well, where did you see him first after the Civil War?
A Right there near about his old home.
Q When? A It was sometime in the fall of '64.
Q Is Daniel living? A No, sir.
Q Did Dan have his family with him when you saw him in the fall
of '64? A Yes, sir.
Q Did he have any children? A Yes, sir.
Q How many? A Four or five.
Q Do you know whether this boy, George, was one of them or not?
A Yes, sir.
Q He was? A Yes, sir.
Q You recollect him? A Yes, sir.
Q How old was he when you saw him there with Daniel?
A He was a very little boy.
Q Have you known him ever since? A Yes, sir.
Q Where does he live now? A In the Creek Nation ever since.
Q That is what he told you? A No, I know.
Q You have been in the Creek Nation to where he lives? A Yes, sir.
Q Been to his house? A Yes, sir.
Q What part of the Creek Nation does he live?
A Not far from what we used to call Sandtown.
Q Where is Sandtown? A That is west of where I live.
Q You have been down there and seen him? A Yes, sir.
Q How much family has he got? A I don't know, it has been some
time since I was there.
Q How long has he been living in the Creek Nation to your knowl-
edge? A He must have been living there as much as ten or 12 years
or longer.

BY MR. DAVENPORT:

Q Him, was his mother and father married at the breaking out of the
Civil War living together as man and wife? A Yes, sir.
Q What was his mother's name? A I don't know his mother; Dan had
a wife; she was where I could not go.
Q This man's mother you don't know what her name was?
A No, sir, she lived at Lewis News' and they didn't allow negroes
to go there.
Q You lived how far from Lewis News' place at the time the war
broke out? A About eight or ten miles.
Q Do you know that Daniel News was the sale of Lewis News at the
breaking out of the war? A Yes, sir.
Q How do you know? A When I helped him drive his cattle down
over I would see him.
Q Was that one of the drives you went 40 miles and back in a day?
A No, sir, I didn't do that.
Q You were there at Lewis News' place when the war broke out
and knew that he was a slave? A Yes, I wasn't there when the
war broke out.
Q Well, then, you don't know whether he is a slave of George News
News or not? A Yes, sir, I know it.
Q Did you go out of the Cherokee Nation? A Yes, sir.
Q Do you know what state Lewis News himself was in when the war
was declared? A I don't know anything about that.
Q Now, when did you first see this applicant and where was he then?
A In the fall of '64, I saw him near about his old home.

George Rowe, 44.

Q How long ago has it been? A Ever since '66.
 Q This applicant? A He was a child then.
 Q Do you remember him as a child? A Yes, sir, I lived right by him after he moved to Big Creek.
 Q How old was he when he moved there? A I can't tell my son, I can't tell his son.
 Q Well, then the mother of t his applicant lived up on Big Creek at one time didn't she? A No, sir.
 Q Did you ever know a woman to figure in the Rowe family and who claimed to be the mother of this applicant by the name of Dalilah?
 A No, sir.
 Q Well, what relation was Dalilah to this applicant?
 A His sister.
 Q Well, was Dalilah with them ever there? A Yes, sir.
 Q Who else did he have with him? A He had his family.
 Q Did he have some other children? A Yes, sir.
 Q Do you remember any of their names? A Yes, sir, and the next biggest one.
 Q What was that? A Elsie.

BY COM'R NEEDLES:
 Q How do you know it was '66? A Why everybody I met told me, just kept account of it.
 Q Was that the year you come back? A Yes, sir.
 Q You saw Daniel Rowe the same time? A Saw him the same year.
 Q Do you know how long Daniel has been dead? A No, sir.

BY MR. DAVENPORT:
 Q Did Daniel Rowe have his wife with him when you saw them dumped there in '66? A No, sir, I didn't see no wife.
 Q Didn't see anybody was apt these children? A I didn't notice any woman at all.

BY COM'R NEEDLES:
 Q This child was very small at that time? A Yes, sir.
 Q Don't look like a man would be dumped there with little bitty children? A That is the way it was.

BY MR. DAVENPORT:
 Q You just remember seeing the children? A Yes, sir.
 Q The wife is dead now? A Yes, sir.
 Q And the father is dead now? A Yes, sir, they are both dead.

MOSE RILEY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Mose Riley.
 Q How old are you, Mr. Riley? A 61 or 2.
 Q What is your past office? A Sheriff.
 Q Are you a Cherokee Freedman? A Yes, sir.
 Q Did you know the applicant, George Rowe? A Yes, sir.
 Q How long have you known him? A I have known him about I expect 30 years.
 Q Did you know his father? A Yes, sir.
 Q What was his name? A Dan Rowe.
 Q Did you know his mother? A No, sir, I didn't know his mother.
 Q Do you know whether George was a boy's slave or not?
 A No, sir.
 Q Do you know whether his father was? A I know his father, but I don't know where he was a slave or.
 Q Where did you first see his father or of the Civil War?
 A Over in Galena District.
 Q What year was that? A It was during the latter part of '61 or first part of '67.
 Q Who was with him there? A His business for me I know, I don't know whether this is one or not.
 Q Well, have you known George since that party with? A Yes.

George Rowe, --4.

Q Where has he been living ever since that time? A I have been knowing him about every place, knowed him on Big Creek and down in the lower part of the Cherokee Nation.

Q Did he move out of the Cherokee Nation?

A I don't know, sir, where he did or not.

Q How much family has he got? A I don't know.

Q Don't know his children at all? A No, sir.

Q You have never been to his house since he was married?

A No, sir.

BY MR. DAVEN PORT:

Q How far do you live from him, Mose? A I don't know, sir, how far I live from him now.

Q How far did you live from where you saw them camped there on Grand river in '66, as you understood it to be? (No response.)

Q Were they living in a house over there when you saw them in '66 or were they camped? A I saw them at Lynch's settlement, and when they came passed the old McNair place when his father came past there, they wasn't camped there, but his father did camp down there somewhere but I wasn't down to his camp.

Q ~~Ketchikan~~ How do you know he was camped down there? A Just by what he says.

Q Well, were you down there in '66 to the McNair place?

A Yes, sir.

Q You are not on the 1860 roll? A No, sir.

Q Now, what time of the year in '66 was it you saw these people down there? A It was early in the fall, it must have been; no, it must have been the early part of the winter when I saw them there.

Q Before or after Christmas? A I don't remember whether it was after Christmas or not.

Q He had his wife with him there did he? A I don't know whether Minah, had his wife down there or not, I think she was.

Q He married his second wife in Kansas?

A I don't know, but seems to me like he had Minah with him.

Q And that wife was Peter Wards daughter? A Yes, sir.

Q And the first time you saw them they were living together as man and wife? A Yes, sir.

GEORGE ROWE, the Applicant, recalled: BY COM'R NEEDLES:

Q How long has your ~~wife~~ father been dead? A He died in '80, sir.

Q How long has your mother been dead? A My mother died in '62, in time of the war.

Q Did you ever try to have your name put on the 1860 roll?

A I have tried through my uncle.

Q Who was he? A Lewis Rowe, lived in Delaware District.

Q Is your name on any of the rolls of the Cherokee Nation?

A On the Wallace Roll.

The 1860 Authenticated Roll, the 1896 census Roll and Kern-Clifford payroll of freedmen of the Cherokee Nation examined and name of applicant no found thereon.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 137, #2875, George Rowe, Coowasee District.

Q Now, there has been no proof brought here that your mother was a slave? A She died, I was very small.

Q And there is no proof here that your mother and mother were ever married? (No response.)

DAVID MARTIN, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A David Martin.

Q What is your age? A 64.

Q What is your post office? A Coffeyville.

- Q Are you a Cherokee Freedman? A Yes, sir.
Q You are not on the roll of 1830? A No, sir.
Q Well, do you know George Rowe, the applicant? A Yes, sir.
Q How long have you known him? A Known him ever since he was a little boy.
Q Was he a ~~Urn~~ slave? A Yes, sir.
Q To whom did he belong? A Lewis Ross.
Q Who was the name of his father? A Daniel Ross.
Q What was the name of his mother? A Harriet Ross.
Q Were they slaves of Lewis Ross? A Yes, sir.
Q Well, did Daniel and Harriet go out of the Cherokee nation during the war? A I don't know, sir.
Q When was the first time you saw George Ross, the applicant after the war? A Saw him on Grand River I think the first time.
Q About what year? A It was in '73.
Q Was his father and mother living? A No, sir, his mother wasn't his father was living.
Q Well, where did you see Daniel and Harriet after the war, the same time? A I saw Daniel on Grand river in '73, but Harriet was dead.
Q Did he have George with him then? A I didn't see the children, we was up there at the Convention.
Q You don't know when they returned to the Cherokee Nation?
A No, sir.
Q Do you know that Daniel and Harriet were married?
A They were there married and lived there on Lewis Ross' place and had three children.
Q Was George one? A Yes, sir, and Jesse was one I think and this Delilah was the other one, and had a little crippled one.
Q Do you know whether George has been since that time?
A He has been living the greater part of his time up on Big Creek.
Q Is he living on Big Creek now? A No, sir, he is moved down to the Creek Nation.
Q Well, how long has he been down there? A Between eight or nine years.
BY MR. DAVENPORT:
Q You heard all the testimony given there with reference to his residence? A Yes, sir.
Q You heard the testimony of Jim Alberty with reference to his return? A No, sir.
Q Now, was George born after the breaking out of the war?
A No, sir, he was born before the breaking out of the war.
Q Now, don't you know that he was not? (No response.)
Q Don't you know that George was not born until after the war was had broke out? A Well, why so?
Q I am asking you? A No, sir, I don't know.
Q How old is he now? A He ought to be close on to 40 to give him a right age.
Q Where was George born? A Lewis Ross'.
Q Do you know that he was living in Kansas and George was born there? A We had two or three children when they left here.
Q You don't identify this boy as one born before the war?
A Yes, sir, I do.
Q You positively identify him as being one of the boys born before the war? A I identify him as Daniel's boy.
Q You didn't see all of his children? A Yes, sir.
Q The war broke out in '61? A Yes, sir.
Q And you didn't see them until '73, 12 years afterwards? (No response.)
Q Wasn't that a fact? (No response.)
Q Was that the first time you seen them or not? A That is the first time, I was trying to recall.
Q You answered a while ago that the first time you seen him was '73? A Yes, sir.
Q And you answered that he didn't have his family with him?

George Rowe.--6.

A I saw Daniel, I didn't see his family in '73.
Q You didn't see his family with him? A No, sir.
Q Now, when after that was it you saw these children?
A I have saw these children all the time for 20 years, more or less
Q How soon after you saw Daniel in '73 was it until you saw this
boy? A I saw this boy in '81, or '82.
Q You recognized him in '81, as being the boy George? A I
recognized all of his children.
Q George was an infant if he was born before the war?
A He was a small child.
Q Did these people have an ~~you know~~ other name
besides Rose? A They went by the name of Harriet and Daniel Ross
and they bought him from Rowe.
Q Where were you living when the war broke out? A I was living
eight or nine miles; before the war broke out and in '59 and '60,
I was in the woods scouting.
Q You hadn't seen these people for several years before the war?
A Yes, sir, I went to them and got something to eat.
Q You left away before that? A Yes, sir; they left in '62 and
I left in '61.
Q And you don't know what changes had been made with reference
to their ownership? A I don't know.

BY COM'R NEEDLES:

Q Was Daniel and Harriet married during the war? A Yes, sir.
Q They were married? A They were married by a preacher, Uncle
Willis, always married the colored people there on the place.
Q They were known as man and wife? A Yes, sir.
Q They went to Kansas together? A Yes, sir, I guess they went to
Kansas.
Q Did she die in Kansas? A Yes, sir, Daniel told me she died
in Kansas when I met him.

COM'R NEEDLES: Daniel Rowe applies for the enrollment of
himself. He avers that he is the child of Daniel Rowe and
Harriet Rowe, and that he was the sale belonging to Lewis
Ross and his father and mother belonged to Lewis Ross. He
avers that he informed that he returned to the Cherokee
Nation in the year 1866, but testimony to that effect has
been produced. Testimony has been produced as to the
citizenship of his mother and as to their having been mar-
ried. Applicant avers that he now lives in the Creek nation
and that his wife and children are resident and citizens of
the Creek nation. As to his residence reference is made to
the testimony. George Rowe will now be listed for enroll-
ment as a Cherokee Freedman upon a doubtful card. He will be
notified by mail of the action of the Commission when ar-
rived at.

---00000000---

J. O. Pessen, being first duly sworn, states that as stenog-
rapher 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 18th day of July, 1901.

J. O. Pessen
[Signature]

Commissioner

No. D/203

INDIAN TERRITORY,
CHEROKEE NATION

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901

Given under my hand this
day of A. D. 1901.

Marshal for the Cherokee Nation.

I, the under-signed attorney for the
within named applicant hereby accept
service of the within notice on this the
day of , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT, }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public.

SEP 18 1901
Filed SEP 21 1901

NOTICE!

IN THE MATTER OF the application of George Rowe
for enrollment as a Cherokee citizen:

Case No. D 1008

To George Rowe India 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 Vinita, Indian Territory, Indian Territory, on Oct. 8th 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 on the respective days above named, 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 SEP 18 1901

L B DeLo
W W Hastings
Attorneys for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

George Powe.

1005-

MOTION FOR REVIEW OF DECISION.

Come now, by their attorneys, the above named persons who have been denied enrollment as Cherokee Freedmen solely because they or their ancestors were not physically in the Cherokee Nation on August 11, 1866, or within six months thereafter, regardless of attendant circumstances, and move the Honorable Secretary of the Interior to rescind said decision to readjudicate said cases and to enroll said persons as Cherokee Freedmen for the reason that the evidence shows that said persons or their ancestors were slaves of Cherokee citizens at the commencement of the War of the Rebellion, that during said war they were compelled by circumstances over which they had no control to go out of the Cherokee Nation, but returned within a reasonable time after promulgation of treaty of July 19, 1866, considering the attendant circumstances, as shown by the records of the Department of the Interior, the Department of War and the Commission to the Five Civilized Tribes.

These records show that these persons were legally residents of the Cherokee Nation on August 11, 1866.

The records of the Commission show that it did not base its decisions in these cases upon proper grounds, but based them upon a supposed bar in Article 9 of the Cherokee Treaty of July 19, 1866, against the consideration of the reasons why a Cherokee Freedman was not in the Nation prior to February 11, 1867.

The records show that these persons were residents in good faith in the Cherokee Nation prior to June 28, 1898.

That applications were made for their enrollment prior to September 1, 1902.

Wherefore we respectfully request that this motion be allowed.

Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

Cher Fr D 1006

Cher Fr D 1006

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 11 1901

[Handwritten signature]

ATTORNEY GENERAL

[Faint handwritten notes]

To be filed with case of Joseph Landrum, C. V. D. 11006.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
JUNE 28th, 1891, NOWATA, I.T.

In the matter of the application of John Rowe for enrollment as a Cherokee Freedman; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A John Rowe.
Q How old are you? A I don't know exactly.
Q Well about how old? A About 45 years old.
Q What is your post office address? A Catoosa.
Q In what district do you live? A Catoosa county district.
Q Who else do you desire to have enrolled besides yourself?
A Nobody, just myself.
Q Is your name on any of the rolls of the Cherokee Nation?
A Not on any of the rolls.

The rolls of the Cherokee Nation in the possession of the Commission examined and the name of the applicant not found.

- Q What is your father's name? A John Rowe.
Q Is he living? A No, sir.
Q What is your mother's name? A Emily.
Q Is she living? A No, sir.
Q Where were you born? A On Spring Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Where have you lived all your life? A In the Cherokee Nation.
Q Were you a born slave? A Yes, sir.
Q Who did you belong to? A Mrs. Cherokee Landrum.
Q Was she a Cherokee citizen? A Yes, sir.
Q An Indian? A Yes, sir.
Q Did you go out of the Cherokee Nation during the war? A Yes, sir.
Q Are you married? A No, sir.
Q Never have been? A No, sir.
Q Where were you taken to during the war? A To Kansas.
Q When did you return? A In '65.
Q Have you been here ever since? A Yes, sir.
Q Why is your name not on the roll of 1860? A My mother, she and her brother, Irving Vann, they made claim to have their names put on; he went to Tahlequah in '66, he was to tend to her business for her and her children, she wasn't able to tend to it for herself and he agreed to tend to it for her and he never done it.
Q Did you apply to the Kern-Clifton Commission? A Yes, sir.
Q You didn't get any money from them? A No, sir.
Q Where have you lived since '65? A Living in the Cherokee Nation.
Q Never lived out of it? A No, sir, only during the war and when I took cattle to market.
Q Where did you return from in Kansas? A My mother was there in Fort Scott.
Q Where did you come to? A Fort Gibson.
Q Who with? A My uncel, and with all the crowd of people.
Q Give me the names of some of them? A Irving Vann.
Q Is he living? A No, sir.
Q Anyone else? A Lots of 'em, I wasn't old enough to remember them.
Q How old were you? A Just could remember.
Q You remember that you were in Fort Gibson in '65? A Yes, sir, I was in Gibson when the 1860 roll was made.

H. V. E. EASTINGS, Cherokee representative!

- Q Where did your mother apply before the Kern-Clifton Commission five years ago? A Over here at Chelsoa I believe.
Q Under what name? A Name of Emily Vann I believe.
Q Her name was Emily Vann before she married your father was it?
A Yes, sir.

- Q What was the name of her owner? A Vann.
- Q How long has she been dead? A Two years this last April.
- Q How long has your father been dead? A A year this July.
- Q How is Where did your mother die? A Near Catoosa on Bird Creek.
- Q What name did she go by when she died? A Vann.
- Q What else? A Howe is my father's name, she went by that oo.
- Q Where were you born? A On Spring Cree/
- Q Who owned you before the war? A Mrs. Cherokee Landrum.
- Q What was her husband's name? A High Landrum.
- Q Did they have any children before the war? A I think they did.
- Q Do you remember them? A Yes, sir.
- Q What were their names? A I forget, Joe I think was one.
- Q What kind of a house did they live in? A I has forgot the house, that is a good while for me to remember, it was there on Spring creek.
- Q You don't know what kind of a house it was A I don't know if it was a leg house, I think it was.
- Q You are not certain? A No, sir.
- Q Who did you go out of the country with? A With the soldiers.
- Q Where did you go to? A Fort scott, I believe.
- Q Did you r mother marry up there? A No sir.
- Q Your father waan't up there with you? A No, sir, he went the other way.
- Q You claim through your mother? A Yes, sir.
- Q Did your mother ever have another husband up in Kansas?
- A She had one man, he died.
- Q What was his name? A Ned Bruner.
- Q Was he a state man? A No, sir.
- Q Where did he die? A Got killec between here and Coffeyville.
- Q Has she had a man since then? A No, sir, she was always a w dow after that.
- Q Have you any sisters or brothers older than you? A All dead.
- Q What was the next younger than you? A None born since the war.
- Q Did you come back with your mother? A Yes, sir.
- Q Where to? A Fort Gibson.
- Q Direct from Fort Scott? A Yes, sir.
- Q Do you remember what year that was? A '65 I was told, that is what they all sa d.
- Q Do you know? A You know I don't know exactly.
- Q Now with whom did you first live in Fort Gibson? A Irving Vann.
- Q He he dead? A Yes, sir.
- Q Is his wife dead? A No, sir.
- Q What is her name? A I forget--aunt Harriett Vann.
- Q You lived with them? A Yes, sir.
- Q Did he have her for a wife when you lived with him?
- A No, sir.
- Q Did he have any children then? A Yes, sir, I believe yannie Vann was there.
- Q Is she living? A Yes, sir.
- Q What is her name now? A I don't think she is married; it was vann the last time I seed her.
- Q How long did you live with Irving vann? A Lived there 6 or 10 years.
- Q All the time? A Yes, sir.
- Q What part of the town did you live in? A Over west of town right where they crossed the river, I think the channel of the river is there now.
- Q Did your mother live with him? A Yes, sir.
- Q How long did she live with him A About the same length of time
- Q Did she ever go back to Kansas? A No, sir.

- Q Where did you go after you left there? A Braggs, where I had some half sisters.
- Q Did they live in town? A No, sir, in the country back of the town.
- Q What are their names? A Louvina and Sylvia Stopp.
- Q How long did you live with them? A Off and on all the time.
- Q I don't want any off and on, I want to know how long you lived with them? A As much as two years.
- Q Where did you go then? A I have lived backwards and forwards herding cattle for Blackstone and Severs.
- Q Have you ever been back to Kansas? A I suppose I have with cattle, taking cattle to market.
- Q Did you ever work there? A No, sir, only unloading the cattle.
- Q Just there and back? A Yes, sir.
- Q Where have you lived for the last 10, 15 or 20 years? A From Wagoner to Bird creek.
- Q Who with? A With myself.
- Q You have never married? A No, sir.
- Q Live in a house by yourself all that time? A I and my mother.
- Q She died in the Cherokee Nation did she? A Yes, sir.
- Q You didn't draw any Cherokee strip money? A No, sir.
- Q Any Wallace money? A No, sir.
- Q You make a statement before the Kern-Clifton Commission?
- A My mother applied.
- Q What witnesses did she have? A I disremember what witnesses she did have.
- Q You think she could go only by two names, Vann or Rowe?
- A Yes, sir, I guess that is all.
- Q You never heard her called by any other name? A No sir.

L. D. DANIELS, called and sworn as a witness for the applicant:

- Q What is your name? A L. D. Daniels, age 56, post office Claremore.
- Q Do you know the applicant here? A Yes, sir.
- Q John Rowe? A Yes, sir.
- Q How long have you known him? A I have known him ever since the Rebellion, after the war.
- Q Do you know if he was a slave? A No, sir, I only seed him first when his mother brojught hik to Gibson to his uncle Irving Vann's.
- Q When was that? A Spring of '66.
- Q Have you known him since that time? A I have seen him several times since.
- Q Do you know his mother? A She s named Emily Vann.
- Q Was she a slave? A So said to be, I don't know it of my personal knowledge.
- Q You saw her in Fort Gibson in the spring of '66 A Yes, sir, with her two boys.
- Q What was the other boy's name? A Joe.
- Q Have you seen him continuously since? A The next time I seed him ix was at Tahlequah in '89 when they was taking the census in the Wallace court and I seed him in the Kern Clifton Court.
- Q Was you a witness for his mother before the Kern Clifton Court?
- A I never seed his mother there.
- Q She applied there A He was there but I don't know if he was an applicant or not.
- Q You wasn't a witness for him? A No, sir, I knew I wasn't/
- W. B. HILL, Cherokee Attorney:
- Q Do you know this man to be the same boy that you saw in '66 at Irving Vanns? A Yes, sir, Irving Vann kept him a good while there in Gibson.
- W. B. HASTINGS: Which is the elder of these two boys? A /See/
- Q How old was this applicant then? A A small boy.
- Q 4 or 5 years old? A Yes, sir, about that.

Q And you remember him? A Yes, sir, if I didn't I wouldn't say so.

Q Who was Irving yann living with then? A Cinda Beek.

Q Did he have her for a wife? A She was living with him.

Q That was when this applicant was there? A Yes, sir.

Q How long did you see him around there? A I don't know, I don't think I saw him there after '67.

Q What became of him after that? A I heard he was with his father in the creek nation.

Q What was his father's name? A John Rowe.

Q What became of this boy's mother? A I don't know where she is, I think she is dead though.

Q Do you know where she went from there? A She went back to Kansas and left her boys in Gibson with Irving Vann.

Q How long did she stay there before she went to Kansas? A 3 or 4 months.

Q When did you next see her? A I saw her up here, never saw her in Gibson any more, it was after I moved up in this district that I seed her.

KATE VANN, called and sworn as a witness for the applicant:

Q What is your name? A Katie Vann.

Q What is your age? A 56.

Q What is your post office address? A Lanaph.

Q Are you a recognized citizen of the Cherokee nation? A Yes, sir.

Q Freedman? A Yes, sir.

Q Do you know the applicant, John Rowe? A Yes, sir.

Q How long have you known him? A I have known him ever since he was born.

Q Do you know his mother? A Yes, sir.

Q What was her name? A Baily.

Q What? A She sprung from the Vanns her mistredd married a Landrum.

Q Was she a slave? A Yes, sir.

Q Who did she belong to? A Mrs. Landrum.

Q Was she a Cherokee citizen? A Yes, sir.

Q Was John Rowe born a slave? A Yes, sir.

Q Was his mother and he out of the Cherokee nation during the war? A Yes, sir.

Q Where did they go? A To Kansas.

Q What relation is his mother to you? A No kin at all.

Q When was the first time that you saw John and his mother in the Cherokee nation after the war? A I saw John, I didn't see his mother until about the Wallace court, before the Wallace court.

Q When did you see John? A 28 years ago in Galina district.

Q What that the first time you saw him since the war? A Yes, sir.

Q Where has he lived since? A In the Creek Nation with his father.

Q Do you know his father? A Yes, sir.

Q What is his name? A John Rowe.

Q Was he a Cherokee slave? A Yes, sir.

Q Who did he belong to? A Dave Rowe.

Q Was Dave Rowe a Cherokee citizen? A Yes, sir.

Q Did he go out of the Cherokee nation during the war? A Yes, sir, before the war.

Q When did he return? A In '66 from the south.

Q He went south then and his wife went north? A Yes, sir.

Q And the first time you ever saw this applicant since the war was 28 years ago? A Yes, sir.

Q Do you know where he was in '66? A No, sir, I heard of him being at yert Gibson, I don't know though.

— 4 —

BY HASTINGS: You didn't witness for this applicant before the Kern-Clifton Commission did you? A No, sir.
 Q Or for his mother? A No, sir.
 Q Did she apply? A Yes, sir.
 Q Under what name? A Rowe or Landrum.

NICK LANDRUM, called and sworn as a witness for the applicant:

Q What is your name? A Nick Landrum.
 Q How old are you? A I don't know exactly.
 Q Well about how old? A I can't get at it, Mr. Bell there he knows.
 Q I am not asking Mr. Bell—are you about 50? A I says I am 51.
 Q You are 51 then? A Yes, sir.
 Q What is your post office address? A Coffeyville.
 Q Do you live in the Cherokee Nation? A Yes, sir.
 Q Do you know the applicant, John Rowe? A Yes, sir.
 Q How long have you known him? A The first time I seed him was the year before the war.
 Q Did you know his father? A Yes, sir.
 Q Did you know his mother? A I knowed Emily Landrum.
 Q Was she a slave? A Yes, sir.
 Q Who did she belong to? A Mrs. Cherokee Landrum.
 Q ~~Was she a slave of Mrs. Cherokee Landrum?~~
 Q ~~Was she a slave of Mrs. Cherokee Landrum?~~
 Q Was you a slave yourself? A Yes, sir.
 Q Who did you belong to? A Mrs. Cherokee Landrum.
 Q Was John a slave? A Yes, sir, and we was both boys there together.
 Q Where did he go during the war? A I suppose he went to Kansas.
 Q How long after the war was it that you first saw him again?
 A I don't know.
 Q Do you know where he was in '66? A No, sir.

BY COM'R NEEDLES: John Rowe applies for himself; he is not found on any of the rolls of the Cherokee Nation in the possession of the commission; he avers that he is the son of one Emily Vann and that she was a slave of one Mrs. Cherokee Landrum, a Cherokee citizen, and that he was himself a born slave. He avers that he was taken out of the Cherokee Nation during the war, and returned in 1866 and that he has resided in the Cherokee Nation ever since that time. He is not married and has no children. He will be listed for enrollment as a Cherokee freedman on a doubtful card, awaiting the further consideration of the Commission, and he will be notified of the final decision of the Commission, when the same is arrived at.

-----00-----

Chas. von Weise, being sworn states that as a 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.
 (Signed) Chas. von Weise.

Subscribed and sworn to before me this the 12th of July, 1901.
 (Signed) T. B. Needles,
 Commissioner.

NOV 10 1901

J. O. Rosen, being duly sworn, states that as stenographer to the Commission to the five civilized tribes he copied the foregoing and that the foregoing is a true and complete copy of the original transcript in the above case.

J. O. Rosen

Subscribed and sworn to before me this 10th day of September, 1901.

NOTARY PUBLIC

MMA

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Joe Landrum for enrollment as a Cherokee Freedman; said Landrum being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Joe Landrum.
Q Joseph Landrum? A Yes, sir.
Q How old are you? A I am about 49 or 50.
Q What is your post office address? A My post office is Catoosa where it will be.
Q What district do you live in? A I live in Cooweescoowee; after I moved here, I lived in the Creek Nation now.
Q You never lived in the Cherokee Nation? A Yes, sir.
Q You now apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Just me.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Rao hel.
Q Is she a Cherokee citizen? A No, sir.
Q What is she? A Chickasaw.
Q Have you any children? A Yes, sir.
Q How many? A Ebou eight or nine.
Q Are they Chickasaws? A Yes, sir.
Q Are they enrolled in the Chickasaw Nation? A Yes, sir.
Q Is your wife living in the Chickasaw Nation? A No, sir, they are living in the Creek Nation.
Q How long have they lived in the Creek Nation? A About six or seven years.
Q What rights have you got in the Creek Nation, you and your wife? A We haven't got any.
Q Why are you living there? A I am living with my father; he being an old man and he married a Creek citizen and she died and he sent for me to come and stay with him.
Q How long have you been there? A Been there about seven or eight years, may be a little longer.
Q With your family? A Yes, sir.
Q Has your wife and children been enrollees in the Chickasaw Nation? A Yes, sir.
Q And you applied to be enrolled in the Chickasaw Nation? A No, sir, I am Cherokee.
Q Did your wife and family ever apply to be enrolled in the Creek Nation? A No, sir.
Q Now, you don't want to enroll anybody but yourself? A Just myself.
Q What is your father's name? A John Rowe.
Q Is he living? A No, sir.
Q What is your mother's name? A Emily Vann she went by.
Q Is she living? A No, sir, she is dead.
Q Was your father a citizen? A Yes, sir.
Q Your mother? A Yes, sir.
Q Both Cherokee citizen? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A On the Wallace roll, ought to be Vann.
Q Have you always went by the name of Landrum? A I went by the name of Vann when I was put on the Wallace roll, 39 years old.
Q Did you ever have an "E" in your name? A Some times.
Q What does "E" stand for? A I don't know, I can't read.
Q Do you sign your name Joseph E. or just Joseph? A Joseph is all I sign; I might be on the '80 roll with Ervin Vann.
Q Where were you born? A In Saline District.
Q Well, now, how long have you lived in the Cherokee Nation? A I have lived in the Cherokee Nation until up to the war.
Q Well, then where have you lived since the war? A I have lived in the Cherokee Nation some and in different places.
Q Well, just tell us now the places you have lived?

Joe Landrum.—2.

- A I lived in the Creek Nation some and backwards and forwards.
- Q Kansas some? A No, sir.
- Q Arkansas some, Oklahoma some? A No, I ain't been in Arkansas any; I went to Kansas in the time of the war.
- Q Were you brought back to the Cherokee Nation with your brother John? A Yes, sir, mother and brother all come back together.
- Q Did you draw any money on the Wallace roll? A No, sir.
- Q Did you ever draw any money on any of the rolls?
- A No, sir.
- Q Now, you say you came back here when your brother John did?
- A Yes, sir.
- Q How long did you stay in the Cherokee Nation then?
- A I stayed in the Cherokee Nation a long time.
- Q Tell how long did you call a long while? A Well I call ten or 12 years a long while.
- Q And then where did you go? A I just went up and down the road from the Cherokee Nation to Creek Nation and back.
- Q Where did you marry? A Married in the Chickasaw Nation.
- Q How long ago? A Oh, it has been about 18 or 19 years.
- Q How many children have you got? A None.
- Q You have never lived in the Cherokee Nation since that time, have you? A Yes, sir.
- Q Where? A At Fort Gibson.
- Q With your family and wife? A No, sir, my family was never there.
- Q Did you and them, your wife and family ever live in a house at Fort Gibson? A No, sir, I have never kept house at Fort Gibson.
- Q Since you married with the straight right fair thing, got down to the brass tacks? A Yes, sir.
- Q You have never lived in the Cherokee Nation since?
- A Yes, sir.
- Q Well, have you ever lived with your wife and family in the Cherokee Nation, now? A No, sir.
- Q You have always lived with your wife and family have you; you have never separated from her? A No, sir, but I was working a good while.
- Q You have no divorce? A No, sir.
- Q When you went home you went here to your wife and children?
- A Yes, sir.

BY MR. DAVENPORT, Cherokee Representative:

- Q Well, now, did you say you and your brother John come back here together? A Yes, sir.
- Q Where did you go during the war? A Went to Fort Gibson.
- Q Didn't go out of the Territory at all during the war?
- A Yes, sir.
- Q Where did you go? A Went to Kansas.
- Q Didn't go to Texas? A No, sir, that is my father; John and I went to Kansas.

BY COURT RECORDED:

- Q What is your brother's name, John Landrum? A Yes, sir!
- Q How did you get the name of Landrum? A We got the name of Landrum by a Cherokee marrying Landrum; she married High Landrum.
- Q Cherokee too? A She was granddaughter of Aze Wann and she married a Landrum.
- Q And you boys got the name of Landrum? A Yes, sir.
- Q You went to go by the name of Landrum? A Yes, sir.

COURT RECORDED: Joseph Landrum applies for the enrollment of himself. He cannot be identified upon any of the rolls of the Cherokee Nation. He avers that he is a child of John Ross and Wally Wann, that they were slaves. He avers that he is a brother of John Ross who was listed for enrollment on General card 922, and the testimony in connection with his brother's case will develop his connection. The testimony in the application of John Ross will be made part of the record in the case of the applicant and

See photograph.

A copy thereof filed herewith. Applicant swears that he was born and raised in the Cherokee Nation, and that he was married in the Chickasaw Nation and that since and for the last 18 or 19 years has not been an actual resident of the Cherokee Nation. He will now be listed for enrollment as a Cherokee Freedman upon a doubtful card. He will be notified by mail of the decision of the Commission.

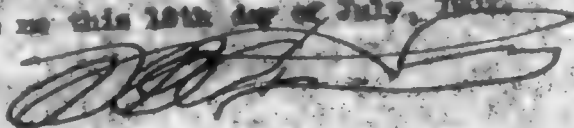
238

---00000000---

J. O. Rouse, 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. Rouse

As described and sworn to before me this 18th day of July, 1903.



Commissioner.

Cher Fr D 1007

Cher Fr D 1007

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Jesse Hicks for the enrollment of himself and one child as Cherokee freedmen; said Hicks being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mr. L. T. Brown, for Applicants.
Mr. J. S. Davenport, for Cherokee Nation.

- Q What is your name? A Jesse Hicks.
Q How old are you? A Well, as near as I can come at my age, I am about 74.
Q What is your post office? A Hayden.
Q What district do you live in? A Coowaseeowee District.
Q How you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Yes, sir.
Q What roll? A Clifton.
Q Name does not appear upon the roll of 1860? A It might I went before Wallace.
Q You went before Wallace did you? A Yes, sir.
Q Did you ever ~~know~~ try to have your name put on the roll of 1880? (No response.)
Q Did you ever go to Tahlequah? A No, sir.
Q Who do you want to enroll besides yourself A I have got a daughter here.
Q How old is she? A She is old enough to tend to her own.
Q Have you got any children under 21 years of age? A I have got a boy, that is younger than she.
Q How old is he? A 19.
Q His name? A William Hicks.
Q You apply for yourself and your son, William? (No response.)
BY MR. BROWN:
Q Were you a slave in the Cherokee Nation at the beginning of the Civil War? A Yes, sir.
Q To whom did you belong? A Elijah Hicks.
Q Was Elijah Hicks a Cherokee citizen by blood? A Ye was.
Q Did you go out of the Cherokee Nation during the war?
A Yes, sir.
Q When did you return? A I returned back in in two years after I went up to Scott.
Q In what year did you return? A In the fall of '66.
Q Where have you lived ever since? A Oh, I have been living at different places.
Q Well, tell us about it? A I stopped, no, I come on down on Big Creek and followed the creek down and I dropped in here where Sim Heseley lived and from there down to Lightning.
Q Have you lived in the Cherokee nation ever since? A Yes, sir, I have been here ever since, I have never been out as I know of.
Q Have you ever voted in the Cherokee Nation? A No, I hardly ever leave home.
Q Do you own any improvements on the public domain of the Cherokee Nation? A I have a little improvements.
BY COM'R NEEDLES:
Q Are you married? A No, sir; I have been married.
Q What was your wife's name? A She was raised by a white woman, her was was Rachel Car.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A She belonged to this woman.
Q Rachel Car? A Yes, sir.
Q What was your wife's name before you married her?
A Nancy Car.
Q How many times have you been married? A I never was married but once.
Q Is Nancy Car the mother of William? A Yes, sir.

Q Where was William born? A He was born up here, all our children were born here in the Nation.
Q Have you any proof of your marriage to Nancy?
A We was just married by a preacher.
Q Where? A I said in the Nation.
Q Well, what part of the Nation? A Up on the Creek, Big Creek.
Q Was that before the war or afterwards? A That was after the war.
Q Never had but one wife? A Well, that is the only woman I had then and I ha en't got any more until yet.
Q Don't care about one now do you? A No, sir, I am getting too old.

BY MR. BROWN:

Q Who married you, Uncle Jess? A Oh, there is so many different little preachers I could not tell you.
Q Is there any one here present that saw you married? A Yes, sir, I guess so.

BY MR. DAVENPORT:

Q Uncle Jess, who did you say you belonged to? A Elijah Hicks.
Q Where did Elijah Hicks live? A He lived down here on Dog Creek about Claremore.

Q Did you go South or North during the war?
A You know I never went south in them days.

BY COM'R NEEDLES:

Q Well, answer the question? A I went North.

BY MR. DAVENPORT:

Q Where did you go? A I went to Fort Scott.

Q When did you come back? A I come back in two years after I went there.

Q When did you get here? A That was, as near as I can hit it, about '62 or 3.

Q Now, who ~~came~~ came back with you? A When I came back I come back by myself.

Q When you come where did you come? A I was aiming to come down to the old place.

Q I am asking you to where you come? A I dropped in on the head of Big Creek.

Q On whose place did you stop? A Sim Hesseley's, is the first.

Q Where did you first see Harry still? A I come on down futher on down and I dropped right out in the old Glass' place where him and his mother and stepfather lived.

Q Was Harry living there then? A Yes, sir.

Q Was Hayden living there then? A No, sir.

Q You didn't come ~~in~~ down to the Cherokee Nation until after Hayden moved to the Cherokee Nation? A It was somewhere along there.

Q Was Hayden down here when you came? A He was down here.

Q And living down there ~~near~~ near where Hayden is now? A Yes, sir.

Q Where did you first see Jack Landrum? A I always knowed Jack.

Q Where did you first see Jack after the war? A He was living there.

Q Living near Hayden? A He was living where he is now, it is right up there close to Madden.

Q He is close to Hayden? A Yes, sir.

Q Madden don't live over a mile from Hayden? A Yes, sir.

Q He was living there when you came down? A Yes, sir.

Q Did you know Harry still before the war? A No, sir.

Q Had you knowed Jack Landrum before the war? A Yes, sir.

BY MR. BROWN:

Q What did you say your wife was, Mr. Hicks? A Nancy Car, she was a sister of Jess Car.

Q Have you any other other children other than Will?

A Yes, sir.

Q That is living now? A That is older than Will?

A Yes, sir. A That girl there is older than Will.

Q What is her name? A Malinda Hicks.

Jesse Hicks, et al.--2.

Q Where was she born? A Here.
Q In the Cherokee Nation? A Yes, sir.

BY MR. DAVENPORT:

Q ~~Was~~ You married you said I believe after the war?
A I married directly after I went to Fort Scott.
Q You married in Kansas then? A I just stayed there a couple of
y ears.

Q I say did you marry in Kansas? A Well, it must have been in
Kansas, I was up there.

BY COM'R NEEDLES:

Q Can't you tell where you married? A Tell the fact about it I
married her here in the Nation.

HARRY STILL, being sworn and examined by Commissioner
T. B. Needles, testified as follows: EXAMINATION BY MR
MR. BROWN:

Q State your name? A Harry Still.

Q Your age? A 54.

Q Your post office? A Hayden.

Q Do you know the applicant, Jesse Hicks? A Yes, sir.

Q Where did you see him after the war first, after the close of
the Civil War? A '62.

Q You saw him in '62? A Yes, sir.

Q ~~When~~ did you see him after the close of the war for the first
time? A '66, in the fall.

Q Where was that? A At my place.

Q In the Cherokee Nation? A Yes, sir.

Q Where was he living then? A At the head of Lightning Creek.

Q Did you know his wife? A I have seen her, I don't know her.

Q Do you know whether or not they were ever married?
A I don't.

Q Do you know his two children, Willie and Matilda? A Yes, sir.

Q Are the time these two children were born was Applicant here
and his wife living together as man and wife? A Yes, sir.

Q Were they recognized as man and wife in the community in which
they lived? A When Jess come back here I was down to my father's
a good deal and when I saw Jess in '67 he went away and he took his
e laid up on Lightning Creek; he went away and when Jess come back
I didn't see his family until about '67 and when I saw Jess after he
come where we was and I didn't see his family he come back to his
place on Lightning Creek and I haven't seen much of him since until
here lately; I know his children.

BY MR. DAVENPORT:

Q You say you were not at home when he come there?

A I was down on Grand river, I was there when he come there
in '66, he was trying to get back to his Master's on ~~Big~~ Dog
Creek.

Q What time of the year was it? A It was just before Christmas.

Q Might not it have been after Christmas? A When I saw him it
was just a little before Christmas.

Q He was alone then was he? A Yes, sir.

Q Didn't have any family with him? A No, sir.

Q You didn't know him before the war?
A I know him in '62.

Q That was at Fort Scott? A Yes, sir.

Q He has been living all the time up there since? A Yes, sir.

Q He never has been back.

Q You don't know about his wife returning? A No, sir.

BY MR. BROWN:

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

FRANK ROSS, being sworn by Commissioner Needles, testified
as follows: BY MR. BROWN:

Jesse Hicks, et al.--4a

Q

Q State your name. A Frank Ross.

Q How old are you? A 63.

Q What is your post office? A Hayden.

Q Are you a recognized citizen of the Cherokee Nation?

A Yes, sir.

Q Does your name appear upon the authorized roll of 1860?

A Yes, sir.

Q Do you know the applicant, Jesse Hicks? A Yes, sir.

Q How long have you known him? A Ever since I can recollect.

Q Do you know to whom he belonged at the beginning of the Civil war? A Belonged to Elijah Hicks.

Q Was Elijah Hicks a Cherokee citizen by blood? A Yes, sir.

Q Was Jesse Hicks taken or got out of the Cherokee Nation during the war? A Yes, sir.

Q When did he return? A I saw him in the winter of '66 on Lightning Creek.

Q Do you know whether he has lived in the Cherokee Nation ever since he returned in '66? A I have saw him ever since he returned.

Q Do you know his wife? A Yes, sir.

Q Do you know whether or not they were ever married?

A I don't know, they lived together as man and wife.

Q Do you know his two children, Will and Matilda? A Yes, sir.

Q Were they living together as man and wife when those two children were born? A Yes, sir.

Q Were they recognized in the community as man and wife?

A Yes, sir.

BY COM'R ROGERS:

Q How long did you know them as man and wife? A Ever since '66.

Q What was your wife's name? A Nancy Car, she used to be.

Q Is she living now? A No, sir, she is dead.

Q How long has she been dead? A I don't know exactly, she has been dead a long time.

BY MR. DAVENPORT:

Q How far did you live from where he located when he came back here? A Now?

Q Yes, now? A It is about five miles.

Q How far did you live from the place he located then when he located? A I live there on Pryor Creek then about 30 miles I guess.

Q Now, where did Elijah Hicks live when the war broke out?

A He was dead.

Q Did his wife ever live with him?

Q Who did the applicant belong to at the breaking out of the war? A Belonged to his wife.

Q What was her name? A Margaret Hicks, old Lewis Ross' sister.

Q Where did Margaret Hicks live at the time of the breaking out of the war? A On Dog Creek.

Q What part of Dog Creek? A There nearest to Claremore.

Q Near what place now? A I don't know, it is not very far from Claremore.

Q Did Elijah Hicks ever live on Dog Creek?

A Yes, sir.

Q Did Margaret Hicks ever have a house on Dog Creek?

A Yes, sir, I have been to her house a good many times.

Q Do you know where that place is now? A I could go to it.

Q Do you know who owns it now? A John Hicks I think.

Q Was John Hicks a son of Elijah Hicks? A Yes, sir, and Charley.

Q Whom did you first see the applicant after the war? A Saw him in '66.

Q What time of the year? A Along before Christmas.

Q How long before Christmas? A It was not more than two weeks.

Q Where you living up on? A No, I was not living up there.

Q Had you known him before the war? A I had known him all my life.

Q How near him did you live? A I lived about 10 miles from Dog Creek.

Jesse Hicks.--5.

- Q That was before the war broke out?
A Yes, sir, old man Ross had a ranch out there.
Q Were you one of the boys stayed out there on the ranch?
A Yes, sir.
Q How come you to remember it was about two weeks before Christmas?
A When I went back home about two weeks it was Christmas day.
Q Can you remember a single incident where a thing happened just two weeks before Christmas? A Yes, sir, lots of them.
Q Now, recall one of them? A I recollect about two weeks before Christmas I was up to Coffeyville and I got drunk and had to run and leave there.
Q you are sure it was just two weeks before Christmas?
A Yes, sir.
Q Now, what year was it the Wallace roll was made? A Along about '84 or '85.
Q When was the Kern-Clifton roll made? A About '96.
Q What year was the payment? A What payment.
Q The Clifton payment, the Dixon payment? A '97, I think.
Q You are not positive about that year is it was?
A Pretty near it.
Q That was about four years ago? A It has been a little over four.

JESSE HICKS, the applicant, recalled: BY MR. BROWN:

- Q Mr. Hicks, have you drawn what is known as strip money? A Yes, sir.

The 1880 Authenticated roll and 1896 Census Roll of Freedmen of the Cherokee nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 154, #3817, Jesse Hicks, Cooweescoowee District.

BY COM'R NEEDLES:

- Q Did you have a child named Jessie? A My name and hers is signed just like.
Q Did you have one named Wetilda? A Yes, sir.
Q Is she living? A Yes, sir.
Q Did you have one named Timney? A Yes, sir.
Q Is she living? A He is living; that is Willie; he has got three names, Rolly.
Q What do you call him now? A Sometimes we call him Timney.
Q How do you want this boy enrolled? A I mostly calls him Timney.

The Kern-Clifton Roll of freedmen of the Cherokee Nation examined and name of applicant's child found thereon, page 154, #3820, Tennie Hicks, Cooweescoowee District.

COM'R NEEDLES: Jesse Hicks applies for the enrollment of himself and his child, William. He cannot be identified upon the authenticated roll of 1880 or a census roll of 1896, but he and his son are identified upon the Kern-Clifton roll according to the page and number of the roll as indicated in the testimony, the child being identified as Tennie. He avers that he was a slave of Elijah Hicks, who was a Cherokee citizen and was taken out of the Cherokee Nation during the war and returned in 1866, and has lived in the Cherokee nation ever since. Reference is made to his testimony. He will not be listed for enrollment, with his child, William, as Cherokee freedmen upon a doubtful card. He will be notified by mail of the decision of the Commission.

Jesse H. ...

J. G. Benson, being first duly sworn, stated 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. G. Benson

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

[Signature]
Commissioner

V. D. C.

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. 1901

Given under my hand this
day of A. D. 1901

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 2, 1901

~~Attorney~~ for applicant.

UNITED STATES OF AMERICA, |
INDIAN TERRITORY, | s. s.
NORTHERN DISTRICT

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

Notary Public

REC'D

NOTICE!

IN THE MATTER OF the application of ~~Jesse Hicks~~
for enrollment as a Cherokee citizen:

Case No. D ~~1007~~

To ~~Jesse Hicks or Dr. T. Brown Agt.~~

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 **Fort Gibson, I. T.**

Indian Territory, on ~~Sept. 26th~~ at **8 o'clock A. M.** from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, 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 ~~9~~ **18** ~~1901.~~

L. B. Bell.
W. W. Hastings
Attorneys for the Cherokee Nation.

F. D. 200

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, | S. S.
NORTHERN DISTRICT |

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.**

OCT 1 1901

NOTICE!

IN THE MATTER OF the application of Jesse Hicks
for enrollment as Cherokee Freedmen:
Case No. F. D. 1007

To ~~Jesse Hicks or Mellette & Smith his Attys.~~

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory.
Indian Territory, on Oct. 5th 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 30th 1901.

L B Bell

W. W. Hastings
J. D. Davenport
Attorneys for the Cherokee Nation.

SEP 11 1901
MIDWESTERN
FEDERAL

This testimony will be filed also in the case of *Matilda Kicks*,
Cherokee Freedman Doubling card No. 1017.

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 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 5th of October, 1901.



Commissioner.

RECORDED
INDEXED

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 5th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Jesse Hicks et al., C. F. D. 1007.

Appearances:

James S. Davenport for the Cherokee Nation,
Mellette & Smith for the applicants.

DOUGLAS WALKER being first duly sworn by Commissioner T. B. Needles testified as follows on the part of the Cherokee Nation.

(By Mr. Davenport)

- Q What is your name? A Douglas Walker.
Q Where do you live? A In Linn County Kansas.
Q What is your post office address? A Mound City, Kansas.
Q How old are you? A 50.
Q How long have you been living in Mound City, Kansas? A Since '57
Q Since you have been living in Mound City Kansas, did you get acquainted with a colored man named Jesse Hicks? A Yes sir.
Q When did you first get acquainted with him? A In '69 or '70.
Q How near were you living to him at that time? A On my first acquaintance with him he was living in Bourbon County, four or five miles from me.
Q Did he live nearer to you after that? A Yes sir.
Q How long after you first got acquainted with him before you lived nearer to him? A In '70 or '71.
Q Did he own property there? A Yes sir.
Q What kind of property? A Land.
Q What kind of land? A 40 acres.
Q Do you know from whom he bought it? A He took a homestead on it.
Q How long did he reside on this homestead? A As near as I can recollect,—let me count a little—He homesteaded that in '77 or '8 and he owned it—and he held it until the fall of '89.
Q Do you know whether or not he voted while he was living there in Kansas? A I am not sure.
Q Did he have a family there? A Yes sir.
Q What was his wife 's name? A Nancy.
Q Have any children? A Yes sir.
Q Do you know their names? A Yes sir.
Q What were their names? A Matilda was the oldest girl.
Q You say he moved away from there, when? A Fall of the beginning of the winter of '89; he sold the tract of land and moved out of that neighborhood.
Q You first got acquainted with him in what year? A In '69 or '70
Q From the time you got acquainted with him until '89 where did he live? A In Bourbon and Linn Counties; he rented until he took this homestead and then he lived on that.
Q Did he have his family on this land? A Yes sir.
(By Mellette)
Q Did you know him all the time from '69 or '70 until he left? A Yes sir.
Q You say he lived in two counties? A Yes sir.
Q Did you know him in both counties? A Yes sir I was close to the line.
Q Did he have a house? A He was getting out coal when I first knew him and he afterwards moved in our neighborhood and rented land, he rented land from me for one year.
Q Do you know where he was in '66? A No sir.
Q You know that he did move into this country in '89? A I said that he moved away from there.
Q Well you know he came to this country dont you? A That is where he said he was going.
(By Davenport)
Q You spoke about renting some land to him, when did he rent land from you? A In '75 for one year.

JAMES WALKER being first duly sworn by Gen'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

- Q What is your name? A James Walker.
Q How old are you? A I am in my 76th year now.
Q Where do you live? A In Linn County Kansas at present.
Q Did you ever live near Mound City, Kansas? A Four miles due south of it.
Q How long did you live there? A Ever since '57 I taken a claim there and went on it in '57.
Q Did you get acquainted with Jesse Hicks, a colored man there? A I knew him before he moved there, I knew him in Fort Scott.
Q When did you get acquainted with him at Fort Scott? A During the war.
Q When did he move from Fort Scott to Mound City? A I don't know the exact date but I can remember seeing them, I was in the timber and saw them, and I knew his wife.
Q What was his wife's name? A Nancy, is what we called her, she was a servant in the boarding house where I staid in Fort Scott.
Q What years did you live in Fort Scott? A I began working there in the fall of '62 and I think I worked five or six summers there off and on.
Q What portion of the time that you were in Fort Scott did you see Nancy and Jesse Hicks there? A It was as late as the Price raid.
Q Towards the close of the war? A Yes sir.
Q Then you went to Mound City? A That was my home all the time.
Q You don't know exactly what year they came to Mound City? A No sir
Q Do you know how long they lived there at Mound City? A 10 or 12 years.
Q Do you know of their having lived near Douglas Walker's place? A I believe they did live there temporarily for a few months in an old house and they afterwards got a place a mile or two from there.
Q Who did he get his property from? A The United States.
Q How long did he stay there on that homestead? A Until he came here
Q How long since he came here? A Either just before or just after Duncan did.
Q Who do you mean? A Joe Duncan.

(By Mellette)

- Q He must not have homesteaded that place until about '77 or '8? A No sir I don't think he did, but it might have been sooner.
Q He was living first here and then there at different places until he homesteaded that place and he lived on that place about 12 years you say? A Yes sir.
Q You don't know where he was in '66, '67 or '68? A Not very dead certain; I knew of him getting out coal on the Osage before he came there.

Mrs. Miama Walker, being first duly sworn by Gen'r T. B. Needles testified as follows on the part of the Cherokee Nation:

(By Davenport)

- Q What is your name? A Mrs. Miama Walker.
Q How old are you? A 78
Q Where do you live? A Linn County Kansas
Q What is your post office address? A Blue Mound, Kansas
Q You are the wife of James Walker? A Yes sir.
Q Have you lived near Mound City Kansas? A Yes sir.
Q While living there did you get acquainted with a colored man named Jesse Hicks? A Yes sir well acquainted.
Q Where were you living then? A On our farm close by there.
Q Did you know his wife? A Yes sir, Nam.
Q Did you know any of their children? A Jess Pilly and Charles.
Q Do you know when they first lived near you? A '67 or something like that, I don't remember exactly.

- Q After the war? A Yes sir, for eight or nine years I guess I don't know exactly.
- Q Did you know them before they moved there? A No sir.
- Q Do you know how many years they lived there near you? A I don't expect I can tell exactly how long to be very correct.
- Q Do you think they lived right there near you more than a year? A Yes sir five or six years.
- (By Hallette)
- Q You say it might have been eight or nine years that you after the war that you know them—that you got acquainted with them? A I can't say for certain.
- Q It was some time after the war? A Yes sir.

REV CAMPBELL, being first duly sworn by Gen'y T. B. Needles, testified as follows: (on the part of the Nation)

(By Dawson)

- Q What is your name? A Rev Campbell.
- Q Where do you live? A Mound City, Kansas.
- Q How old are you? A 57.
- Q How long have you lived at Mound City Kansas? Or near there? A 33 years.
- Q Since you have been living there or near there, did you get acquainted with a colored man named Jesse Hicks? A I got acquainted with Jesse Hicks—I don't remember exactly when.
- Q Did you know his family? A I don't know that I ever got acquainted with his family.
- Q Do you know where he was living when you got acquainted with him? A Yes sir.
- Q Where? A On a forty acre tract of land about six miles south of Mound City and about six miles east of where I lived.
- Q What year was that? A I got acquainted with him and knew him, and knew the place in '75, '6 or '7, I can't say exactly which.
- Q Do you know when he left there? A Yes sir he left there some where close to the '80's in '78 or '9.
- Q You don't mean '78 or '9? A No sir '88 or '89
- Q Do you know where he went from there? A Only by hearsay that he came here to the Territory.
- Q You didn't know him before he came to the Mound City neighborhood? A No sir.

(By Hallette)

- Q You don't know that the Jesse Hicks you know in Kansas is the Jesse Hicks who has applied here for enrollment? A No sir.

Robert Fleming, being first duly sworn by Gen'y T. B. Needles testified as follows on the part of the Cherokee Nation—

(By Dawson)

- Q What is your name? A Robert Fleming.
- Q What is your age? A I am 58.
- Q Where do you live? A Mound City, Kansas.
- Q How long have you lived at Mound City Kansas? A 43 years, around in through there.
- Q Since you have been living there did you get acquainted with a colored man named Jesse Hicks? A Yes sir.
- Q About what year did you get acquainted with him? A Can't didn't get personally acquainted with him until some time in the '70's; I know of him before but never had any business with him until in the '70's where was he living then with reference to Mound City? A On his creek four and a half miles south of Mound City.
- Q Did you know his family? A Just when I saw them.
- Q Do you know how long he continued to live there in that neighborhood after you got acquainted with him? A Well about.
- Q About how many years? A I think he was there until about '88, I know him from '70 to '88 anyway.

(In questions by Mr. Hallette.)

RECEIVED
U.S. DEPT. OF JUSTICE
OCT 11 1901

This testimony will be filed also in the case of **William H. Hays**,
Charles Frederick Bestford and No. 1017.

Chas. von Wiese, 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 case and that the foregoing is a
full true and correct transcript of his stenographic notes therein.

Chas. von Wiese

Subscribed and sworn to before me this the 5th of October, 1901.

[Signature]

Commissioner.

STENOGRAPHER

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Jesse Hicks, D 1007;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decrees of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decrees already referred to

1001

in the case of Moses Whitaire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
Notary Public.

Church

Cherokee Freedmen D-1007.

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

In the matter of the application for the enrollment of Jesse Hicks and his minor son, William Hicks, as Cherokee Freedmen.

DECISION.

The record in this case shows that on July 1, 1801, Jesse Hicks appeared before the Commission at Nowata, Indian Territory, and made personal application for the enrollment of himself and his minor son, William Hicks, as Cherokee freedmen. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 6, 1901.

The evidence in this case shows that Jesse Hicks was the slave of a Cherokee citizen at the commencement of the rebellion; that he left the Cherokee Nation during the rebellion but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

The evidence further shows that the said Jesse Hicks remained in the Cherokee Nation for two years or more following the date of his return thereto, as above mentioned, and that he then removed with his effects to the State of Kansas, where he entered a Government homestead and established a residence on which he lived from about 1869 until about 1889, when he returned to the Cherokee Nation, where he has since resided. The applicant's son, William Hicks, being a minor, his residence is determined by that of his father.

Section two of Article one of the Constitution of the Cherokee Nation 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."

It is, therefore, the opinion of this Commission that the application for the enrollment of Jesse Hicks and William Hicks

--2--

as Cherokee freedmen should be denied under the provisions of law
above quoted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES,

SIGNED:

Tamr Kirby

Chairman.

SIGNED:

A. S. Needles

Commissioner.

C. B. Brockington

Commissioner.

W. H. Stanley

Commissioner.

Muskogee, Indian Territory.

MAR 11 1904

DEPARTMENT OF THE INTERIOR.

To the Honorable, the Secretary of the Interior:

In the matter of the application of the following named persons for enrollment as Cherokee Freedmen, consolidating the applications of:

Jesse Hicks, et al.,----- Cherokee Freedman D-1007

MOTION FOR REVIEW OF DECISION.

Come now the above named persons who have been denied enrollment as Cherokee Freedmen, by their attorneys, Blue & Bulger and McGowan & Serven, and move the Honorable Secretary of the Interior to open their respective cases above named; to review the decisions of the Commission to the Five Civilized Tribes denying said applications; to reverse said decisions, and to enroll each of the said applicants as a Cherokee Freedman, for the following reasons:

The decision of said commission in the matter of each application was and is contrary to law.

The evidence adduced by said applicants in support of their applications show:

1. That each of said applicants was a slave of a Cherokee citizen at the time of the commencement of the war of the rebellion and was liberated by voluntary act of his Cherokee owner or by law, or is the descendant of such slave.
2. That each of said applicants, if born, was a resident in good faith in the Cherokee Nation prior to June 28, 1898.
3. That said applications were made prior to September 1, 1902.
4. That at the date of said application, the said applicants had not abjured or forfeited their Cherokee citizenship by moving out of the Cherokee Nation with their effects to some other state or nation and by becoming a citizen thereof.

DECISION IN FAVOR August 11, 1905.

WHEREFORE, Said applicants, by their attorneys, respectfully request that they be enrolled as Cherokee Freedmen.

Blue and Bulger
McGowan and Serven
Attorneys for Applicants.

Service of the above motion accepted and a copy of the same received by the attorneys for the Cherokee Nation, at Vinita, I. T., this day of , 1905.

BELL, HASTINGS & DAVENPORT,
Attorneys for Cherokee Nation.

By _____

In the Matter of the Enrollment of

Jesse Hicks, et al. 1007 *and* 1017-

Douglas Walker, Mound City, Kansas.

I was well acquainted with Jesse Hicks, colored, who claims to be a Cherokee Freedman. He homesteaded a forty acre tract of land about two miles west of my farm, in 1878. I first became acquainted with Hicks in 1870. He continued to reside in my neighborhood and upon this forty acre tract of land since 1870 till 1889 and he went to the Cherokee nation.

Hicks' wife's name was Nancy. She died while he lived upon his homestead. He has a daughter named Mattie and a young son whose name I do not remember.

Other witnesses to the same facts:-

Robert Fleming, Nev Campbell.

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION. CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number: D. _____

ATTORNEYS:
 W W HASTINGS Tahlequah, I. T.
 J L BAUGH Chouteau, I. T.

STENOGRAPHER:
 J C STARR Vinita, I. T.

MARSHALS:
 JOHN PARKS Vinita, I. T.
 W B WYLY Tahlequah, I. T.

Vinita, Ind. Terr. _____

Jesse Hicks, No. 1007.

Witness: - James Walker, Ind City, Mo.

Knew Jesse Hicks & family since about 1870. I knew the homesteaded forty acres of land near my farm in Linn Co. Mo. about 1875. He lived on this land for several years afterwards.

#

Witness: Miami Walker, Ind City, Mo.

Will testify to same facts as above.

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number. B. _____

ATTORNEYS:
 W. W. HASTINGS, Tahlequah, I. T.
 J. L. BAUGH, Cheuteau, I. T.

STENOGRAPHER:
 J. C. STARR, Vinita, I. T.

MARSHALS:
 JOHN PARKS, Vinita, I. T.
 W. B. WYLY, Tahlequah, I. T.

Vinita, Ind. Terr., _____

Jesse Hicks

No. 1007.

Witness: Wobampbell, Mowuel Alij, ks.

Knew Jesse Hicks when he lived on his farm in Simm Co., ks. from about 1880 to 1890+

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number: D.....

ATTORNEYS:
 W. W. HASTINGS, Tahlequah, I. T.
 J. L. BAUGH, Chatoosy, I. T.

STENOGRAPHER:
 J. C. STARR, Vinita, I. T.

MARSHALS:
 JOHN PARKS, Vinita, I. T.
 W. B. WYLY, Tahlequah, I. T.

Vinita, Ind. Ter., _____

Jesse Hicks

No. 1007

Witness: Robt Fleming, Md City, Mo

I knew Jesse Hicks from about 1870 to 1890+ knew his farm in Lima, Mo.

No 1017.

In Matter of Enrollment
of Matilda Hicks.

Douglas Walker
James Walker
New Campbell
Robt. Fleming.
Miami Walker.

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number: D.....

ATTORNEYS:
 W. W. HASTINGS..... Tahlequah, I. T.
 J. L. BAUGH..... Chertock, I. T.

STENOGRAPHER:
 J. C. STARR..... Vinita, I. T.

MARSHALS:
 JOHN PARKS..... Vinita, I. T.
 W. B. WYLY..... Tahlequah, I. T.

Vinita, Ind. Terr., _____

Matilda Hicks No. 1017

Witnesses:-
 Same witnesses as in
 No. 1007, Jessie Hicks father's
 application

7289

COMMISSIONERS
TAMM BERRY,
THOMAS B. HENKLE,
C. R. BRACKENRIDGE,
W. E. STANLEY.

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

REFERS IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D-1007.

ALLISON L. AYLMERSON,
SECRETARY
ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 15, 1904.

V. 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 March 11, 1904, rejecting the application of Jesse Hicks for the enrollment of himself and his minor son, William Hicks, as Cherokee freedmen.

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.

Enc. D-30

mdg

COMMISSIONERS
TAMM DIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
3 1007

WM O BEALL,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

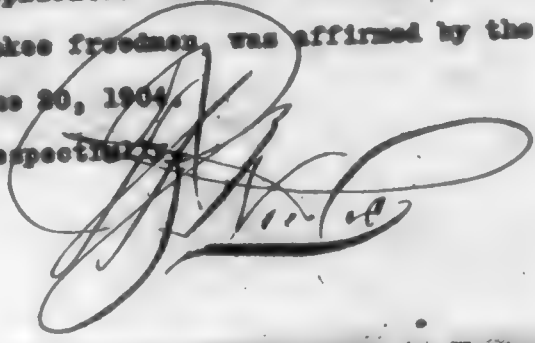
Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Wahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 11, 1904, rejecting the application for the enrollment of Jesse and William Hicks as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 30, 1904.

Respectfully,



Commissioner in Charge.

COMMISSIONERS

HENRY L. DAWES.
TAMM BIXBY,
ARCHIBALD S. McKENNON,
THOMAS H. NEEDLES.

ALLISON L. AYLBSWORTH, Secretary

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Jesse Hicks.

No 1007.

Case set for trial 10/5/1901

COMMISSIONERS

HENRY L. DAWES,
TAMM BIXBY,
ARCHIBALD S. McKENNON,
THOMAS H. NEEDLES.

ALLISON L. AYLBSWORTH, Secretary

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Malinda Hicks. No 1017.

Case set for 10/3/1901.

Cher Fr D 1008

Cher Fr D 1008

File with C. F. D-1008, Nicholas Landrum.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 26th, 1901.

In the matter of the application of Elizabeth Duncan for the enrollment of herself as a Cherokee freedman by intermarriage, and for the enrollment of her four children as Cherokee Freedmen; said Duncan being sworn and examined by Commissioner T.B. Needles, testified as follows:

APPEARANCES:

Messrs. Smith & Mellette, for applicants;
Mr. W.W. Hastings, for Cherokee Nation.

- Q What is your name? A Elizabeth Duncan.
Q What is your age? A 47.
Q What is your post-office address? A Coffeyville, Kansas.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as an adopted Cherokee Freedman?
A No, sir, I am adopted.
Q You apply to be enrolled as an adopted Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Four boys.
Q What are their names? A Clate Duncan.
Q How old is Clate? A 18.
Q The next one? A Harry.
Q How old is Harry? A He is 10.
Q The next one? A Jewel.
Q How old is Jewel? A 14.
Q The next one? A Bert.
Q How old is Bert? A 12.

BY MR. SMITH:

- Q Where did you marry Joe Duncan? A In to Kansas.
Q Have you any certificate of your marriage to him? A I haven't got it but I can get it.
Q When did you marry him? A About '82 I guess.
Q Is your husband dead, Joe Duncan dead? A Died 13 years of January last.
Q Well, were these children whose names you have given and for whom you apply all born while you were living together as man and wife?
A Yes, sir.
Q Have your children ever been enrolled upon any of the rolls of the Cherokee Nation? A Yes, sir.
Q What rolls? A Kern-Clifton roll.

The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and names of applicant's deceased husband and her children found thereon as follows:

page 151 No. 3736, Joseph Duncan, Cooweescoowee district;
page 151, #3730, Clate Duncan, Cooweescoowee District;
page 151 #3741 Harry Duncan, Cooweescoowee district;
page 151 #3742 Jewell Duncan, Cooweescoowee District;
page 151 #3743 Bert Duncan, Cooweescoowee District.

BY COM'R NEEDLES:

- Q Is your name on any of the rolls of the Cherokee Nation?
A I don't know whether he enrolled me or not.
Q He never drew any money for you did he? A No, sir; his name ought to be on the Wallace roll.

The 1880 authenticated roll and 1896 census of Freedmen of the Cherokee Nation examined and name of applicant's deceased husband not found thereon.

BY MR. HASTINGS:

- Q What is your oldest child's name? A Clate.
Q Clayton? A Yes, sir.
Q What year were you married? A About '82.
Q Where were you married? A In Kansas.
Q What town? A Mound City.
Q Where was Clayton born? A Born in the Territory.
Q Where? A Over here where we live on the Joe Ross place, 28

rent a place there.

- Q On Snow Creek? A Well I guess you call it on the river.
Q On the Verdigris river? A Yes, sir.
Q How far from the mouth of Snow Creek? A I don't know.
Q Do you know where Snow Creek is? A Yes, sir.
Q How far is that from Snow Creek? A Four or five miles I guess.
Q Below of above? A I would call it across from there.
Q Is it across the river from Snow Creek? A No, sir.
Q What is your next child? A Harry.
Q Where was Harry born? A In the Territory.
Q What is the next one? A Jewel.
Q Where was Jewel born? A In Kansas.
Q What place in Kansas? A Wound City was our post-office address you call it.
Q What was the next one's name? A Bert.
Q Where was Bert born? A Over there in the Territory.
Q What place? A Where we made this little place.
Q How far was that place from Nelson Murrell; have you got any older children than these? A No, sir; not my own, they are Mr. Duncans.
Q Where do you live now? A I live up on the high prairie about four miles from what is known as the head of Cedar Creek, about 15 miles this side of Coffeyville, southeast of Coffeyville, about five miles west of Wimer.
Q How long have you been living there? A On that place?
Q Yes. A About 16 or 17 years.
Q Continuously? A Not altogether.
Q Got a house in Coffeyville? A No.
Q You kept house in Coffeyville? A I hired some there and rented a building to stop in.
Q You pay rent on the building now? A No, sir.
Q When did you quit paying rent on it? A When I moved out of it.
Q When did you move down near Wimer? A I guess it has been five years, since the farm-cliffen payment, it must have been eight or ten years.
Q Have you lived or worked in Coffeyville, Kansas, since that time? A I have worked every place.
Q When was the last time you worked there? A That was the last time I worked.
Q Eight or ten years ago? A Yes, sir.
Q You haven't worked or had a house in Coffeyville for that last eight or ten years? A As well as I remember, I don't know whether I am exact on the year or not.
Q How about the last five years? A I haven't.
Q You know that? A Yes, sir.
Q Who are your neighbors out there near Wimer, Cedar Creek, you live? A About four miles up on the high prairie.
Q Who lives near you out there? A I can't tell you who all lives near there, Emma Powell, Lige Robinson, Ed Storms and weal Sanders so call his name, I don't know him personally.
Q Where is Clayton at right now? A He is here with me.
Q Has he been living over there with you? A Yes, sir.
Q Actually staying over there? A Yes, sir.
Q How about these other three children? A I have the baby child with me on the ground and I left the others on the place there.
Q Have they been living with you the last five or six years continuously all the time? A No, sir.
Q They have been to Kansas? A We go to Kansas about every two weeks and get our mail and shopping.
Q Was Duncan ever married before he married you? A Yes, sir.
Q Is she living or dead? A Yes, sir.
Q Was she living when he married you? A No, sir.
Q What was her name? A Willie Gar.
Q Were you ever married before? A Yes, sir.

Elizabeth Duncan et al 3

Q To whom were you married? A Knox.
Q Where were you married? A Mound City.
Q Where is he? A I don't know.
Q Were you ever divorced from him? A Yes, sir.
Q Where were you divorced? A Mound City.
Q Is he living now? A I don't know, I am not able to say whether he is living or not.
Q He was alive when you married the second time? A I don't know, I was legally divorced from him.
Q When were you divorced from him? A I don't know as I can tell that.

BY COM'R NEEDLES:

Q In the state of Kansas? A Yes, sir; I guess it was about '83 or '84.

BY MR. HASTINGS:

Q When you were divorced from him? A Yes, sir.
Q That is your best judgment? A Yes, sir.
Q Are any of these children here by your first husband? A No, sir, not a one of them.
Q What court in Kansas? A In the county court I guess you call it.
Q What town? A Mound city.

Q Your oldest child, Clayton is 18? A Yes, sir.

BY COM'R NEEDLES:

Q Is Joseph Duncan living? A No, sir.
Q Did you live with him continuously from the time you married him until the time of his death? A Yes, sir.

BY MR. HASTINGS:

Q Where did he die? A Died on our place out there.

BY COM'R NEEDLES:

Q And during your marriage with him were all these children born?
A Yes, sir.

SAM WEBBER, being first duly sworn by Commissioner T.P. Needles, testified as follows. BY MR. SMITH:

Q State your name? A Sam Webber.
Q How old are you, Mr. Webber? A About 58.
Q Where do you live? A Two miles west of here.
Q How long have you lived in the Cherokee nation? A I was bred and born here.
Q Do you know the applicant, Elizabeth Duncan, in this case?
A Yes, sir, I am acquainted with her.
Q Did you know Joe Duncan? A Yes, sir.
Q Is Joe Duncan living or dead? A He is dead.
Q Did you know Joe Duncan as the husband of this woman, is that the Joe Duncan you are talking about? A Yes, sir.
Q Well, did you know him before the war? A I never was personally acquainted with him before the war but I saw his first wife.
Q Where did you first see Joe Duncan, how long since you first knew him until; you say you never knew him during the war?
A I got acquainted with him thoroughly in the time of the war.
Q Where? A Fort Scott.
Q Do you know when he came back to the Cherokee nation when he returned? A Yes, sir.
Q When? A He came to my house in the fall with two plows and some corn meal and I bought some of it from him.
Q In the fall of what year? A '66.
Q Do you know what became of him here after you saw him in '66?
A He left the plows with me to take care of for him and went off to hunt him a claim.
Q When did you next see him after that? A I saw him early in the spring of '67, he come there and got his plows.
Q When did you see him after that? A I never saw him for quite a while after that.

Q Do you know whether he took up the claim or got a place or not?
A He told me he had one, he come

Q Besides what he told you did you ever see it? A After that I did.

Q Where was it? A There on the Verdigris.

Q In the Cherokee nation? A Yes, sir.

Q How far from where you lived? A I guess about 18 miles, as near as I could guess at it, may be hardly so far.

Q Well, do you know whether he continued to live in the Cherokee nation or not after that time and up to the time he died?

A He was missing a while he was a stone mason and went off to work I heard of him working off.

Q About when did you hear of him working off? A After he stayed there a couple of years then I never heard of him for quite a while, but of course I never had any occasion to go over there

BY MR. HASTINGS:

Q Now, Sam, we had some of this same investigation about five years ago before the Kern-Clifton Commission didn't we?

A Yes, sir.

Q You didn't at that time testify for Joe Duncan? A They didn't call him in, I was staying there waiting.

Q It was the old man testified in the case? A Yes, sir.

Q You never did testify did you? A No, sir.

Q You knew at that time about these plows and his corn meal?

A Yes, sir, and I would have told it if he called me in, because I was staying there waiting.

Q When did he locate up there did he make him a place?

A There was a house already built, a fellow by the name of Frank Waver that went and failed to come back.

Q How far was that from Snow Creek Sam? A Three or four miles I judge.

Q What direction from Snow Creek? A Below Snow Creek on the river.

Q On what side of the river? A On the west side.

Q He made a farm there did he? A There was a small patch there.

Q Did he have a wife with him at that time? A When he brought the plows you mean?

Q Yes. A No, sir.

Q Did any one come with him? A Sim Moseley come with him.

Q The two came in the same wagon? A No, sir, he had his own wagon and Sim had his own wagon. Sim moved in there and stayed right by me.

Q And that was in the fall? A Yes, sir.

Q All in the fall of '66? A Yes, sir, late in the fall.

Q Before Christmas? A Yes, sir.

Q Then you didn't see Joe any more for some time, is that the way of it? A It was in the spring.

Q ~~Yes~~ You don't know whether he made a crop that spring or not?

A No, sir.

Q This man was a stone mason was he? A Yes, sir.

Q When did you first see his first wife? A I saw her about three miles where I was born at on the Spring place at Mrs. Gar's.

Q Well, after the war? A Saw her some time in '67.

Q Where was she then? A She was up there on the river.

Q Were they married then? A The first month?

Q Yes? A Yes, sir.

Q Did they have any children? A They had some children.

Q What are their names at that time? A One of them is named

Lawson.

Q When did he and this woman marry? A He married after his first woman died.

Q Did you know her before he married? A No, sir.

Q Where did they marry? A I could not tell you that.

Q Did they marry up there in the Cherokee nation? A I could not tell you that.

Q Do you know when they married? A Not exactly.

- Q Do you know where their oldest child, Clayton was born?
A No, sir.
Q Do you know where her next one, Harry? A No, sir.
Q Her next one, Jewel? A No, sir.
Q Bert? A No, sir.
Q How far does she live from you? A I guess 20 miles.
Q When did you move to Nowata? A Moved here three years ago.
Q Where did you move from then? A From on Big Creek.
Q How far did she live from you three years ago? A I guess 18 miles.
Q Where was she living? A Up here towards Snow Creek, somewhere on the high prairie there.
Q Close to Snow Creek? A Yes, sir.
Q How far from the Kansas line? A I don't know exactly about, I declare if I don't, four or five miles.
Q Did you ever know of her living in Coffeyville? A I met her there once to my knowledge, I stayed all night and shook hands with her, if they were living there I don't know.
Q Do you know whether they were keeping house or not?
A No, sir, I don't.
Q When was that? A I declare it was before he died.
Q Do you know where he died? A He died up here on his place.
Q Is that one of yours Clate named Clate or Clayton? A Robert Clayton.
Q Well, now, these other children? A They have got double names do you know want them?
Q Yes? A Harry August, Joe C. Benjamin Franklin.

POMPEY DUNCAN, being duly sworn by Commissioner T.E. Needles, testified as follows; BY MR. SMITH:

- Q State your name? A Pompey Duncan.
Q How old are you? A About 48 or 49 I don't know just exactly which.
Q Did you know Joe Duncan when he was alive? A Yes, sir.
Q Do you know this applicant, Elizabeth Duncan? A Yes, sir, I got acquainted with her.
Q Is Joe Duncan any kin to you? A My half brother.
Q Who was Joe Duncan's father? A I don't know who his father was.
Q You don't know his father? A No, sir.
Q When did you first get acquainted with Joe? A I was raised with Joe partly raised with him until the war broke out.
Q Was Joe a slave? A Yes, sir.
Q To whom did he belong? A He belonged to a woman by the name of Millie Duncan.
Q She was an Indian? A Yes, sir.
Q Citizen of the Cherokee nation? A Yes, sir.
Q Do you know whether Joe went out of the Cherokee nation during the war? A No, sir, I am him was separated I could not tell you.
Q When did you see him back in the Cherokee nation after the war?
A The first time I met him after the war was up here at Goose-neck bend, at Mr. Joel Mayes' campaign.
Q First or second campaign? A Second campaign.
Q How long was that after the war? A It has been quite a while.
Q You don't know when Joe Duncan first come back? A No, sir.
Q Is he living or dead? A He is dead.
Q Where did he die? A He died at his home place.
Q How far from you? A I don't know just exactly how far it is.
Q In the Cherokee nation? A Yes, sir.
Q Do you know Elizabeth Duncan? A Yes, sir.
Q Was she Joe Duncan's wife? A Yes, sir.
BY MR. HASTINGS:
Q Well, Pompey? A Yes, sir.
Q You come back to the Cherokee nation after the war did you?
A Yes, sir, I did.

Elizabeth Duncan et al 6

- Q What place did you come to? A Down here in Sequoyah District.
Q When did you move up in this country? A I have been here quite a good long while.
Q Well, about how long? A I could not tell you, it has been about 15 or 16 years may be 17 years, I could not tell you.
Q Well, now, where did you first live up here? A I first lived right here on Dog Creek.
Q Well, did you go around up on Big Creek any at that time, among your old friends? A No, sir.
Q I mean when you first come up here? A No, sir, I haven't visited, much only for the last ~~years~~ late years.
Q Well, you didn't see Joe Duncan until Mr. Joel Mayes second campaign? A No, sir.
Q Do you know whether that was in '91 or not? A No, sir.
Q You don't know when that second campaign was? A No, sir.
Q Well, it was, eight or ten years ago, about ten years ago? A I expect it was, about ten years ago, as near as I can recollect.
Q How far did you live from Joe Duncan before the war? A Me and him was living right in the same yard together before the war.
Q On which side of Grand river? A On this side of Grand river.
Q Malinda Johnson's? A No, sir, up this side of Grand river.
Q Well, was it at Malinda Johnson's? A It was at Willie Duncans.
Q That was on Flat Rock was it? A Yes sir, up on Flat Rock there.

HARRY STILL, being duly sworn by Commissioner T.P. Needles, testified as follows: BY MR. SMITH:

- Q State your name? A Harry Still.
Q How old are you, Mr. Still? A 54.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant, Elizabeth Duncan? A Yes, sir.
Q Did you know her husband? A Yes, sir.
Q What was his name? A Joe Duncan.
Q Is he living or dead? A Dead.
Q When did he die? A Don't know, I think though he has been dead two or three years.
Q Do you know where he died? A Up between here and Coffeyville.
Q How long have you known Joe Duncan? A Since '62.
Q Was he a slave? A Don't know that.
Q Where did you get acquainted with him? A Got acquainted with Joe at Fort Scott, '62.
Q Do you know when he first returned to the Cherokee Nation after the war? A Yes, sir.
Q When was it? A First time I saw him was in the winter of '66 on Big Creek, Sam Webbers.
Q Do you know how long had stayed in that vicinity, in that neighborhood? A Don't know, could not say, but about two years after that.
Q Where did you see him then? A The next time I saw him was near the mouth of Snow Creek.
Q How far was that from where you live? A Must be 20 miles.
Q How far from where you saw him at Sam Webbers? A Must be ten or twelve miles.
Q What was the circumstance of your seeing him when you saw him near Snow Creek? A He was living there.
BY MR. HASTINGS:
Q Have a wife the second time you saw him after the war? A No, sir, he had a wife the first time I saw him.
Q Did you see his wife then with him? A Yes, sir.
Q Was he in a wagon? A He was in the house I saw him.
Q At Sam Webber's? A No, sir, in the house.
Q I thought you said when you saw him the first time he had his wife? A No, sir, he didn't have his wife the first time I saw him.
Q How many children did he have? A I don't think he had more than one or two and it was a baby.
Q Do you remember that one's name? A No, sir.
Q Well, now, do you remember whether it was one or two? A I

Elizabeth Duncan et al 7

not positive.

Q You know he had a baby? A I know the woman had a baby.

Q And that was about two years after '66? A Yes, sir.

Q You testified in the George Thompson case the other day didn't you? A No, sir; oh, George Thompson, old man George?

Q Yes? A No, sir.

Q You didn't testify in that case? A No, sir.

Q You testified in the Alfred Bell case didn't you? A Yes, sir, I sure did.

NELSON MURRELL, being duly sworn by Commissioner T.B. Needles, testified as follows. BY MR. SMITH:

Q State your name? A Nelson Murrell.

Q What is your age? A 77.

Q How long have you lived in the Cherokee nation? A I have lived in the nation 77 years, not in this Nation.

Q Well, how long have you lived in this Nation? A I come here in the year 1839.

Q Do you know this applicant, Elizabeth Duncan? A Yes, sir.

Q How long have you known her? A I have known her about 18 years.

Q Did you know her husband? A Yes, sir.

Q What was his name? A Joe Duncan.

Q Is he living or dead? A Dead.

Q Where did he die? A Out on the prairie here where I live.

Q About how far? A About eight miles.

Q Cherokee nation? A Yes, sir.

Q How long had he been living there when he died? A About 14 years about 12 or 14 years.

Q Do you know his children? A You are speaking of his youngest or his oldest? A

Q I am talking about her children, Elizabeth's? A Yes, sir, I know them when I see them.

Q Do you know whether they were married or not, Elizabeth and Joe? A No, sir.

Q Did they live together? A No, sir.

Q Were they recognized in the community as husband and wife? A Yes, sir.

Q How long have you known this Joe Duncan? A Well I have known him about 55 years, Joe Duncan.

Q Did you know him before the war? A Yes, sir.

Q Do you know whether he was a slave or not? A Yes, sir.

Q Was he? A Yes, sir.

Q Whom did he belong to? A Duncan.

Q What Duncan? A John Duncan.

Q Was John Duncan a married man? A Yes, sir.

Q What was his wife's name? A I don't recollect.

Q Was he a citizen of the Cherokee nation? A Yes, sir.

Q Live d here in the Indian territory? A Yes, sir.

Q Where did he live at the time the war broke out? A He was living about Fort Gibson, about five miles on the west side of Grandriver.

Q Do you know what became of Joe Duncan during the war, whether he went out of the territory during the war or not? A Yes, sir.

Q Where did he go? A Up near Fort Scott, Kansas.

Q Do you know when he returned to the Cherokee nation? A No, not.

Q When did you first see him in the Cherokee nation after the war? A I saw him about '67.

Q Where was he when you saw him? A Came over to my house on the Cardigra river.

Q Do you know where he was living at that time? A He came from over east, from on Big Creek.

Q Did you ever go to his place? A There on Big Creek?

Did you ever go to it afterwards? A I went to the neighborhood where he lived. He moved when he come to my place.

BY MR. HASTINGS:

- Q Did you know Joe Duncan after that? A Yes, sir.
Q How far did he settle down to you after that? A About three miles from me.
Q Have a wife with him at that time? A He had some children, he wasn't married then.
Q Didn't have any wife? A No, sir.
Q Do you know where he and this woman were married? A Married in Kansas.
Q How do you know? A He brought the woman back with him, he didn't have any here.
Q Mr. Carroll, how long was that afterwards? A After which?
Q After you first saw him? A About ten years.
Q When he married this woman? A Yes, sir.
Q Was this his first wife? A No, sir.
Q ~~xxx~~ Did he have his first wife with him when you first saw him? A No, sir, she was dead at that time.
Q He had some children with him that he had had by his first wife? A Yes, sir.
Q Do you remember how many children he had? A Four.
Q Do you remember their names? A Yes, sir.
Q Name them? A Lanson, George, one was named Emma and the other one I have forgot.
Q These children were with him the first time you saw him ~~xxxxxxx~~ ~~xxxxxxx~~ after the war? A Yes, sir.
Q Were you ever at his place, or his master's place before the war? A ~~xxxxxxx~~. Well, I passed by there.
Q That was about five miles from Fort Gibson? A Yes, sir.
Q On the west side of Grand river? A West side of Grand river.
Q You don't know his Mistress' name? A No, sir.
Q Do you know any of the members of the family? A No, sir, I was acquainted with Duncan, seen him about Fort Gibson.
Q His name was John Duncan? A Yes, sir.
Q What kind of a house did he live in? A He lived in a good pretty good log house, it was painted and ligned.
Q Do you know that Joe Duncan was living there when the war come up? A Yes, sir, if my memory serves me right.

ELIZABETH DUNCAN, the applicant, recalled: By Com'r Needles:

- Q You say one of your children, Jewel, was born in Kansas?
A Yes, sir.
Q Were you living there then? A No, sir, I went off up there I was raised there.
Q Mother living there? A It wasn't really my mother, it was my father's sister and she had raised me.

COM'R NEEDLES: Elizabeth Duncan applies for the enrollment of herself as an intermarried citizen and four children, Harry A., Jewel C., Robert C. and Benjamin F. She avers that she was married to one Joseph Duncan in the year 1882. It will be necessary for her to present a certificate of marriage, no certificate being presented at this time. The name of her husband, Joseph Duncan is not found upon the authenticated roll of 1890, he is now deceased. She avers that she was formerly married and obtained a divorce from her former husband. It will be necessary for her to file with this Commission a certified copy of the decree of divorce. She avers that her husband was married before his marriage to her, but his wife wasn't living at the time of their marriage. She makes proof of the return of the said Joseph Duncan, her husband, to the Cherokee nation in the year 1886. She avers that

Elizabeth Duncan et al.

she has been a resident of the Cherokee nation for the last 14 or 18 years. She is not a resident. Elizabeth Duncan will now be listed for enrollment as a Cherokee Freedman by inter-marriage upon a doubtful card. Her four children as enumerated herein will be listed for enrollment as Cherokee Freedman upon a doubtful card. She will be duly notified of the decision of the Commission in the premises. The names of her four children, as enumerated herein, are identified upon the Kern-clifton roll according to the page and number of the roll as indicated in the testimony. The name of the applicant is not found upon any of the rolls.

---ooo000ooo---

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 17th day of July, 1901.

(signed) T.B. Needles,
Commissioner.

Supl. C.F.D. #871.

Department of the Interior,
Commission to the Five Civilized Tribes,
Winnita, I.T., October 5th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Elizabeth Duncan as a Cherokee Freedman, introduced in part of Cherokee nation.

APPEARANCES:

Mr. Mellette, of counsel for applicant;
Mr. W.W. Hastings, of counsel for Cherokee nation.

MIAMI WALKER, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Miami Walker.

Q What is your age, Mrs. Walker? A 76.

Q What is your post office? A Blue Mound.

Q How long have you lived there? A We have only lived there two years, but we lived down there on the other place where we sold.

Q How far do you live from Wound City, Kansas? A Five miles south of Wound City.

Q Now, how long did you live in the neighborhood of Wound City Kansas? A Well, we came there in 1867 and lived there until two years ago and now we are in the neighborhood you might say.

Q Did you ever know a colored man by the name of Joe Dunham? A Well.

Q When did you first learn to know him? A Well, I can't fix the date just when he first moved up there.

Q Well, the best of your judgment with reference to the war?

A He came after the war, well it might have been '68 or '69, it was right after the war.

Q Do you mean '68 or '69? A Yes, when did the war end?

A Did the war end in '68 or '69? A Yes, what did it end, '68.

Q I was asking you to state when the war ended? A '68.

Q Do you mean '68? A Yes, I mean '68.

Q Is that after the war? A Yes, after the war.

Elizabeth Duncan et al 10

About a year.

Q About a year after the war? A Yes, sir.

Q Where was Joe Duncan when you first knew him? A When I first knew him he was on his place; he bought some land you know joining us.

Q After the war? A After the war, that is the first I knew of him and moved on that place.

Q Well, now how long did he live there joining you? A He must have lived there 28 or 30 years.

Q What was his wife's name? A The first wife's name was Willie and she died and buried there at Mound City, and the next wife's name was Lizzie Spence.

Q Where did he marry her? A At Mound City.

Q Did he have any children? A Quite a number of children by his first wife and last wife.

Q Did he have some children by his last wife? A Yes, sir.

Q Do you remember any of their names? A Yes, sir, I remember all of their names, that was born there.

Q What were their names? A Clayton and Harry.

Q About when did they leave there? A About '88 or '9.

Q You say they owned a farm by you? A Yes, sir.

Q Lived on it? A Yes, sir, lived on it all the time; well, they stayed there until they came south, I was right with them almost every day, they lived right by me.

Q About how far? A Well, joined corners with us, right in sight anyway.

Q Did Joe Duncan come off down here? A Yes, sir; helped them get ready when they moved.

Q Now, do you know that he lived there on that place from the close of the war until '88 or '9? A Yes, sir, I saw him almost every day; he worked for us considerable.

Q Now, about how long after the war was it until you first knew him? A Well, it might have been a year and might have been two, he came there after the war.

Q When did he dispose of the place with reference to his leaving there? A He had lost it with a mortgage, I can't tell you.

Q He lost it before he left there? A Yes, sir.

Q Some mortgage on it? A Yes, sir.

MR. MELLETT: How old are you? A 76.

Q What year did you say the war closed? A Well, I forget it, I believe it was '55, '54 or '5.

Q Well, you know this year don't you? A Oh, yes.

Q You say Joe Duncan bought a place up there? A Bought a place joining us.

Q How do you know he bought it? A Because I know he lived on it and he owned it to be mortgaged.

Q Now, it belonged to his wife didn't it, his first wife?

A She didn't own any property at all, his first wife.

Q Well, did it belong to one of his wives? A I think before he married his last wife-

Q No, you say you saw him every day? A Nearly, when he was at home, he worked at our house a good deal.

Q Now, what was his business? A He was a plasterer by trade.

Q And he went from place to place? A He didn't go any further than Mound City; he used to be a blacksmith.

Q Now, isn't it a fact that he came down here in the Territory and worked a good deal? A I don't know of his doing it.

Q You don't mean to say for 30 years you watched Joe Duncan? A I didn't have to watch him, I could see him without watching.

Q How long do you think he worked for you in 30 years?

A Off and on at little day jobs.

Q Will you swear that he was not absent from that place two years at a time for 30 years? A I am nearly certain he was not.

Q You want your testimony to go down in that way, do you? A I don't know what was about, he worked in Mound City, but he never

went away.

Q Now, do you say that his wife wasn't absent from that place two years at a time? A I know she was not, no, sir.

Q What was her first name? A Lizzie.

Q You say she was not absent from there? A She was not absent no more than to go to town and some place.

Q That is as much as she was ever absent? A As much as I ever knew of her being absent.

Q Don't you know that she was down in this country and lived on a place here, I didn't know of her living away, she came down here.

Q And she came down here? A She came when they left.

Q When did they leave? A '68 or '69.

Q Well, which do you think it was? A Well, it was 12 years ago, this winter.

Q What makes you remember it? A I remember the birth of one of my sons and she was with me and got ready to go within two or three days.

Q Have you seen her since that time? A No, sir.

Q Would you know her if you were to see her? A I would if she has not changed very much, because I was very personally acquainted with her.

Q Do you know whether the woman who is an applicant here for enrollment is the one you knew up in Kansas? A I haven't seen her since, but I know that is her name.

Q You don't know anything about the woman who is applying for citizenship down here? A I would know her if I was to see her.

Q You don't know where Joe Duncan was in 1866, do you? A I don't know where he was, but he must have been, I don't know that he had come out of this place at that time, I know he bought the place joining us.

Q You don't know when he bought it? A He bought it a year or two after the war and came there, he was a young man when he came there; he was married; he married a widow woman.

Q And that was after the war some time? A Yes, sir.

Q How many years after the war? A I don't know.

Q Was it one or two years or more? A I don't know.

Q You didn't pay much attention and could not say? A I don't know.

Q Now, did you know about his marrying his first wife? A No, sir.

Q Married before did he? A I knew her but I don't know.

Q Did you know her before he married her? A No, sir.

Q You don't know what he had before he married her? A She had two or three children.

Q She never had any property? A She never had any.

Q Why? A She was too poor.

Q Joe didn't have any money to buy the place with? A He went to work and bought it.

Q Did you ever see him pay anything for it? A No, sir.

Q Now, the deed is on record there if that is his place? A It ought to be.

Q Well, is it? A I don't know.

Q You don't know that that was Joe Duncan's place, A Yes, sir, I know he bought the place.

Q How do you know he bought it? A How does anybody know anything?

Q How do you know he owned it? A He lived on it and used it.

Q That was his first wife's place before he married her?

A No, sir, I know he went to work and paid for it.

Q What is your husband's name? A James Walker.

MR. HASTINGS:

JAMES WALKER, being duly sworn by Commissioner Bayless, testified as follows, on part of the Cherokee nation:

MR. HASTINGS: What is your name? A James Walker.

Q What is your age, Mr. Walker? A I am in my 78th year.

Q Where do you live? A Up there in Line County, in Blue Mountain Township.

Q Kansas? A Yes, sir.

Q Did you ever live near Wound City, Kansas? A Yes, sir.

Q When did you move away from that neighborhood? A About three years ago.

Q Did you know a colored man up there by the name of Joe Cundany?

A Yes, sir, I knew him well.

Q Did you know what his wife's name was? A Only first names, his first woman was called Willie.

Q What was his second wife? A Just Lizzie that is all I remember, about their names.

Q Did his first wife die? A She died up there on that place.

Q On what place? A The place they lived on at that time.

Q How far was that from your place? A Well, it cornered with my place.

Q Do you know whose place it was they lived on? A They called it Joe Cundany's.

Q How long did he live on that place by you? A From the time he acquired possession, when he bought it, or bid it off on the auction sale of School Land, the 36th section.

Q How long did he live on it ~~before~~ after that? A 30 years or more.

Q Now, how far was that from your place? A It was; they cornered as I told you, and we would be perhaps near about 150 rods, houses maybe 200.

Q Well, you knew him during that time did you? A Yes, sir.

Q Did he have some children? A He had quite a number of children.

Q Did you know any of the names of any of them? A Pretty much, the boys, grown up ones, about the little ones I could not tell you.

Q Did you know whether his wife had any children before she married, whether he had any stepchildren by his first wife? A I don't know anything very much about the children, for I never asked them about them.

Q Do you know ~~where~~ where he and his second wife were married?

A Well, yes, I remember about it perfectly well.

Q Were you present or just neighborhood news? A Just neighborhood news.

Q Well, now, about what year do you think they left there, Mr. Walker? A I almost know for certain it was about '89.

Q Now, I believe you state for more than 20 years he lived on this farm adjoining yours? A Yes, sir.

Q Did you see him frequently? A Yes, sir, two or three times a day for that matter and maybe not more than once a week, just as happened; he was often about my place, we borrowed and loaned tools and was there a good many times.

MR. WELLS: When did you get acquainted with Joe Cundany? A Well, it was first when he moved there that year got really acquainted with him.

Q When did he move there? A It was when he bought that place, that was several years after the war.

Q You don't know where he was in 1866, '67 and '81//right after the war? A I could not be certain about that time.

Q All you know is that he came there sometime after the war? A Yes.

Q And he bought that place? A He bought it off at the sale, auction of school land.

Q Did he buy it? A I understand he did.

Q You don't know anything about that of your own knowledge?

A Wasn't present at the sale.

Q Well, you think that was four or five years after the war that he came there, don't you? A Yes, I do.

Q More than that? A I couldn't say.

Q Might have been more than that? A Might have been more.

Q You don't know where he was before that time? A I heard of him being up on what we called Sugar creek.

Q Did you know of him? A I heard of him.

Q When did you hear of them? A He claimed acquaintance with me, that he worked on a building in Fort Scott before he moved there and I remember him afterwards I thought; he was a good big chunk of a boy.

Q He was a plasterer by trade? A Stone mason.

Q Well, after he came there and moved near you, he was away a great deal? A Yes, as he went away working.

Q Well, he was down in the Territory working? A I don't know of his being there, he might have gone, I never paid any attention.

Q You generally watched him very close? A No.

DOUGLAS WALKER, being duly sworn by Commissioner Needles, testified as follows:

MR. HASTINGS: What is your name? A Douglas Walker.

Q What is your age? A 50 years old.

Q This your father who has just left the stand? A Yes, sir.

Q You have been living around Round City, Kansas? A Since '57, Ma

Q Did you know a colored man up in that country by the name of Joe Duncan? A Yes, sir.

Q Did you know his wife? A Yes, sir.

Q Did he have more than one? A Yes, sir.

Q Did you know his wife first? A Yes.

Q What was her name? A Millie.

Q What was his second wife's name? A Elizabeth.

Q Did you know her name before he married her? A No, I don't know as I did.

Q Did he have any children? A Yes.

Q Do you remember any of his children's names? A Yes sir.

Q Well, what were their names? A Which ones you mean the first.

Q By any of them? A There was Lawson Duncan, Joe Duncan, Joe died there; George Duncan, Ann Duncan, Elizabeth Duncan; they was the first family.

Q Well, by his second wife? A Yes, I know their names, two or three of them.

Q Well, just identify them? A One was called Joel, clear forgotten the others names yet I know them.

Q How far did Joe Duncan live from you? A We joined farms there was a road between them.

Q About how far were your houses apart? A Two hundred yards probably.

Q Now, how long did he live there near your family or your father's family? A To the best of my recollection he moved there in '67 or '8, he moved away in '89, December.

Q That is your best judgment? A Yes, sir, I didn't keep any dates.

Q You know he lived there a number of years? A Yes, a number of years.

Q Did you see him frequently? A Oh, yes, sorta & for me.

Q Did he own a farm there? A Yes, sir.

Q Lived on it? A Yes, sir.

Q Where did his first wife die? A She died there.

Q Any of the children by his second wife born there? A Two or three.

Q Do you know where they went to when they left there? A I said they were coming to the Cherokee nation.

Q Had you ever seen Joe Duncan before he moved on this farm and lived near you? A Yes, I had saw him but wasn't acquainted with him.

Q Well, now during these years that you state that he lived near you did you miss him for any considerable time? A I don't remember that I did; well, he was a stone mason, he worked some at the carpenter trade.

Q Did you miss his family? A No, sir.

Q Did you know whether his family attended these school up there?

A Yes, sir, I was clerk of the district court part of the time.

Q Do you know whether Joe Duncan voted? A Yes, sir, he voted at the school meetings and voted at the elections.

MR. MELLETT: You don't know where Joe Duncan was in 1866 and '77 and '8 do you? A Yes, part of that time I do.

Q Where? A I don't remember positive whether it was '67 or '68 when he bought this tract of school land joining me, but it was close there, one or the other of those years.

Q There is a record of it? A I suppose there is. The land was sold at auction.

Q You know it was one of those years? A Yes, it might have been as late as '68, I haven't kept any dates.

Q May not it have been as late as '69? A I think not.

Q Why not? A Well, from certain things that transpired, there was a section of land other parties bought there.

Q You don't know whether he was in the Nation in '66 or not, do you? A No, I do not.

J. J. HAWKINS, being duly sworn by Cherokee Commissioner needles, testified as follows, on part of Cherokee Nation:

MR. MELLETT: What is your name? A J. J. Hawkins.

Q What is your post office? A Mound City, Kansas.

Q How old are you? A 63.

Q How long have you lived in and about Mound City Kansas? A 33 years.

Q Did you know a colored man up in that country by the name of Joe Duncan? A I did.

Q Where did he live? A He lived about seven miles west of Mound City.

Q Lived on a farm? A Yes, sir.

Q How far from you? A Well, about two or three years.

Q How long did you know him to live there? A Well, I lived in that neighborhood about seven years and my impression is that Duncan was there all the time I lived there.

Q Did you move away from there? A I moved away.

Q Now, when did you move away? A I moved away in the fall of '75.

Q And he had been there now about how long before that? A He had been there since '68; I went there in 1868.

Q You think he was there when you went there? A Yes, sir.

Q and you left him there? A Yes, that is my recollection.

Q How far did you move from there? A Moved seven miles.

Q Did you know anything about him after that? A Yes, sir.

Q Well, now, how long did you know anything about him?

A Well I think I knew Joe somewhere up to '85 or '90; I could not be particular but it was between '80 and '90.

Q How far was he living from Mr. Walker that just left the stand when you first knew him up there? A When I first knew him he didn't live near Mr. Walker at all.

Q Well, did he afterwards move near him? A Yes, sir.

Q Mr. Walker has been a witness here? A Yes, sir.

Q I believe you had no personal acquaintance with his family?

A No, sir.

MR. MELLETT: Well, when did Joe Duncan come and move on that place close to Mr. Walker's? A I could not tell you when he went.

Q Well, about what year? A I could not give you the year.

Q Did he go to living on that place while you were there?

A I could not tell you that.

Q You don't know where he lived? A When

Q When you lived there? A Yes.

Q You said you lived in there about seven years until 1875? A Yes, sir.

Q About how close did you live to him? A About two or three miles.

Q Did he live on the place close to Walker's at that time?

A No, sir, did not.

Q Didn't live anywhere close to Walker at that time? A No, sir.

somewhere in the neighborhood, about six or seven miles. Lives six or seven or eight miles of these Walkers that testified here? A You don't understand my me, he lived in the same district I did; I moved in the district that Joe Duncan lived in; I moved away from there in '75; I don't know when Joe Duncan moved away from where I first got acquainted with him.

Q I understand you; he didn't live in the neighborhood of the Walkers when you moved in that district? A No, sir; he may have moved before I moved away and may not.

Q Well, during the time he lived in there he didn't live near the Walkers, that is he didn't live adjoining farm to them? A No, sir, not up until '75, my recollection is he didn't live near the Walkers.

Q He must have lived six or seven miles from them? A Yes, sir.

ROBERT FLEMING, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee nation:

MR. HASTINGS: What is your name? A Robert Fleming.
Q Where do you live Mr. Fleming? A I live at mound City, Kansas.

Q How long have you lived there? A 42 years.

Q How old are you? A 50 years old.

Q What is your business? A I am what you call livestock dealer.
Q Mr. Fleming, did you know a colored man up in that country by the name of Joe Duncan? A I do.

Q Did you know his family? A I don't know much about his family; I know them when I met them in the road I didn't know their names.

Q You don't know their names? A Not all of them.

Q Did you know his wife's name? A Yes, sir.
Q What was her name? A Her name was Lizzie; she was widow woman, Spence I believe she lived at our house when they married.

Q Now, when did you first learn to know Joe Duncan? A Oh, I have known him a good many years, I first remember him sometime after the war, I guess it was, he lived near us on what is called Montgomery farm.

Q About how long have you known him? A I guess 30 years.

Q I mean about how long after the war when you first learned to know him? A It was right immediately after the war, I think; I would not fix the date.

MR. WILLETTE: How? A It was immediately after the war.
MR. HASTINGS: Was he married when you first know him? A

I could not say that.

Q Do you remember his first wife's name? A No, sir.

Q Well, a few years after you knew him what was he doing
A He lived on Col. Montgomery's farm.

Q Where did he go from that Montgomery farm? A He moved from there over to Elk Creek, about five miles; well, he was in town a while.

Q Mound City? A Yes, sir, but I could not tell when I remember seeing him in town.

Q Well, now, about what time did you know him; when did he leave there? A He left there in about '90 or '91; I think '90 I think.

Q Now, how do you fix that date? A Well I remember Joe Duncan built a flue for me; built a wall for the house, I built the wall and he built the flue for the house in '90.

Q Do you know where his family was at that time? A I think they had moved away, I could not tell just when, but I think they moved away awhile before he built this flue because I think he talked to me about it.

Q Do you know where his family went to? A I think they went down in this country somewhere.

Q Well, now, during all these years you knew him did you see him frequently? A Well, from about '75 I saw him very frequently, some where about '75.

Q Did you live in town? A Yes, sir, and I remember it; I was dealing in stock and I had some dealings with him all along some

as other farmers, buying and shipping.

Q Do you know whether he owned a farm or not? A Yes, sir, I think he owned a farm; he lived on there on Pine Creek, he claimed to own it.

MR. MELLETTTE: When did he go to living on that farm he claimed to own? A I could not tell exactly.

Q Well, about what time? A I should think it was, well it would be just guess work.

Q I know that, but then give us a guess? A Well I know his family lived there in '75.

Q You say it has been about 30 years since you knew Joe Duncan? A Yes, sir.

Q That would be about '70 you got acquainted with him? A Yes, sir, somewhere along there.

Q You don't know where he was in 1866 and '67, years of that kind?

A Well, I would not swear positively but he was around there I saw him, seen him a great deal he lived in our neighborhood, the same creek we lived on.

Q When was he there you say he was there in 1866? A I would not swear he was.

Q How old are you? A I am 50, I know he was there, he might have been here somewhere, but he was there in 1866, he was there all along every year, but he might have been here on business, I could not tell as to that.

O.P. WATSON, being duly sworn by Commissioner Needles, testified as follows: On behalf of the Cherokee nation:

MR. HASTINGS: What is your name? A O.P. Watson.

Q What is your age? A 69.

Q How long have you lived in and about Mound City, Kansas; you live there don't you? A Yes, sir.

Q How long have you lived in and about Mound City, Kansas? A 51 years.

Q Did you know a colored man by the name of Joe Duncan? A Yes, sir.

Q Did you know his wife? A I knew his wife, I didn't much about his first wife.

Q Do you know where his first wife died? A Mound City.

Q Do you know where he was married to his second wife? A Mound City.

Q What was her name? A I think her name was Lizzie, or Elizabeth

Q Do you know whether she had ever been married before or not?

A No, sir, I don't.

Q Well, about when did you first learn to know Joe Duncan? A Soon after the close of the war.

Q About how long did you know him, and about when did he leave there? A He left there in '89.

Q Well; you say him after the war up until 1889, did you see him frequently; do you know of his family? A Yes, sir.

Q Were they living near there? A Yes, sir.

Q What is your occupation? A I am not doing anything now, I used to be in the mercantile business.

MR. MELLETTTE: Well, how soon after the war did you get acquainted with Joe Duncan? A I could not say, soon after the war; he was what we call an old timer there.

Q You can't give the year? A Yes, sir.

Q You don't claim to have known him in 1866 or 1867? A I presume I did, but I am not positive.

Com'r Needles: This testimony will be made part of the record in Freedman doubtful cases 2822 and 293.

--22000--

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 October 10th, 1901.
(signed) T.E. Needles,
Commissioner.

.....

M.P. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he ~~has~~ made the foregoing copy and that same is a true and complete copy of the original transcript.

M.P. Green

Subscribed and sworn to before me this December 9, 1901.

T.E. Needles

Commissioner.

175118

Abigail Anderson - 2.

COMMISSION TO ENQUIRE INTO THE CONDITION OF THE SLAVES

JUN 18 1851

Q What is your name? A John Ross.

Q You tell me you are a Cherokee? A Yes, sir.

Q What is your profession? A I am a blacksmith.

Q Are you a Cherokee? A No, sir, interposed.

Q You look black, how long have you been in the country? A About 27 years.

Q How long have you been in the country? A I don't know.

Q How did you first see her? A I saw her about 27 years ago.

Q What was the first time you saw her? A I saw her about 27 years ago.

Q For how long was she a slave or no? A I don't think she was the young to have been a slave.

Q You must her mother? A Yes, sir.

Q How long was she a slave? A I don't see her a slave, but she was considered as.

Q About what time did you see her mother? A I saw her mother about thirty years ago.

Q Where did you see her, I saw her in Coffeyville, Kansas.

Q What year was it, do you recollect? A No, sir, I don't exactly, I can't give the date, I don't know the date.

Q Was she living in Coffeyville, Kansas, then? A No, sir, I don't know where she was living.

Q What was she doing there? A I suppose to be trading.

Q You don't know where she lived? A No, sir.

Q Don't know where she was in the year 1824? A No, sir.

Commissioner; Nicholas Anderson applies for the enrollment of himself, his wife Florence, and two children as citizens. He cannot be identified upon any authorized roll of 1830 or the census roll of 1850, but he is identified upon the K. T. Linton and the Wallace rolls. It appears that he is married to one Florence Anderson, the wife of Abigail Anderson, and that Abigail Anderson was the wife of the late John Ross. No record is traced as to when Abigail Anderson, the mother of his wife, returned to the Cherokee Nation. The names of his children are not found upon any of the rolls of the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, T.T., JULY 1st, 1901.

In the matter of the application of Nicholas Landrum for the enrollment of himself, wife and five children as Cherokee Freedman; said Landrum being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Nicholas Landrum.
Q How old are you, Mr. Landrum? A I don't know exactly.
Q Well, about how old? A 45 or 50.
Q What is your post office? A Geffeyville.
Q What district do you live in? A Coowesscoowee.
Q Do you appl. to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My wife and children.
Q What is your wife's name? A Florence Landrum.
Q How many children have you? A Five.
Q Give me the names of your children? (Has ds paper to Com'r.)
Q Give me the names of the children. A Bessie (R.) is the oldest.
Q How old is Bessie? A She is nine years old; the next in January.
Q The next one? A Clellia.
Q How old is she? A Ma Ma is seven.
Q Boy is it? A Yes, sir.
Q The next one? A Ora.
Q How old is Ora? A She is five.
Q The next one? A The next one is three.
Q What is its name? A Viola.
Q The next one? A The next one is a year old.
Q Well, what is its name? A Lela May.
Q One year old? A Yes, sir.
Q Were you a slave? A Yes, sir.
Q To whom did you belong? A Mrs. Landrum.
Q Was she a Cherokee citizen? A Yes, sir.
Q Well, what was your father's name? A Gilbert Vann.
Q What is your mother's name? A Ellen Landrum.
Q Is Gilbert Vann a citizen? A Yes, sir.
Q Ellen Vann a citizen? A Yes, sir.
Q You claim your citizenship through your mother or through your father and mother both? A Both I suppose.
Q Well, were you taken out of the Cherokee Nation during the war?
Q Yes, sir.
Q Where to? A Taken to Fort Scott.
Q Fort Scott, Kansas? A Yes, sir.
Q When did you return? A Returned in '66.
Q Have you been living in the Cherokee Nation ever since? A Yes, sir.
Q Never lived out of it? A Not to amount to anything.
Q Is your wife a citizen? A Yes, sir.
Q You apply for her enrollment do you? A Yes, sir.
Q What is her name? A Florence Landrum.
Q What was her name before you married? A She was a Landrum.
Q How old is she? A About 30 years old.
Q What was her mother's name? A Amelia Landrum.
Q Your wife was not a free slave? A No, sir.
Q Was Amelia a slave? A Yes, sir.
Q Of what? A I don't know, Mr. Will knows.
Q When were you married? A I was married in '81, June 1st.
Q Is Florence your first wife? A Yes, sir.
Q Are you her first husband? A Yes, sir.
Q Are you living with her now? A Yes, sir.
Q Have you lived with her since you married her? A Yes, sir.
Q Are these children all her children? A Yes, sir.
Q Are they all living at this time? A Yes, sir.
Q Is your wife's mother living? A She is dead.
Q Was she taken out of the Cherokee Nation during the war?
Q I suppose so.
Q You don't know when she returned to us? A Not exactly.

1-1 Charles Landrum, et al.

Q Who married you? A Mr. Joe Smith.

Q Is he living? A Yes, sir.

Q Preacher? A Yes, sir.

Q Well, you have got no certificate of marriage? A Got it but I didn't bring.

Q You have got one at home? A Yes, sir.

BY MR. J. S. DAVENPORT, Cherokee Representative

Q Now, you say you have lived in the Cherokee Nation ever since you returned from Kansas? A I have made this my home, yes, sir.

Q That is not the question, I asked you the question, have you lived here? A Yes, sir, I have lived here.

Q You have stayed in the Osage Nation? A Often and on, about, I don't know; I never lived there.

Q I asked you how long you stayed there? A I don't know; I told you I stayed out there.

Q Tell me how long you stayed there? A I would go out there and break horses through the season in the spring and then I would come back in the fall and go back in the spring, that was my business out there, and I rented a farm up there.

Q You testified before the Horn-Cliffe Commission that you got with the Osages and stayed with them until Joe Landrum died?

A No, sir; I said that I went out in the Osage Nation; that is how come we out there in the first place, my young Master came to Vinita and wanted me to come out there.

Q You went with him and stayed with him until he died?

A I never stayed there until he died.

Q How many years did you stay out there? A I didn't stay any year.

Q When did Joe Landrum die? A I don't know.

Q Well, about how many years ago? A It must have been about ten years ago.

Q About '91 or '92? A He died in '91.

Q Had you married when he died? A No, sir.

Q Well, after he died you came back to the Cherokee Nation and been living here ever since that time? A Yes, sir.

Q You came back here as I understand it just after the war?

A Yes, sir.

Q Now when you came back after the war can you remember that?

A Yes, sir, I can remember part of it.

Q To what point did you come; when you came from Kansas what point did you stop? A We first came to the Cherokee Nation we came in on the Neesho river here, and there we met Mr. Rogers that was coming down on Spring Creek.

Q What Mr. Rogers? A Ike Rogers.

BY COM'R HICKLES:

Q Who do you mean by us? A Mr. Duncan and my mother.

Q Who did you come down with? A Mr. Duncan brought us down then.

Q What Duncan? A Joseph Duncan.

BY MR. DAVENPORT:

Q You came on down from the Neesho river where did you come?

A Big Creek.

Q Who did you find there? A Mr. Wether and divers others.

Q Did you know any others? A Yes, sir, Jim Rogers.

Q And Peter Neiga? A Yes, sir.

BY COM'R HICKLES:

Q Well as I understand it; how long did you live after you came down here in the Cherokee Nation until you went to the Osage country?

A I lived all the time.

Q Well, how long was that? A I can't figure.

Q When did you go to the Osage country? (No response.)

Q About how many years? A Since I went out there?

A Yes? A I came from there in '91; I mean '88.

Q You came from there? A Yes, sir, every fall I would go out there and break horses and come back.

Nicholas Landrum, et al.--5.

- Q Just went backwards and forwards? A Yes, sir.
Q You were a young man then? A Yes, sir.
Q Were not married? A No, sir, I went out there to help my young Master.
Q He was living there? A Yes, sir.
Q Well, you lived there with him didn't you? A No, sir; I was breaking horses for the Osages and doing his work.
Q You were staying at his house? A No, sir.
Q You didn't help your master much? A I broke horses for him.
Q How can you break horses for him without being in his place?
A He would bring them to me.
Q Where were you? A On Pete Salts place.
Q Is your name on the rolls of the Cherokee Nation?
A Yes, sir.
Q What roll; 1880 roll? A It ought to be on the '80 roll.
Q The question is, is it? A I don't know.
Q Don't you know it is not? A No, sir; I don't know it.
Q Have you always gone by the name of Nick Landrum?
A No, sir, I went by the name of Miller.
Q How did you get the name of Miller? A Dr. Miller gave me with give me that name when I was a baby.
Q Did you get what is known as Kern-Clifton money? A Yds, sir.
Q Did you get the Wallace money? A Yes, sir.

The 1880 Authenticated Roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant set forth thereon.

The Kern-Clifton Commutation Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 184, #3897, Nick Landrum, Cooweescoowee District.

- Q Did you draw strip money for your wife? A Yes, sir, she drew strip money.
Q Has she been here to enroll herself? A No, sir; Florence Wilson that is my wife.
Q Was her name Wilson before you married her? A She always went by that name.
Q You don't know when your wife's mother returned to the Cherokee Nation? A Not exactly.
Q Well, what do you know about it? A She has been here a long time.
Q How long? A Yes, she has been here 30 years.
Q Your wife didn't draw the strip money? A No, sir.
Q Well is she on the Wallace roll? A Yes, sir.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant and his wife found thereon, as follows:

Page 184, #3378, Nicholas M. Landrum, no district given.
Page 149, #3098, Florence Wilson, Cooweescoowee.

- Q How does her name happen to be Wilson?
A That is her father's name.
Q I thought you said her name was Landrum?
A She belonged to a Landrum and I belonged to a Landrum, we both belonged to the same people.

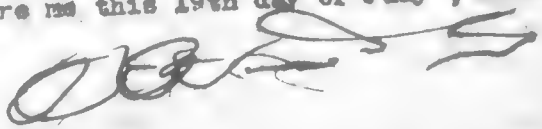
Remainder of Applicant's testimony taken by stenographer
Mrs. S. Jones.

Nicholas Landrum, et al.--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 19th day of July, 1901.



Commissioner.

Nicholas Landrum et al.

July 1, 1901. Continued from testimony taken by stenographer
J. O. Rosson.

Sam Webber, being duly sworn and examined by Commissioner
Needles, testified as follows:

- Q What is your name? A Sam Webber.
Q What is your age? A About 58.
Q Your postoffice Nowata? A Yes, sir.
Q Do you know the applicant Nicholas Landrum? A Yes, sir.
Q How long have you known him? A Since he was quite a small boy
when I saw him first.
Q Was he a slave? A I can't tell you that.
Q When did you first see him? A I saw him in Lynn County, Kansas.
Q During the Civil War? A Yes, sir.
Q When did you next see him? A I saw him then after the war.
Q What year? A Along late in the fall of '66.
Q Where? A Big Creek.
Q Who was with him? A His mother, Ellen Landrum, came down with
Joe Duncan and Sim Moseley and his family.
Q Do you know his wife Florence? A No, sir, I am not acquainted
with her.
Q Do you know Florence's mother, Amelia Landrum? A I have seen
her, but to say personally acquainted with her, I am not.
Q You don't know when Amelia returned? A No, sir.
Q Have you known him ever since '66? A Yes, sir, I have seen
him pretty frequently since that.
Q Does he live in the Cherokee Nation? A Yes, sir.
Q Has he lived since '66 in the Cherokee Nation? A Yes, sir.
Q I have met him often since that through the country.
Q Mr. Davenport: Know what time it was in '66 you say he came back?
A Very late in the fall.
Q About what month? A I can't be certain of the month it was in.
Q Was it January or February? A I will not be positive what
month.
Q What makes you know then it was so late in the fall? Because
they brought the plows along late that fall.
Q That makes you remember it was late in the fall? A Yes, sir.
Q You had your house built and was farming when they came? A Yes,
sir, I had a house, but I wasn't farming.
Q Well, who came with them? A Why Joe Duncan and Sim Moseley
and his family.
Q Anyone else? A This boy's mother.
Q You know where Nick has been living from that time up to the
present time, do you? A Not till here lately I don't.
Q The last few years you have been seeing him quite frequently?
A Yes, sir, up here to Snow Creek he lived.
Q There was several years you didn't see him after he came back?
A I met him here at the Bluffs several years ago and I met him
on Snow Creek, and I met him at the Bend; I seen him several times.
Q How long did his father continue to reside in the neighborhood?
A I don't know nothing about his father; I don't know an I ever seen
his father in my life.
Q Was his mother alive? A Yes, sir.
Q Did he have any brothers and sisters alive? A No, sir.
Q No one but just Nick and his mother? A Yes, sir.
Q Was anyone else traveling with them? A No, sir, Joe Duncan,
and Sim Moseley and his family.

John Rose, being duly sworn and examined by Commissioner
Needles, testified as follows:

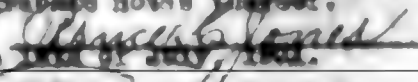
Nicholas Landrum - 2.

- Q What is your name? A John Rose.
Q How old are you? A About 33.
Q What is your postoffice? A Lemapah, Cherokee Nation.
Q Are you a Cherokee Freedman? A No, sir, intermarried.
Q You know Nick Landrum? A Yes, sir.
Q How long have you known him? A About 27 years.
Q Was he a slave before the war? A I don't know.
Q When did you first see him after the war? A I saw him about 27 years ago.
Q That the first time? A The first time to my knowledge.
Q You know his wife? A Yes, sir.
Q You know whether she was a slave or not? A I don't think she was, she was too young to have been a slave.
Q You knew her mother? A Yes, sir.
Q Was her mother a slave? A I didn't see her a slave, but she was always considered so.
Q When was the first time you saw her mother? A I saw her mother about thirty years ago.
Q Where? A I saw her, I met her in Coffeyville, Kansas.
Q What year was it, do you recollect? A No, sir, I don't exactly, I can't give the date, I don't know the dates.
Q Was she living in Coffeyville, Kansas, then? A No, sir, I don't know where she was living.
Q What was she doing there? A Supposed to be trading.
Q You don't know where she lived? A No, sir.
Q Don't know where she was in the year '66? A No, sir.

Commissioner: Nicholas Landrum applies for the enrollment of himself, his wife Florence, and five children as enumerated. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896, but he is identified upon the Kern-Clifton and the Wallace rolls. He avers that he is married to one Florence Landrum, the child of Amelia Landrum, and that Amelia Landrum was the slave of the Landrum family. No proof is presented as to when Amelia Landrum, the mother of his wife, returned to the Cherokee Nation. The names of his children are not found upon any of the rolls of the Cherokee Nation now in the possession of this Commission. Nicholas Landrum makes proof as to his residence, and also as to his citizenship, averring that he was a slave, was taken out of the Cherokee Nation and when to Fort Scott, Kansas, and returned in '66. He avers that he has a certificate of marriage to his wife, but has not the same with him. It will be necessary for him to file said certificate with this Commission. He avers that he has lived with his wife from the time of his marriage to the present time, that she is his first wife and that he is her first husband. Now Nicholas Landrum and his wife Florence and his five children will be listed for enrollment as Cherokee Freedmen upon a doubtful card, awaiting proof as to the citizenship of his wife Florence, proof of birth as to his children, and certificate of marriage between himself and his wife. He will be notified by mail of the action of the Commission in the premises.

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.

Sworn to and subscribed before me this the 10th day of July, 1901.


Commissioner.

8001074

Proof of Service made
and original filed with the
DAWES COMMISSION.

SEP 28 1901

NOTICE!

IN THE MATTER OF the application of Nicholas Landrum
for enrollment as Cherokee Freedmen:

Case No. F. D. 1008

To Nicholas Landrum Coffeyville Kans.

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 Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinola Indian Territory, on Oct. 10th 1901 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 Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L. B. Bell

W. W. Hastings
J. P. Davenport
Attorneys for the Cherokee Nation.

Supl. Order, C.F.-D.#1008.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VICTORIA, I.T., OCTOBER 25th, 1901.

MEMORANDUM IN THE MATTER OF THE APPLICATION OF NICHOLAS
LANSUM, et al., C.F.-D.#1008, as a Cherokee Indian, to the
quest of Mr. Newsport, of counsel for the Cherokee Nation.

Cour's Record: In the matter of the application of Nicholas
Lansum, D-1008, the testimony taken in D-511, Elizabeth
Township, will be made part of the record.

W. A. Mason, being first duly sworn, states that as stenog-
rapher 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 October 25th, 1901.

Commissioner

Supl. Order, C.F.-D-1000.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 19th, 1901.

SUPPLEMENTAL ORDER in the matter of the enrollment of Nicholas Landrum, et al., C.F.-D-1000, as a Cherokee by request of Mr. Davanport, of Counsel for the Cherokee Nation.

Gen'l Needles: In the matter of the application of Nicholas Landrum, D-1000, the testimony taken in D-571, Elizabeth Duncan, will be made part of the record.

---+0000000000---

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 October 25th, 1901.

[Handwritten Signature]

Commissioner.

U.S. DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
BY LAW OF
MAY 22 1901

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

MAY 22 1901

[Handwritten signature]

THE CHAIRMAN

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

[Handwritten signature]

U.S. DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
BY LAW OF
MAY 22 1901

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 24, 1901.

In the matter of the application of Nicholas Landrum et al. for
enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of Florence Landrum.

Appearances:

- L. T. Brown, agent for applicant;
- L. B. Bell, of counsel for Cherokee Nation.

NICHOLAS LANDRUM, being duly sworn by Commissioner Needles,
testified as follows:

- By L. T. Brown: State your name? A Nick Landrum.
- Q Are you the applicant in this case? A I suppose so.
- Q Well are you? A Yes, sir.
- Q What is your wife's name? A Florence Landrum.
- Q What was her name before you married her? A Florence Wilson.
- Q Has she any brothers or sisters? A Yes, sir.
- Q What are their names? A Well, she is the oldest.
- Q Well now give me the brothers and sisters? A Well, John Wilson,
Francis, her sister.
- Q Her name is Francis what? A She is a Wilson.
- Q Now name the others? A George Wilson, Ed Wilson.
- Q Do you know whether or not John Wilson has already been listed
for enrollment? A Yes, sir.

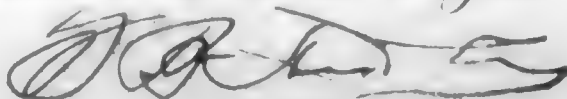
L. T. Brown: The Agent for the applicant desires to have
the testimony taken in the matter of the application of John
Wilson, Freedman D-780, made a part of the testimony in this
case, for the purpose of establishing the citizenship of the
applicant's wife.

Commissioner: It will be so ordered.

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 25th of October, 1901.



Commissioner.

672-1008

FILED
OCT 31 1903
COMMISSION TO FIVE TRIBES.

C.F.D-1008.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., October 30, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of NICHOLAS LANDRUM, ET AL., as Cherokee Freedmen.

Appearances:

W. W. Hastings, Attorney for Cherokee Nation.

JOHN WILSON, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: State your name. A John Wilson.
Q How old are you? A Thirty years old.
Q What is your post office address? A Coffeyville.
Q In what state is that? A Kansas.
Q Are you living in the State of Kansas now? A No sir.
Q Where do you live? A Live in the Territory.
Q What district? A Cooweescoowee.
Q What nation? A Cherokee Nation.
Q Do you know Florence Landrum, who has applied for enrollment here as a Cherokee Freedman? A Yes sir, I know her by Florence Wilson. I guess that is the same one He goes by Nick Miller, but I reckon it is the same one.
Q Is she married? A Yes sir.
Q Who is her husband? A Nick Miller.
Q Is he known by any other name? A Landrum. I always call him Nick Miller, he goes by Landrum too.
Q What relation is Florence to you, if any? A My sister.
Q Your full sister? A Yes sir.
Q Who was her father? A Eli Wilson.
Q He was a non-citizen? A Yes sir.
Q Who was her mother? A Millie Wilson. Sometimes she goes by Mely.
Q Is Florence older or younger than you? A She is older.
Q How old is she, about? A I disremember how old she is now.
Q How much older is she than you? A I couo an't say to be sure. I have pretty near forget her age.
Q How long do you remember Florence, how long have you known her?
A Known her a l my life.
Q Where was she living when you first remember of her? A Out here on Timbered Hill, in the Cherokee Nation, when I first remember.
Q Where has she been living since that time? A Right in the Nation just across the Verdigris there.
Q Has Florence Landrum, formerly Wilson, been living in the Cherokee Nation as far back as you can remember? A Yes sir.
Q Has she ever lived outside the Cherokee Nation? A No sir, not as that I know of.
Q When did you see her last? A It has been pretty near a month now, I guess.
MR HASTINGS: Don't you know how much older Florence is than you?
A No sir, I don't.
Q About how much is she, ten years? A I wouldn't say it for fear I might be mistaken.
Q Is she five? A I couldn't say, sure.
Q You mean to tell the Commission that she is your sister and you have no idea at all about how much older she is?
A If a person don't keep track of it he can't.

Q Is she nearer 3 than 30 years older than you?
A I expect she's more than 3.
Q Thrity years? A I am thirty, she's older.
Q Is she thirty years older than you? A No sir.
Q Is she ten? A Yes sir, she may be 10.
Q Ten years older than you? A Maybe, but I wouldn't be positive because I have really forgot just how old she is.
Q When did you leave Ottawa, Kansas? A I don't remember of being there.
Q I asked you when you left there, when you was up there the last time? A I never was there that I remember.
Q You know Stephen White, don't you? A No sir, I don't know nothing about him.
Q How about A. C. Harford, you know him? A No sir.
Q You don't know what State Ottawa is in? A No sir, never was there.
Q Never heard of Ottawa? A ~~XXXXX~~ I have heard of it never paid much attention to it.
Q You didn't live about a block down there from A. C. Harford?
A Never that I know of.
Q How old were you when you come to timbered hill? A I don't know.
Q Where did you come from when you come to Timbered Hill?
A I was quite small, I heard my folks say they come from Grand river.
Q That's what you heard your folks say? A Yes sir.
Q You do remember that? A I was so little I don't remember where they come from.
Q Where did you first see L. D. Daniels after the war?
A I don't know anything about the war.
Q Where did you see him in the Nation? A I have seen him in the Nation all my life, been knowing him for a long time.
Q What did he tell you now about what you expected to prove by him to-morrow? A We knows my folks and knows that --
Q Does he know when they come back? A Yes sir.
Q Where did he say he saw you first after the war?
A That would be for him to tell.
Q Where did he tell you he saw you, he is your witness?
A We didn't just exactly tell me.
Q Where did L. D. tell you he first saw you after the war? He is going to be your witness and you ought to know about that?
A We said around Fort Gibson.
Q Seen who? A My mother.
Q Did she live around there? A I don't know, never ask him that; only asked him whether he knowed when she came back and whether he knowed her at that time, and he did.

This case is continued until Saturday, October 31, 1903.

Wm. Hutchinson, 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.

Sworn to and subscribed before me this 30th day of October, 1903.

Edward H. Price
Notary Public

F I L E D
1906 57
COMMISSION TO FIVE

[Faint, illegible text, likely bleed-through from the reverse side of the page]

[Faint, illegible text, likely bleed-through from the reverse side of the page]



DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., SEPTEMBER 23, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of Nicholas Landrum et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears in person.
Cherokee Nation by its representatives, J. S. Davenport
and L. B. Bell.

L. B. BELL, being first duly sworn, testified as follows:

BY THE COMMISSION:

Q What is your name? A L. B. Bell, 66 years old, Vinita, Indian
Territory.

BY MR. LANDRUM:

Q Do you know me Mr. Bell? A Yes I know Nick, he was rather a
small boy when I first saw him, after I returned here after the
war he had grown up to be a big fellow, but I take him to be the
same man.

Q What time was that Mr. Bell? A I never saw you for some years.

Q Did you know my people the owners? A He belonged to Cherokee
Landrum, she was the wife of H. T. Landrum, she was a first cousin
of mine and belonged to my family, I knew them all from child-
hood, she was a Cherokee citizen by blood.

BY THE COMMISSION:

Q And she owned him at the beginning of the rebellion? A Yes sir
she owned him ~~when the war broke out~~ when the war broke out, she
hadn't had him more than a year or two I don't reckon he belonged
to her all through her life, my uncle married her mother and he
was a wild fellow and they wouldn't give him the slaves, they
kept them, she died in a year or so after this child was born
and they kept the negroes and took the child and raised it and
he married again, and after she got up and got married then they
let her have this fellow and his mother, that happened only a
few years before the war come on, that is about all I know
about them. The war come on and he left them like most of the
balance.

Q You never saw Nick in the Cherokee Nation until several years
after 1866? A No sir, I never saw him for some years after I
come, and I come in 1867, I couldn't testify anything about his
return, I didn't come here myself until 1867, after the time
was up.

-----oO-----
E. M. Vande, being first duly sworn, states that as sten-
ographer 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.

Subscribed and sworn to before me this 28th day of January, 1905.

Chas. W. Sawyer

LAND

(COPY)

106298-1906
111397-1906.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
WASHINGTON.

January 22, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is forwarded herewith report of Commissioner sixty, dated December 19, 1906, transmitting a motion for rehearing in the Cherokee freedman case of Nicholas Landrum, filed with the Commissioner on June 19, 1906, by George Campbell, attorney at law, Coffeyville, Kansas. There is no evidence of a copy of this motion having been served on the attorney for the Cherokee Nation.

The decision of the Commission to the Five Civilized Tribes dated April 18, 1905, rejecting, among others, the application of Nicholas Landrum for the enrollment of himself, his wife, Florence Landrum, and children, Bessie E., Clellie, Ora, Viola, and Lela May Landrum, as Cherokee freedmen, was affirmed by the Department on April 21, 1906 (I.T.D. 5426-1905).

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

AFF-111

D. C. 6294-1907

(COPY)

I.T.D.1602-1907.

LRS

Y.P.

DEPARTMENT OF THE INTERIOR, FHE.

WASHINGTON,

January 29, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The motion for rehearing in the Cherokee freedman case of Nicholas Landrum, received with your letter of December 19, 1906, is denied, in accordance with your recommendation. The motion presents no question of law or fact not heretofore considered. It does not answer in any particular the ordinary rules governing motions for review in such cases.

A copy of Indian Office letter of January 22, 1907 (Land 111397-06), submitting your report, is inclosed.

The papers in the matter have been returned to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 6 For Ind. Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee F.

D 1008

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

Muskogee, Indian Territory, February 11, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion for rehearing in the Cherokee freedman enrollment case of Nicholas Landrum, filed June 19, 1906, was denied by the Secretary of the Interior, January 29, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.H-39
JME

Commissioner.

Cher Fr D 1009

Cher Fr D 1009

1008

COMMISSION TO THE LANDS
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

VNG 10 1861

E. I. T. 10 1861

Q She got her children names they couldn't find the children's names, they were left off.
 Q She didn't get it for the children's names. No, sir, they were left off.
 Q These children all living? A Yes, sir.
 Q All living with you? A Yes, sir.

Commissioner: The applicant also applies for the enrollment of six grandchildren, to-wit, Earl Ross, Lewis Ross, George Ross and Minnie Ross, who she avers are the children of her son Cyrus, by one Sidney. The children are duly identified upon the census roll of 1850, but no proof is made as to the marriage of Cyrus with the presumed mother of said children, and no proof as to where they were born, or as to the citizenship of their mother. She avers that she has two grandchildren, Nancy and Roy, and that they are the children of her child, Martha, now deceased, —

The Kera-citizen roll examined, and the name of Martha Ross found thereon, page 152, No. 3739, Coconawocooes district.

— and the said Martha Ross is identified upon the Kera-citizen roll. The names of the children Roy and Nancy cannot be identified upon any roll, and no satisfactory proof is made as to their citizenship, consequently it will be necessary first to satisfactory proof of marriage be made between Cyrus and his wife, the avowed mother of his children, and satisfactory proof of the birth made as to Nancy and Roy, the avowed children of Martha, and their names will be placed upon a careful card as Cherokee freedmen awaiting further consideration by the Commission. They will be notified by mail when a decision is arrived at.

File with Cherokee Freedmen, F-1009, George Ross

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 8, 1901.

In the matter of the application of Nancy Ross for the enrollment of herself and two children as Cherokee Freedmen.

Appearances:

Mallette & Smith, attorneys for applicants,
W. W. Hastings, of counsel for Cherokee Nation.

NANCY ROSS, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nancy Ross.
Q How old are you? A I don't know how old I am.
Q About how old? A About up in the sixties.
Q What is your postoffice? A Wimer.
Q What district do you live in? A Ooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A My children.
Q Have you any children that are under 21 years of age that are not married? A Yes, sir.
Q How many? A Two.
Q What are their names? A Arthur and Emma.
Q How old is Arthur? A He is 20.
Q How old is Emma? A Emma is 18.
Q Is your name on the roll of 1880? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation? A The Clifton roll.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.

The 1896 census roll of Cherokee Freedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined, and the applicants identified thereon as follows:

Nancy Ross on page 152, No. 3764, Ooweescoowee district;
Arthur Ross on page 152, No. 3765, Ooweescoowee district;
Emma Ross on page 152, No. 3765, Ooweescoowee district.

Q Why is your name not on the roll of 1880, do you know?
A I can't know.
Q Were you a slave? A Yes, sir.
Q What was your owner's name? A Lewis Ross.
Q Have you got any witnesses in your case? A Yes, sir, Frank Ross and Amy Ross and Mose Hardrick.
Q Where were you born? A Born at the Rosses, born on Ross place.
Q Was Lewis Ross a Cherokee citizen? A Yes, sir.
Q Well, did you go out of the Cherokee Nation during the war between the north and south? A Went out when the war broke out.
Q Where did you go to? A Went north.
Q Where did you go to, Kansas? A Yes, sir.
Q You were in Kansas during the war? A Yes, sir.
Q When did you come back to the Cherokee Nation? A Come back in '60.
Q You been living here ever since? A Ever since, yes, sir.
Q Where did you come to when you came back? A Come back to Russell Creek.

Mr. Mallette: Who came with you? A My husband and my children, myself and another woman, who lived in the Creek Nation, came down with us.

Commissioner: What was your husband's name? A Mose Ross.

Q Is he living? A No, sir, he is dead.

Q Have you been married since his death? A No, sir.

Mr. Hastings: You just came back with your husband and your own family? A And another family, man and wife, John Rantle and his wife and two children.

Q You came to Russell Creek? A Yes, sir.

Q How long did you stop there at Russell Creek? A Stopped there that spring and fall after I came down.

Q Did you make a crop up on Russell Creek? A Not any more than a little garden stuff.

Q Built a little house? A Yes, I built a little house.

Q Put in a crop of corn? A No, didn't put in any corn.

Q Did this other family stop with you? A Yes, sir, they stopped.

Q How many children did you have at that time? A Four.

Q How many children did this other man have? A Two.

Q Had you ever been to Russell Creek before the war? A If I was I didn't know it.

Q Had your husband? A I don't know whether he had been.

Q Where did you meet your husband first? A We both belonged to Rose; not him at Rose.

Q You know that he lived there at Rose when the war came up?

A I don't know where the man went, nothing about the man's affairs.

Q The Hosess lived down about Ghatopa? A The Hosess lived at the old Asylum, Lewis Ross, there is where I was raised.

Q That was fifty or sixty miles from Russell Creek? A I don't know how far it was.

Q How far did you locate from Ghatopa? A I don't know nothing about Ghatopa, I never heard of Ghatopa.

Q Didn't you come through that town when you moved to Russell Creek?

A Never saw the town.

Q Did you apply to the Kern-Clifton Commission five years ago?

A I applied when they had the roll.

Q About how many acres did you have in that little patch? A I don't know, just a small little place.

Q Four or five acres? A I don't know whether that much or not, I raise the garden stuff and a little hokey corn, just a little patch.

Q Where did you come from? A Came from Fort Scott.

Q What time of the year did you leave Fort Scott? A In April.

Q Well, was Sam Hobber up there at Fort Scott when you left?

A Took no notice who was there, there was a good many people of all nations and all colors and all kinds, I don't know who was up there.

Q Do you know him? A I didn't know him, he might have been there.

Q You know Uncle Nelson Marshall? He had left up there, hadn't he?

A I don't know whether he was there or not, the people was up in all parts of the town, I stayed down in the bend by the old mill, and there was people camped all around there.

Q You had heard about the Treaty passing when you came down?

A I never heard a thing of the Treaty.

Q Never heard about it at Fort Scott? A No, sir.

Q Well, after you went over the Kansas line did you go to Russell Creek? A I don't know.

Q What time did you leave Russell Creek? A I left there in the fall after I stayed all the fall.

Q About what time in the fall? A Fall, I guess it was along about the last part of the fall when I left there.

Q About Christmas time? A A little before I think.

Q Where did you go from there? A I went to the River.

Q To Grand River? A Yes, sir.

Q Well, you saw Allen Lynch down on the river? A No, I went to their brothers.

Q Moses Hartrick? A Yes, and Jeff Lyons.

Q Was Jeff Lyons living down there? A Yes, sir he was living down there, an' oldest brother.

- Q Who else was living down there? A Tom Moore.
- Q Who else? A Uncle Simon Lynch.
- Q How long did you stay down on the river? A I only stayed there three weeks.
- Q Where did you go from there? A I went to Vinegar Creek.
- Q Where is Vinegar Creek? A It is up above Russell Creek I reckon. it is away up towards Coffeyville or away up above that somewhere.
- Q Then you went there in the early spring of '67? A I went up to Vinegar Creek that winter, I just left Russell Creek and went to the River and stayed three weeks and then went to Vinegar Creek that winter.
- Q Who did you see while you were on Russell Creek? A I saw an old white man there said his name was Hannah.
- Q Did he have a house up there? A Yes, sir.
- Q How far were you from the State line on Russell Creek? A I don't know where the state line was.
- Q How came you to locate up there away from everybody? A Well I guess my husband wanted to go up there and locate, he was the one, I wasn't locating, it was him.
- Q Did you have a spring up there? A Got water out of the Creek.
- Q On which side of Russell Creek did you live? A Lives on the west side; it was Vinegar Creek.
- Q I mean on Russell Creek, when you first came there? A Lived on the south side of Russell Creek.
- Q How far from the railroad? A Wasn't any railroad there.
- Q Where did you get anything to eat all that spring and summer?
- A Don't you suppose we brought victuals with us; how do you reckon we could make out until we raised a little hawing and things?
- Q Tell us the best you can where that was on Russell Creek?
- A I lived just about a mile I guess south of the road.
- Q Of what road? A On Russell Creek, south of the road there.
- Q Of the military road? A I don't know whether it was or not.
- Q A big road? A Yes, sir, I don't know whether it was a military road.
- Q And you stayed there the year '66? A Yes, sir, I was there from the spring to fall.
- Q Did you see anybody at all while you lived there? A Never saw anybody except the folks lived with us, only Art Williams stopped there and Uncle Simon Lynch stopped there a time or two.
- Q And that is the only ones you saw? A Yes, sir.
- Q You never went to visit your brother until the fall? A Yes, sir.
- Q And they never visited you? A No, sir.
- Q Never saw anyone else there except those two you mentioned?
- A I never noticed who passed the road and who didn't, a great many passed, during all the time I wasn't in good health, I was sick.
- Q How far did you locate on Vinegar Creek from the State line?
- A I don't know nothing about the state line.
- Q Who was living up there when you went up there on Vinegar Creek?
- A A man by the name of Hannah; he pretended to be an Indian but he wasn't nothing but a white man and a rebel at that, and he was living there.
- Q Did he have any family? A He had a few children, and a wife. I guess I ran his wife, I didn't have much to do with them.
- Q How do you know that he was a rebel? A I know he was a rebel, 'cause he talked and acted like one.
- Q He acted peculiar, did he? A Yes, he did.
- Q Did he have a family up there? A No, sir, I didn't see nothing out himself and wife.
- Q He had a house? A Yes, sir.
- Q How far from there was his house from you? A I don't know, it wasn't very far.
- Q Wasn't any colored people near you up there? A No, not there

I was.

Q You say that was up in Kansas? A No, I didn't say it was in Kansas.

Q What Creek does Vinegar Creek empty into? A I don't know; it must empty into your creek I reckon.

Q Is that as much as you know about Vinegar Creek? A Yes, that is as much as I know about Vinegar Creek.

Q Did you build a house up there? A Yes, built a house up there.

Q How far was that from Coffeyville? A I don't know.

Q Were you ever at Coffeyville? A No.

Q You wasn't? A Not when I lived there.

Q Know who was your nearest colored neighbors up there? A My nearest colored neighbors at that time, there wasn't any there as I know of then, but after a while my husband went out and said Uncle Nelson Murrell lived about three miles up there, but I didn't go over there, I was sick all the time.

Q You didn't see him for a long time after you went up there?

A No, sir.

Q Did you see him for about five years? A I don't know whether it was five or two, I was sick all the time, I wasn't studying anything about him.

Q Did you have any doctor? A No, sir.

Q Do you know one year from another? A I guess I do, I guess I got about sense enough to know winter from summer.

Q What year was that oldest child born? A Born in '57 they say, in the records.

Q What year was the Wallace Court sitting here? A I don't know what year they set here.

Q What year did the Kern-Clifton court sit? A I don't know that either, I know I was there.

Q You had to prove up before them? A Of course I had to prove up before them.

Q You don't remember it at all? A No, I don't remember what year it was, it was three or four years ago I guess, I was there.

Q Do you know what year this is? A No.

Q Where did you apply to the Kern-Clifton Commission? A Out here

Q By the name of Nancy Ross? A Nancy Ross.

Q You applied for yourself? A Yes, sir, and children and grandchildren.

Q What are your children's and grandchildren's names, all Ross?

A Yes, sir, all Ross.

Q When did Mose Ross die? A Died in 1866.

Mr. Mellette: Nancy, you say that Mose Ross, your husband, returned with you in 1866 to the Cherokee Nation? A Yes, sir.

Q Now I want to ask you about your children, I want to identify them so they can come in and appear for themselves. Did you have a son named Ned Ross? A Yes, sir.

Q Was he born before the war or after? A Born before the war.

Q Did he return to the Cherokee Nation with you? A Yes, sir.

Q Did you have a son named Cyrus? A Yes, sir.

Q Was he born before or after the war? A He was born before the war.

Q Did he return to the Cherokee Nation with you? A Yes, sir.

Q What was your next child? A Kizzie.

Q Was she born before the war? A Yes, sir, she had a baby when I went out.

Q Did she return to the Cherokee Nation then? A Yes, sir.

Q What was your next child? A George.

Q When was he born? A He was born in Kansas during the war.

Q Did he return to the Cherokee Nation with you? A Yes sir

Q Did you have a child named Martha? A Yes, sir.
 Q Where was she born? A On Russell Creek.
 Q After you returned? A Yes, sir.
 Q What is your next child? A Nelson.
 Q What is the next? A Harry.
 Q Where were Nelson and Harry born? A Harry was born on Grand River and Nelson was born on Vinegar Creek.
 Q Was that after you returned to the Cherokee Nation after the war?
 A Yes, sir.
 Q What was the next child? A Harry.
 Q And the next one? A Arthur.
 Q And the next one? A Emma.
 Mr. Hastings: Did they ever call you Nancy Grubbs? A Yes, sir, I have been called Nancy Grubbs.
 Q Don't you live in Iola, Kansas? A I have been in Iola, Kansas, yes.
 Q When was the last time you were there? A I was there last winter, right there.
 Q You have been living there, have you? A Well, I was up there working, I am not living there.
 Q Well, how long have you been working up there? A I go up and work a month or two or two or three months if I want to.
 Q Where did Moses Ross die? A He died in Fort Scott.
 Q You were living in Fort Scott at the time? A No, I was living here, he went up there.
 Q Where was your home here then? A I was on the river then.
 Q In what settlement? A In Moss Hardrick's settlement.
 Q You had a place down there? A No, I didn't have no place, I was just stopping there, but his health was poor.
 Q Did you have a child named Kizzie? A Yes, sir.
 Q Where was Kizzie born? A Kizzie was born at the old Asylum before the war.
 Q Did you have a child named Martha? A Yes, sir.
 Q Where was Martha born? A Born on Russell Creek.
 Q You had a child named Nelson? A Yes, sir.
 Q Where was Nelson born? A Born on Vinegar Creek.
 Q You had a child named Harry? A Yes, sir.
 Q Where was he born? A Born at my brother, Jefferson Lyon's.
 Q You had a girl named Mary? A Yes, sir.
 Q What was Mary born? A She was born at Moss's.
 Q Where was your husband most of this time? A He was there of course, he never died till after the children was all born.
 Q Is Arthur your child? A Yes, sir.
 Q Where was Arthur born? A Born at Uncle Simon's.
 Q You were just living about from place to place? A Yes, sir.
 Q Where was Emma born? A She was born at Uncle Simon's too; I got two children born at Uncle Simon's.
 Q How long was Emma born before your husband's death? A Well I guess she was about two years old, over two years old.
 Q Did you take these children back to Fort Scott when your husband died? A No, sir, none but the baby.
 Q Where were the rest of these children at that time? A Living there at my brother's.
 Q Which one? A Moses and Jeff; I left them children with my folks; some was at Hatfield's, my cousin.
 Q When did your brother Jeff die? A I don't remember.
 Q Did he die before your husband? A No, sir, he didn't.
 Q Did he die after 1860? A I don't know whether he died in 1860 or when, he didn't die before my husband.
 Q You got a son named George? A Yes, sir.
 Q Where was George married? A I don't know where he was married.

Q What is his wife's name? A He had a wife named Josie he said; my boys isn't with me.

Q Where were they? A I don't know where they were.

Q Wasn't George up in Kansas? A He might have been in Kansas, or any other place, I don't know where he was.

Q He wasn't with you when he married? A No, sir.

Q Have you seen his wife? A No, I haven't seen his wife.

Q Where is he living now? A I don't know.

Q Where is Martha now? A She is dead.

Q Where is Nelson? A He is here.

Q Where did he live before? A On Big Creek.

Q Where did he go to on Big Creek? A He can answer that himself.

Q When did he leave you? A He left me off and on when he went to school.

Q Where did he go to school? A Some in Fort Scott and some in Parsons.

Q That is while you were living up there? A No, I wasn't living up there.

Q Where did you live now, after your husband died, in 1886? A In 1886 I was living on the river.

Q When did you first go back to Kansas? A I don't remember when I first went back; whenever I took a notion to go back, I took up and go; whenever I wanted to make some money I would pick myself up and go, go to the train and buy my ticket and go; I went in the day and come in the day; I thought as I was a free woman I could do as I pleased.

Q Do you know where George's children were born? A If George has got any children I don't know it.

Q Who are those children you apply for; Daniel and Roy and Bessie and Lewis? A Daniel and Roy belongs to Kila.

Q Where does Kizzie live? A She is living here, I guess, the last time I saw her a year ago she was in Vinita.

Q How long had she been living at Vinita? A I don't know, I just went down to Vinita and saw her.

Q You don't know where these children were born? A No, sir.

Q Where was she married? A I don't know.

Q What is her husband's name? A She has got a statement.

Q Don't you remember she married in Fort Scott? A I don't know where she married.

Q What is his full name? A I think his name is Taylor, is all I ever heard.

Q You never did have a home here? A Never did till now; I have got a home.

Q Were you living in a house in Fort Scott when your husband died?

A No, I wasn't living in a house.

Q What was you doing up there? A Took him there, he was sick; the same doctor that doctor'd him during the war was there.

Q He has doctor'd him ever since the war, too, hasn't he? A No, sir, he hasn't.

Mr. Mallett: What did you say about where you have lived since you came here in '86; where has been your home? A Just first one place and another, on the river.

Q What country has been your home? A The whole country has been my home.

Q What country has been your home? A The Cherokee Nation.

Mr. Hastings: Objected to by the representatives of the Cherokee Nation, because it is a legal question; ask her where she has lived; let the facts develop where her home is.

Mr. Mallett: What country have you lived in since you came here in 1887? A Cherokee Nation.

Mr. Hastings: You have lived in Kansas too, haven't you? A I was living up there when I was only working, you ain't supposed I was dead, do you.

MOSE HARDRICK, being duly sworn by Commissioner Needles, testified as follows:

- Mr. Mellette: What is your name? A Mose Hardrick.
- Q What is your age? A 71.
- Q Where do you live? A Up here on Pryor Creek.
- Q Do you know the applicant Nancy Ross? A Yes, sir.
- Q What relation is she to you? A My sister.
- Q Do you know whether she was a slave in the Cherokee Nation before the war? A Yes, sir.
- Q Who owned her? A Lewis Ross.
- Q A Cherokee Indian, was he? A Yes, sir.
- Q Do you know when she returned to the Cherokee Nation after the war? A No, sir, not exactly.
- Q When did you first see her in the Cherokee Nation after the war? A I seen her here in the summer.
- Q What year? A Of 1868.
- Q Where did you see her? A She came over to my place on Grand River.
- Q Who was her husband? A Moses Grubbs was her husband.
- Q That was his other name besides Grubbs? A Moses Ross, belonged to Lewis Ross.
- Q Where has the applicant lived since that time in '68 when she came to your place? A I can't tell you.
- Q Have you seen her? A Yes, sir, several times, at my place.
- Q Did she live in your part of the country any length of time? A She came there and stayed a while with me, sometimes a month or two weeks and then she would go back to her home.
- Q Where was her home? A She said she was living up on Russell Creek.
- Q Do you know of your own knowledge what other parts of the country she has lived in? A No, sir.
- Q How often since '68, how frequently would you see her during that 35 years? A I can't tell, I never noticed the time.
- Q Did you see her often or not? A Well, tolerably often, just now and then.
- Q Where would you see her? A Sometimes at my house, sometimes at my brother's, and there in the neighborhood where I lived at.
- Q Did you ever see her any other place in the Cherokee Nation besides over there? A I just saw her around at neighbors' houses.
- Q Were you much acquainted up in the country about Coffeyville? A No, sir.
- Q Do you know where Vinegar Creek is? A No, sir, just only heard of it.
- Q Do you know of her living up there of your own personal knowledge? A I don't, I just heard the Rogers say she lived up there.
- Mr. Hastings: About how many times you think you have seen her in 35 years? A I can't tell you, I never kept no count.
- Q Have you seen her half a dozen times? A I expect more than that; I never kept no count.
- Q She would come down there to visit you now and then? A Yes, sir, she would come over to my house.
- Q Do you know her daughter Missie? A Yes, sir.
- Q She is living in Kansas, is she? A I don't know where she is living at.
- Q You know she is married up there? A No, I didn't.
- Q She has got a state man for a husband? A That is something I don't know.
- Q You don't know her at all? A I don't know who all her children married.
- Q Do you know where Nelson, her son, lives? A He lived up here on Big Creek.

- Q How long has he lived up there? A I don't know how long, he has been teaching school up there a good while.
- Q Do you know where this woman's husband is: is he dead? A Yes, she says he is dead; I didn't see him.
- Q Did you ever see him? A Oh yes, I lived right on the place with him.
- Q Did you see him after the war? A Yes, sir.
- Q Where did you see him? A The last time I seen him it was up here in Kansas, and I haven't seen him since.
- Q About the time the war closed? A No, sir, a little time after it closed.
- Q Just before you came down here? A No, after that.
- Q You had come down here yourself? A Yes, sir.
- Q And went back and you saw him up there? A No, I didn't go back, he came down, I didn't go back.
- Q Where did he come from? A Well, that is what I don't know, I didn't ask him.
- Q Don't you know that this applicant has been living at Iola, Kansas? A No I don't, I have asked her several times and she told me no.
- Q Do you know where this Mose Ross died? A I don't know that.
- Q Didn't die at your house, did he? A No, sir, didn't die there.
- Q You never was at Vinegar Creek? A No, sir, never was.
- Q You never saw her on Russell Creek? A No, sir, never went up there that far since I have been in the Nation.
- Q She would come to visit you once in a while? A Yes, sir.
- Q A out how long would she stay on a visit, a week or two? A Yes, sir, longer than that.
- Q How long; a month? A She came one time and stayed nearly two months; she was confined there.
- Q Where was her husband then? A I don't know.
- Q He wasn't with her? A He wasn't with her.

FRANK ROSS, being duly sworn and examined before Commissioner Needles, testified as follows:

Mr. Mellette: What is your name? Frank Ross.

- Q What is your age? A 53.
- Q Where do you live? A Lightning Creek.
- Q Are you on the authenticated roll of Freedmen citizens of the Cherokee Nation? A Yes, sir.
- Q Do you know the applicant, Nancy Ross? A Yes, sir.
- Q How long have you known her? A Ever since I can recollect.
- Q Did you know her before the war? A Yes, sir.
- Q Where did you know her? A Knewed her at Lewis Ross' where we belonged.
- Q Did she belong to the same person you did? A Yes, sir.
- Q Did you know her husband, Mose Ross? A Yes, sir.
- Q How do you know when she returned to the Cherokee Nation after the war? A I know when I saw her first.
- Q When did you first see her? A In the fall of '66.
- Q Where? A To her brother's, Mose Hardrick, on Grand River, east of Grand River.
- Q How did you happen to see her there? A I was up there, went up there from where I lived, and she was there.
- Q Where has she lived since that time, as far as you know? A Well, I can't tell where she has lived, only along about ten years after that I seen her up on Big Creek, where she is living now.
- Q Is there a Vinegar Creek up there some place? A She up close to Coffeyville in there somewhere, I heard of one up there.
- Q You saw her, you say, ten years after you first saw her, on Big Creek? A Yes, sir.

Q How long has she lived up there on Big Creek? A About 16 or 17 years I guess, as well as I can recollect; maybe not so long and maybe longer.

Mr. Hastings: How many times have you seen her in the Nation since '66? A I don't know, I have seen her a good many times.

Q About how many times? A I can't say; I have seen her a good many times.

Q You saw her at Mose Hardrick's the first time? A Yes, sir, at Mose Hardrick's, her brother.

Q What time of the year was that? A In the fall.

Q Was her husband with her? A I didn't see him.

Q Was her children with her? A I seen two.

Q Name them? A Ned and Kizzie.

Q Was Kizzie married then? A I don't know.

Q Was her husband with her? A I don't know.

Q You don't know whether she was married or not? A No, sir.

Q When did you next see her? A About ten years after that, I guess it was ten, nine or ten.

Q Was her husband living with her then? A Yes, he was sick then.

Q Where was she? A That was up on the river, up here on Big Creek.

Q Near whose place? A Well, it was near the Duffin settlement then.

Q Were you up there to her house? A Yes, I was to her house.

Q Was her husband there? A Yes, he was there when I got up there.

Q Now when was that? A I disremember what year it was in, it must have been along about '79 or '80, somewheres along in there.

Q Where did you see her after that? A A good many times after that.

Q Did she have a place on Big Creek? A Yes, sir.

Q She had a house built? A Yes, sir.

Q She is living on that same farm, and house now? A Yes, sir, in the same house and farm.

Commissioner: Nancy Ross applies for the enrollment of herself and two children, Arthur and Emma. She is not identified upon the authenticated roll of 1880, or the census roll of 1890. She is duly identified upon the Kern-Clifton roll. Her two children, Arthur and Emma, are also identified upon the Kern-Clifton roll. She avers that she was the slave of one Lewis Ross, a Cherokee citizen, and that she was married to one Mose Ross, ~~husband of the same name~~ or Mose Gribb, now deceased. She avers that she went to Kansas during the war and returned in the year 1866. By reason of the fact her name is not on the roll of 1880, and by reason of the fact of the especial protest of the Cherokee Nation against her enrollment, said Nancy Ross will be listed with her two children, Arthur and Emma, for enrollment as Cherokee freedmen, on a doubtful card, waiting further consideration by the Commission. She will be notified by mail of the decision of the Commission, when arrived at.

Supplemental testimony.

NANCY ROSS, recalled, testified as follows:

Commissioner: How do you apply for your grandchildren? A Yes sir.

Q What are their names? A Bert Ross.

Mr. Hallett: Whose children are these grandchildren? A Mine.

Q Are they living with you? A Yes, sir.

- Commissioner: How old is Bert? A I don't know his age.
- Q About how old? A I guess he may be 14 I guess.
- Q What is the name of the next one? A Lewis.
- Q How old is Lewis? A I don't know how old he is.
- Q About how old? A I just don't know.
- Q Is he younger than Bert? A He is younger than Bert, Bert is the oldest one.
- Q About how old is he? A I guess I would put him about 15.
- Q What is the name of the father of these children? A Cyrus Ross.
- Q Is he living? A No, sir, he is dead.
- Q What is the mother's name? A I don't know the mother, she don't live with me, she just brought the children home.
- Q Was Cyrus Ross your son? A Yes, sir.
- Q When did he die? A He died several years ago.
- Q Where? A Down here.
- Q In the Cherokee Nation? A Yes, sir.
- Q How old would he be if he was living? A I guess he would be 48.
- Q Was he born a slave? A Yes, sir.
- Q Where did he go during the war? A He went with me.
- Q Did he belong to the same man you did, Lewis Ross? A Yes, sir.
- Q Did he return with you? A Yes, sir.
- Q Where were those children born? A Born on Grand River, in the Cherokee Nation.
- Q Where was Cyrus Ross married? A I don't know, he was married in the Nation, he had a Nation woman.
- Q Was his wife a state woman or a freedman? A She was a Nation woman.
- Q Was she a slave? A Yes, sir, I guess so.
- Q You don't know her name? A Her name was Sidney he said, she didn't live with me.
- Q What Sidney? A I don't know.
- Q Do you know whether they were ever married or not? A No, sir, he was sick when he come home, his wife was dead, and he just brought the children.
- Q Now, how many grandchildren you want to enroll? A I want to enroll six.
- Q What are their names now? A Bert and Lewis and Georgia and Minnie and Roy and Nancy.
- Q Georgia Ross? A Yes, sir.
- Q And Minnie Ross? A Yes, sir.
- Q And who else? A Nancy Ross.
- Q And who else? A Roy Ross.
- Q How old is Georgia Ross? A I don't know how old she is.
- Q About how old? A I don't know, I can't say, but I don't know nothing about how old the grandchildren is.
- Q You ought to post yourself on that before you want to enroll.
- Q Nobody knows their ages except the father? I guess she may be 14.
- Q How old is Minnie? A About 12 years old.
- Q Well, how old is Nancy, about? A Nancy is another set, another daughter's children.
- Q How old is she? A She is 8.
- Q Well, how old is Roy? A He is 14.
- Q Is Roy the brother of Nancy? A Yes, sir.
- Q Well now, is Cyrus the father of Georgia and Minnie? A Yes, sir, he has got four.
- Q And Bert and Lewis? A Yes, sir.
- Q And their mother's name was one Sidney? A Sidney, he said.
- Q Were they ever married? A I don't know.
- Q Can you prove their marriage? A I don't know anything about it.
- Q Well, that is what you will have to do, and the mother of

Nancy and Roy? A Martha.

- Q She your daughter? A Yes, sir.
Q Is she living? A No, sir, she is dead.
Q When did she die? A She died since the Gifton Court.
Q How old would she be if she was living, about? A I think she would be 84 years old, I guess.
Q Was she born before or after the war? A She was born in '66.
Q Where? A On Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q She lived there till she died? A Yes, sir.
Q Are these children all living? A Yes, sir, they are all living.
Q Are they living with you? A Yes, sir.

Ar. Hastings: Where at? A Up on Big Creek.

Q How long have they been living on Big Creek? A Been there ever since I been there.

Q How long is that? A I guess I been living there 14 or 15 or 16 years, I reckon, I can't remember just how long I been living there.

Q You got a place there? A I got a place there now.

Q When did you make it? A I made it in 1897.

Q Who did you live with up there before that? A I lived with Katie Thornton.

Q You never lived on a place of your own have you? A I had a place rented up there.

Q Did you know where Cyrus Ross' children were born; did you ever see his wife? A No, I never saw his wife, he wasn't with me.

Q He was in Kansas? A No he wasn't in Kansas.

Q And all these children were born up there? A No.

Q How do you know? A I don't think he was.

Q You never saw his wife? A No, sir.

Q You are testifying here and you never saw his wife? A He said they were born in the Nation; he never came home till he was sick enough to die.

Q When did he die? A He died when he died.

Q When was that? A I don't know when he died, I don't know how many years it has been.

Q Has it been 20 years ago? A I don't think it was, I know it wasn't.

Q Is his wife living? A No, sir.

Q You don't know her name? A No, sir, only Sidney, because he was sick when he came there.

Q Don't you know where he was living, your own son? A No, sir; do you know where your own folks is living when they are grown and scattered about keeping up their business?

Q What was Martha's husband's name? A She didn't have no husband, just had them two children.

Q Where were them children born? A Born here.

Q Where? A Where; born here in the Territory.

Q What part of the Territory? A On Big Creek.

Q In your house? A Yes, sir.

Q You were not keeping house at that time? A Yes sir, I was renting and keeping house.

Q Where did Martha die? A Up there.

Q Where? A Up on Big Creek.

The Kern-Gifton roll examined and the applicants identified thereon as follows:

Bert Ross on page 158, No. 3766, 000000000000 district;
Lewis Ross on page 152, No. 3767, 000000000000 district.

as Louis Ross:

Georgia Ross on page 152, No. 3768, 000000000000 district;
Minnie Ross on page 152, No. 3769, 000000000000 district.

Q Did Martha die since she got her Gifton money?

A She got her Clifton money, but they couldn't find the children's names, they were left off.

Q She didn't get it for the children? A No, sir, they were left off.

Q These children all living? A Yes, sir.

Q All living with you? A Yes, sir.

Commissioner: The applicant also applies for the enrollment of six grandchildren, to-wit, Bert Ross, Lewis Ross, Georgia Ross and Minnie Ross, who she avers are the children of her son Cyrus, by one Sidney. The children are duly identified upon the census roll of 1896, but no proof is made as to the marriage of Cyrus with the presumed mother of said children, and no proof as to where they were born, or as to the citizenship of their mother. She avers that she has two grandchildren, Nancy and Roy, and that they are the children of her child, Martha, now deceased, --

The Kern-Clifton roll examined, and the name of Martha Ross found thereon, page 152, No. 3759, Cooweescoowee district.

-- and the said Martha Ross is identified upon the Kern-Clifton roll. The names of the children Roy and Nancy cannot be identified upon any roll, and no satisfactory proof is made as to their citizenship, consequently it will be necessary first that satisfactory proof of marriage be made between Cyrus and his wife, the avowed mother of his children, and satisfactory proof of the birth made as to Nancy and Roy, the avowed children of Martha, and their names will be placed upon a doubtful card as Cherokee Freedmen awaiting further consideration by the Commission. They will be notified by mail when a decision is arrived at.

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 14th of August, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 1st, 1901.

In the matter of the application of George Rose for the enrollment of himself as a Cherokee Freedman.

Appearances:

L. T. Brown, for applicant;
J. S. Davenport, of counsel for Cherokee Nation.

George Rose, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Rose.
Q How old are you? A 37.
Q What is your postoffice address? A Vidor.
Q What is your postoffice address? A Vidor.
Q What district do you live in? A Coowaseeowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Nobody.
Q Where do you want to enroll besides Mr. Rose? A Born in Fort

By L. T. Brown: where were you born Mr. Rose?

Scott, Kansas. A Lived here

Q How long have you lived in the Cherokee Nation? A Lived here ever since I came back with my mother and father.

Q How old are you? A 37.

Q To young to remember what year you returned? A Yes, I really don't know exactly of my own knowledge, but my mother said it was in '86; I don't know.

Q What is your father's name? A Rose Ross.

Q What is your mother's name? A Nancy Ross.

Q Is she the Nancy Ross who is listed for enrollment, at Chelsea some time ago? A Yes, sir.

Q And you are the George Rose mentioned in her testimony in her own case? A Yes, sir.

Q You have lived in the Cherokee Nation ever since you can first remember? A Yes, sir, ever since.

Commissioner: You say you were born in Fort Scott, Kansas? A Yes, sir.

Q You came back from Kansas with your mother? A Yes, sir.

Q Been living in the Cherokee Nation ever since? A Part, yes sir.

Q Part? A Yes, sir.

Q Where else have you been living? A Oh I haven't been living anywhere long at a time.

Q Are you married? A No, sir.

Q Ever been married? A Yes, sir.

Q Got any children? A No, sir.

Q Is your wife living? A I guess she is.

Q You are not living with her of course? A No, sir.

Mr. Davenport: Where were you married? A Married in Kansas.

Q What place? A Iola.

Q Where you living there when you married? A Yes, I was up there.

Q How long did you live there after you married? A I didn't live

there but a week or so.

Q Where did you go then? A I came back down here to the Nation,

I left her there, I was married by force.

Q You didn't leave her by force? A No, because I wanted to.

Q Well, when did you come back to the Nation where did you go? A

Came down here to Gal Fields.

Q Where did Gal live then? A Out on Grand River.

Q How long ago has that been? A Been about eight or ten years

ago, I guess about that long.

Q Gal didn't live in Vidor then, did he? A Not Gal, but Jack I

mean, Jack Fields.

Q How your mother is sometimes called Nancy Ross, isn't that

George Ross - 2.

A Well, yes sir.

Q Where is she living now? A Living up on Big Creek.

Q How long has she been living there? A Been living at the place she is living now about four or five years I guess, about that long.

Q Is Josie Grubbs your sister? A No, sir.

A Well, the fact of the business is you came back down here to the Nation about eight or nine years ago, and that is when you went out there to Jack Fields? A No, sir.

Q You had just returned from Kansas when you went out to Fields? A Just returned from Kansas, yes.

Q And that was just about eight or nine years ago? A Yes, sir, about eight or nine years ago when I married up there.

Q You stayed out there to Fields' a while and you went back to Kansas, didn't you? A No, sir, not right away.

Q You stayed out there a while? A Yes, I stayed there a while.

Q Then you went up to Kansas and stayed until 1896? A No, I never did stay in Kansas to live.

Q I mean you might not have been back there on a visit, but you lived there? A No, sir, I never lived there.

Q When was it you came back from Kansas the last time? A I don't really know, I have been up to Kansas so many times I can't tell.

Q It hasn't been over four years ago? A Well it probably might not and it probably has, I don't remember how many years, I go up to Kansas every once in a while.

Q You have a brother named Arthur? A Yes, sir.

Q You have a sister named Emma? A Yes, sir.

Q Is Arthur younger than you or older? A He is younger.

Q Isn't your home in Iola, Kansas, now? A Yes, sir, my home is right where my mother is.

Q How long has it been where your mother is? A Yes, sir, been there all the time.

Q You are a brother of Rees Gravens up there to Vinita? A She is a half sister of mine on my father's side.

Q You came from Iola, Kansas, since the Commission was at Vinita enrolling here, didn't you? A No, sir.

Commissioner: You married up in Kansas? A Yes, sir.

Q How long did you live with your mother? A Only until I was married to her.

Q Then you ran off from her? A Yes, sir.

Q They forced you to marry her? A Yes, sir.

Q How long ago was that? A About eight or ten years ago.

Q You never went back to Kansas any more? A I have been back to Kansas.

Q Right up there where you married your wife? A No, sir.

Q You kept away from there? A Yes, sir.

Q Ever been married since? A No, sir.

Q Got any children? A No, sir.

Q What business do you follow? A Farming and sawing brick and making mortar.

Q Any kind of work? A Every kind of work.

Q Got no farm of your own? A No, sir.

Q You say you make your home with your mother? A Yes, sir.

Q You stay there at your mother's house any at all? A Yes, sir, when I am not at work I stay there.

Q You eat off the old lady when you are not working? A No, sir, I make a good deal of money when I work.

Q Is your name on any of the rolls? A Clinton and Kern.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.

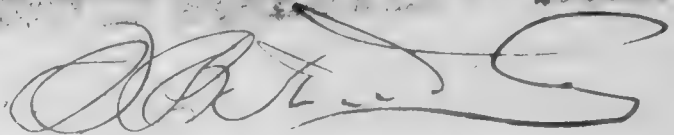
George Ross - 3.

The Kern-Clifton roll examined and the applicant identified thereon, page 152, No. 2722, Cooweescoowee district.
Q Your name isnt on the roll of 1880? A No, sir.
Q You never tried to get it on? A No, sir.

Commissioner: George Ross applies for the enrollment of himself. He cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll. He is identified upon that roll according to page and number of the roll as indicated in the testimony. He avers that he is the child of Nancy Ross. His attorney prays that the testimony taken in the matter of the enrollment of Nancy Ross, upon D card 524, be made part of the record in the case at bar, and a copy thereof filed herewith, which will be done. As to the enrollment of the said applicant, reference is made to the testimony. He will now be ~~enrolled~~ listed for enrollment as a Cherokee Freedman upon a doubtful card. He will be notified by mail at his postoffice address of the decision of the Commission in the premises.

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 15th of July, 1901.



Commissioner.

Notary Public

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. 1901

Given under my hand this
day of A. D. 1901.

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the

15 day of *Sept*, 1901.

Mallett Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me
this day of A.D. 1901.

Notary Public.

[Faint signature]

NOTICE!

IN THE MATTER OF the application of George Ross
for enrollment as a Cherokee citizen:

Case No. D 1009

To Geo. Ross or Mellette & Smith his Atty's.

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 Vinita, Indian Territory.
Indian Territory, on Oct. 7th 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 on the respective days above named, 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 Sept. 18th 1901.

L B Bell
M. N. Harrison
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Winitz, I.T., October 7, 1901.

In the matter of the application of Nancy Ross et al. for enrollment as Cherokee Freedman.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:
Mellette & Smith, attorneys for the applicant;
W. W. Hastings, of counsel for Cherokee Nation.

R. J. MORRIS, appearing before the Commission and being duly sworn and examined, testified as follows:

Mr. Hastings: What is your name? A R. J. Morris.

Q What is your age? A I am 56 years old.

Q Where do you live? A I live at Iola, Kansas.

Q How long have you lived in and about Iola, Kansas? A Since '56.

Q Did you know a colored woman by the name of Nancy Ross, and also known as Nancy Grubbs.

Q You know her husband? A Yes.

Q What was her husband's name? A Mose.

Q Did you know any of her children? A Yes.

Q How many some of them? A Well I knew George, Dick and Arthur and Kizzie I think and also Ned Foreman, that was a son of hers.

Q A son of hers, not a son of Mose? A No.

Q Do you know this man here (indicating Nelson Ross)? A Well it has been quite a while since I have seen him, but he resembles the Grubbs family, I can't say whether he is a Grubbs or not.

Q Well, when did you first learn to know Nancy Grubbs or Nancy Ross? A Well right away after she came up there from the Nation, I think it was about '63 somewhere along there, I wouldn't be positive it was that year, but then right in that neighborhood.

Q Well how long did you continue to know them? A Well, I knew her ever since.

Q Where has she lived since that time? A Iola.

Q Well, have you known these children? A Yes, I am very well acquainted with George and Arthur, and I did know Dick and Harry, I am very well acquainted with Harry, I saw him nearly every day, I have been living or boarding right close to where he lives, I see him most every day.

Q Does he live up there now? A Yes.

Q Does his mother live up there now? A I can't say whether she lives there now, she did the last I knew, that was last winter; you see I have been away from town a right smart of the time this summer at work.

Q How far from Iola did they live when you first knew them just after the war? A Well, I suppose about two miles, mile and a half or two miles.

Q They live on a farm? A Why they lived, I don't know whether you would call it a farm or not, a small tract of land.

Q Well, did they afterwards move in town or move from there? A Yes, afterwards moved from there to town.

Q About how long ago? A Well I can't say positively, probably eighteen or twenty years ago, well I would say fifteen or twenty years ago, I can't say positively just what time it was.

Q Did you ever have them to work for you, do any work? A No.

Q How far did you live from them this first few years after the war, did you live in town? A No, I lived about three miles northwest of town.

Q How far would that throw you from them? A Oh; pretty about three miles or four.

Q You know the father, Mose Ross, or Mose Grubbs, died? A Well

Now I wouldn't be positive whether he died, I think though he died in Iowa, I wouldn't be positive as to that.

Q Well, did you ever hear of these people leaving there for any long time? A No, I never did, I don't know if they ever moving away.

Q Did you see them frequently? A Very very often.

Q Did you ever know one that they called Nelson? A No.

Q Never knew Nelson? A Didn't know him.

Q You know that they called Dick? A Yes.

Q Did Kirria marry, the daughter? A Yes.

Q Who did she marry? A She married a colored man by the name of Norman, Taylor Brown.

Q Do you know what became of her? A I do not.

Q When did you remember of seeing her last? A Well sir, I can't tell you, I see Taylor very often.

Q That her husband? A That is her husband, but I haven't seen him for sometime.

Q You know where Taylor is? A No is in Iowa.

Q Living there? A Yes, sir, living there.

Q That is Taylor Brown? A Taylor Brown.

Q Mr. Kellott, how old are you, Mr. Harris? A 56.

Q You say that the woman, Nancy Hess, whom you knew and whom you have been talking about, or Nancy Grubbs, lived in Iowa last winter?

A Yes, sir.

Q That was the winter of 1900 and 1901? A Yes.

Q Where did she live? A She lived in the southwest part of town.

Q Right house? A Yes, sir.

Q Have a family there? A Yes, sir, her children was there with her.

Q How many children? A Two I think and then there was one boarding there, George was boarding at home.

Q Well, how old a man is George? A He must be well into thirty years old, maybe older, I don't know just exactly.

Q Then you can't know anything about any of the rest of them except George, do you? A No, I don't; well, Harry, I know.

Q Harry lives there in Iowa.

Q Do you know that the Nancy Hess who has made application here for enrollment as a Charles Freeman is the Nancy Grubbs whom you have been talking about? A No, sir, I don't, I never knew her by the name of Nancy Hess.

Q Now where was Nancy Grubbs, when you have been talking about, in 1866? A In 1866, well she was in Iowa as far as I know.

Q Well I am not talking about as far as you know? A I can't swear positively whether she was there or not, if she ever moved away I don't know about it.

Q You can't know whether she was there in 1866 or not? A I can't swear positively she was there, no, sir.

Q Where was she in 1867? A That I can't say, for it has been years back.

Q Where was she in 1868? A Well she lived there in Iowa or in the vicinity.

Q Well are you certain of that? A If they ever moved away I never know it.

Q Well that can't answer my question? A Well I wouldn't swear positive.

Q Then you are not swearing where this woman Nancy Grubbs was in either of the years I have mentioned, '66 or '67? A I can't swear positively.

Q Where was she in 1870? A Well, I suppose she was in Iowa.

Q Well do you know, can you swear that you saw her there? A I can't swear, I just saw her there.

Q Well, a number of 1870, from the time I became acquainted up to the present time if they ever moved away, I never know it.

Q I am asking you where she was in 1870? A I can't tell you.

wouldn't swear positively.

Q You will not swear whether she was there in 1870? A I say if she ever moved away I never knew of it, she has always been a resident of Iola as far as I know, and I saw them often.

Q Where do you live? A I live northwest of Iola about three miles, and part of the time I lived in Iola.

Q Were you a particular acquaintance of Nancy Grubbs, you have been talking about? A Why I have been very well acquainted with her for sometime.

Q Did you watch her movements closely? A No, sir, I didn't.

Q I will ask you if it is not a fact that she has lived away from there as much as five years at the time? A No, sir.

Q You are positive of that? A Positive of that.

Q Has she lived away from there as much as one year at the time?

A I can't say if she has, if she ever has I don't know it.

Q But you can't say she hasn't? A I wouldn't swear point blank that she hasn't.

Q You don't know whether or not she came down into the Cherokee Nation on Russell Creek in 1866, do you? A I can't swear positive.

Q Do you know of her living upon Vinegar Creek up close to Coffeyville in the Cherokee Nation? A No, sir.

Q Do you know whether she did or not? A I don't know, I don't know anything about Vinegar Creek.

Q I will ask you if she lived there? A I don't know. I answered the question that way, I don't know.

Q You say you don't know Nelson Grubbs? A No, sir.

Q You don't know whether he has lived in the Cherokee Nation all his life or not? A Don't know him, I don't know any of them by that name.

Q Now you don't know this man, do you (indicating Nelson Grubbs)?

A I can't see him.

Q He is right by the window and you ought to look at him; do you know him? A Well he looks like the Grubbs to me.

Q Well do you know him, do you know who he is? A Is it George?

Q Now you are positive? A Well he is in a little better shape, if he is George, than I have ever seen him.

Q You don't know whether the man sitting here is George Grubbs or not? A It is a pretty hard matter for me to place this fellow here.

Q I am asking you if this fellow is George Grubbs? A I believe it is.

Q This man sitting here is George Grubbs? A I believe it is, it resembles him.

Q If it would tell you it was Nelson Grubbs what would you say?

A He must be a brother of George then.

Q You never saw that man in Kansas then? A Don't believe I ever did.

Q This man is Nelson Grubbs and you will swear you never saw him in Iola Kansas, what you know of? A I don't think that I ever did, I never saw him that I know of, I can't tell him, it is a Grubbs though.

Q The only child of Nancy Grubbs then when you knew is George Grubbs? A George and Harry and Dick.

Q Where is Harry? A He is in Iola.

Q How old is he? A He must be probably 25 or more.

Q When did you see him in Iola? A I seen him there Saturday last.

Q What is he doing there? A He is in a livery barn.

Q For wages? A I suppose so.

Q Is he a single man? A No, sir.

Q How a family? A Yes, sir, he has a wife, I don't know whether he has any children or not.

Q Well, where is George? A George, I saw him I think it was last Thursday.

Q Where did you see him? A In Iola.

Q What was he doing there? A Working.

Q What was he doing? A He was helping move a house.
Q How far is it from here to Iola, Kansas? A I don't know the exact distance, it is about 85 miles I suppose, something in the neighborhood.

Q Was he living there or just working there temporarily? A Why I don't know whether he lives in Iola or Humboldt, he lived in Humboldt last winter he told me, and I can't say whether he lives in Iola or Humboldt, he was working in Iola.

Mr. Hastings: Is Humboldt in Kansas? A Yes, sir, Allen County, Kansas.

Q Now Mr. Morris, as I understand you, you got acquainted with or learned to know these people about '63? A Yes, sir.

Q You saw them there last winter and some you saw the last few days ago? A Yes.

Q Between those two dates how have they lived there so far as you know? A So far as I know.

Q You never missed them? A Never missed them.

Mr. Mellette: Did you take it upon yourself to watch these people?

A No, sir, oh no.

Q They might have been gone a year at a time without you knowing it? A I don't think they would, they possible might have been, I didn't watch for anybody very close, it is not my business, my business is attending to my own business, but as I say, if they were away from there I never knew it; well I have known of her going to the Nation a time or two but not to move here, I don't know of her moving here, she has made a few trips, her and George both, I don't know that Harry has ever made a trip.

J. E. THORP, appearing before the commission and being duly sworn and examined, testified as follows:

Mr. Hastings: What is your name? A J. E. Thorp.

Q What is your age, Mr. Thorp? A 64.

Q Where do you live? A Iola.

Q Kansas? A Kansas, yes, sir.

Q How long have you lived in and about Iola, Kansas? A 44 years and a little upwards.

Q What is your occupation? A I have been a barber for the last 35 years, 32 years.

Q Do you know a colored woman by the name of Nancy Ross, or Nancy Grubbs? A So called, yes, sir.

Q Where did you know her? A Immediately west of Iola, across the river, in the first place, a little way from Iola.

Q About how far did she live from town when you first knew her?

A Two miles, two and a half, sir.

Q Well, about when did you learn to know her? A I think it was about '67, it was a year or more after I got home from service.

Q Where was she living? A West of the river a couple of miles from town.

Q How long did she continue to live at this place? A I can't say as to that, a year or two or three, I kept no count of it.

Q Where did she go from there? A Her family moved from there into town.

Q Well, did you know them after they came to town? A Yes, sir, that was the same as I knew other colored families, I knew of them.

Q Did you know the father and husband's name? A None I think.

Q You knew him? A Oh yes.

Q Did you know any other members of the family, the first names?
A I knew of their father's, but I didn't know but very few of their names, really, I couldn't keep track enough of them, as their names, I knew several of the oldest ones, there are probably several of the younger ones that I didn't know, I knew their names, it is Grubbs, there is a family resemblance.

Q How long did you know them, as to what time did you know this

Nancy Rose or Grubbs? A Oh I have known her more or less all these years.

Q You know where she is now? A Well no I don't, my idea was that she was there at her home I guess, but I heard she is here in town now.

Q When did you last know of her being up there at her home? A Well as I said in the lower court this morning, I have no absolute knowledge of her being at home since her family was quarantined last winter.

Q Well you know of her then being there as late as last winter?

A Yes.

Q Now have you known of them ever since you have learned to know them a year or two after the war, up to last winter?

Mr. Mellette: It strikes me that is about as leading a question as it can be; I object to that question upon the ground of being leading.

Commission: The objection will be noted; let him answer the question.

A Practically so, sir.

Q How far did you live from them last winter, your residence?

A Last winter, I think about seven blocks, about that.

Q Did you know Ned Foreman? A I did know him in the years gone.

Q How long has it been since you have seen him? A I can't tell you, I don't remember much of having seen Foreman very much since he married, he lives out east of town some six or eight or ten miles, maybe eight or ten or fifteen years ago, maybe longer.

Q Did you ever know Kizzie, a girl? A I knew of her, knew her by sight.

Q Did you know her husband? A I don't remember whether I did or not, no I didn't.

Q Did you know George Post or George Grubbs? A Well now I can't state that except from what I heard in the preliminary examination when we referred to her having married Newman.

Q You don't know about that? A I probably know of it at the time, but it has escaped my memory; the probabilities are I did know of it at the time.

Q Well through these years did you ever know of this family moving away from there? A No, I have no knowledge of their ever moving away, not to my knowledge; they might have been gone at times for a couple or two or three months or perhaps a greater period of time, but I wasn't aware of it at all.

Q Could it have been possible for this woman and her family to have lived here ever since '66 in the Cherokee Nation? A Well scarcely.

Q If she swears that she moved here in '66 and lived here ever since, she is mistaken? A Well I rather think so; that would be my idea of it; profoundly mistaken.

Mr. Mellette: Where is that preliminary court you talk about?

A In the room below here.

Q What makes you call it a court? A I don't know whether it was a court or not.

Q Didn't they tell you that that is just the attorneys for the Cherokee Nation? A I don't know, perhaps they did.

Q Why did you come down here? A I was subpoenaed.

Q What kind of subpoena was served on you? A The same as the balance I presume.

Q Now what kind of subpoena was served on you, who signed that subpoena? A I think it was Mr. Keys.

Q Don't you know that subpoena isn't legal? A I don't know anything about it.

Q Do you people up there think that subpoena is binding on you folks in ~~some~~ down here? A That is the impression we get.

Q Why do you have that idea?

Mr. Hastings: What is the use of going into that? I

- 6 -
am going to object to that.

Mr. Mallett: I simply want to know what kind of subpoena is being served on these people, whether they are coming of their own accord and voluntarily to appear as witnesses in these cases or whether they are coming in obedience to a legal subpoena and if the subpoena served on them is a legal one, and if not, I want to know who signs it, by what process they are brought here, if they are voluntarily appearing as witnesses; it is a question that goes to their credibility; if otherwise, why they are entitled to know it. I simply want to know how this man is being brought here, upon what kind of a subpoena.

Mr. Hastings: If the Commission pleases, it is enough for the attorney for the applicant to know that a subpoena was regularly issued and that this man was brought here; he was brought here at our instance, we subpoenaed him, he is here to give testimony on behalf of the Cherokee Nation. Now what would it avail him, what business is it of his to go into the question of the legality or illegality of the subpoenas issued by the Cherokee Nation? That is a legal question that this Commission don't know anything about nor would it be of any benefit to them in this case to investigate it; it is simply a side question. For the gentleman's information, I might say the Cherokee Nation passed a law authorizing the employment of attorneys before this Commission, and that same law authorizes the issuance of these subpoenas by the attorneys for the Cherokee Nation, and these subpoenas were issued by the Cherokee Nation in obedience to that law, and these were served by people qualified to serve them upon these outside witnesses. It don't affect whether Nancy Grubbs came back here after the war, or whether she continued to reside here after that time.

Commissioner Breckinridge: I have no occasion to go into the question of the sufficiency of these subpoenas when served in the State of Kansas. If the witnesses themselves choose to raise the question and refuse to come, it would then arise before a Court of competent jurisdiction. There has been a law passed by the Cherokee Nation and approved by the President of the United States providing for all these processes, and so long as these witnesses are here, the only point in which I am concerned would be the weight of their testimony. Even if they came without any subpoena, it is a question of the value of their testimony. A great many of the witnesses here come without any subpoena; they are selected from the crowd at the time. If the service of a subpoena is necessary for the proper accounting of the business to enable the Cherokee Nation to pay their mileage and per diem, I don't see any objection to it. I overrule any objection that seeks to exclude evidence upon ground of that character, and that evidence will be received, and as for going into the technical question of the subpoena, I see no occasion for that. I want to proceed upon the merits of the case and the value of the testimony. If you want to impeach the witness as to his integrity and character, why take steps to that effect; otherwise I consider the question as of no probable bearing or force. Counsel can put in the record any objection that he likes, but the case will proceed and the matter will be considered by the full Commission when opportunity is offered.

Mr. Mallett: Now Mr. Thorp, where was Nancy Grubbs in 1866? A I think she was west of the river at that time living up there on a place they had rented.

Q Well, do you know where she was, can you swear where she was?
A I don't remember, I wouldn't say for certain that I was at their house in '66, but I think it was about in '67.

Q Well, are you willing to swear that you were at her house in '67?

A Oh I think I might, yes, sir.
Q Now if she swore that in 1867 she was in this country and went from Russell Creek up to Vinegar Creek, she is mistaken, is she?

A I think so, probably.

Q Now, you swear positively she is mistaken? A I think she was mistaken, I wouldn't say positively, but I think so just the same.

Q When did you get back from the army you spoke of? A I got home Christmas after, '65.

Q You said you saw her a year or two after you got back? A Yes, sir.

Q Well, was it one year or two? A I can't say as to that; I was hauling some wood for some man, over to a neighbor living just west of them, and I frequently went clear around by their house in order to avoid crossing two bad places.

Q But you can't say whether it was one or two years after you came back after the war, how do you know where she was in 1867?

A I was passing there and saw the old lady; I think on one occasion I saw her husband planting potatoes.

Q I am not talking about the old gentleman? A Well I saw the members of the family there and while not being absolutely close enough, still I had plenty good eyes those days, that is my recollection, that I thought I recognized the old lady, I might have been mistaken but it is scarcely possible.

Q Was that two years after you came back after the war? A I don't think it was, inside of two years, no, sir, about two years, it was in the spring time I was hauling this wood from Mr. Elmer Reagan's farm, H. L. Reagan.

Q Did you know a child of Nancy Grubbs named Martha? A I don't think I did.

Q Do you know whether the Nancy Grubbs you have been talking about is the Nancy Grubbs who has applied here, or the Nancy Ross who has applied here for enrollment as a Cherokee Freedman? A I can't say, just as I said in the lower room, whether a court or not, but I don't recollect ever having heard her called Nancy Ross at all.

Q But you don't know that the applicant here is the woman you have been talking about? A No, I know Mrs. Grubbs of course; whether she is the woman Ross or not now I don't know.

Q And whether she is the applicant or not you don't know? A Why if her name is Grubbs I presume it is the applicant.

Q Well, was there ever more than one Grubbs in the State?

A There was no more that lived there to my knowledge.

Q I saw, do you swear that the Nancy Ross who has applied here for enrollment is the Nancy Grubbs you have been talking about; do you? A I think that it is all one and the same person.

Q Do you know who has applied here as Nancy Ross for enrollment? A I don't know, I have been informed.

Q I am not talking about what you have been informed; do you know who has applied here as Nancy Ross? A No, I do not.

Q Then do you know whether the Nancy Ross who has applied here as the Nancy Grubbs you are talking about? A I can't say it only in the way of a presumption, I took it granted of course in the way of a presumption it is the same.

Q Do you know Harry Grubbs? A Oh I have known of him I think.

Q Where was he born? A I can't say as to that.

Q Was he born in the Cherokee Nation? A I can't tell you.

Q You don't know whether he was born in the Cherokee Nation or not?

A No, sir.

Q Well, if he was born in the Cherokee Nation, Nancy Grubbs was here at the time, wasn't she? A Probably was; probably was, without me must have been born at pretty long range.

Q Where did those Grubbs die? A Well sir, I think he died in Iowa.

Q You swear that? A No, I don't, because I don't absolutely know outside of hearsay, that is how.

Q How didn't he die in Fort Scott? A I can't tell you sir.

Q Did you ever see any one on Nancy Grubbs all the time to know whether she came down here to the Territory? A For several years

I passed her door, some 12 or 14 years, on the way to my home, passed three or four times a day.

Q Was she at home all the time? A She might have been, I can't say as to that, I know I saw her frequently though; I might not have seen her for a month or two weeks, but I wasn't aware by hearsay or otherwise of her being absent from there.

Q Well, you didn't make inquiry, did you, as to whether she was absent or not? A No, no.

Q She might have been absent and you not hear about it? A Possibly, she might have been absent in very frequently that I don't know of, possibly, for short periods, I think two or three or four days; I knew her and three or four boys, and I have some slight knowledge of a girl or two, I don't remember how many.

Q Where was George born? A I can't tell you where any of them was born, I can't tell you whether they were born in the Cherokee Nation or Vinegar Creek or anywhere.

Mr. Hastings: I believe you stated that you passed their door three or four times a day for 12 or 14 years? A On my way from home to my shop, unless the weather was too extremely hot or stormy, I passed the door in going to my work and to my meals and back home again at night.

Q And during that time you never missed this woman? A Oh she was probably absent sometimes for a few days that I don't know anything of it, I know nothing of her being away.

M. G. ROBINSON, appearing before the Commission and being duly sworn and examined, testified as follows:

Mr. Hastings: What is your name? A M. G. Robinson.

Q Where do you live? A At Iola, Kansas.

Q How long has Iola been your home? A Since the spring of '70.

Q Did you know a colored woman up there by the name of Nancy Grubbs or Nancy Reed? A Well, she was generally known as Nancy Grubbs.

Q I saw you know her? A Yes, sir.

Q About when did you learn to know her? A I don't know just how soon, it wasn't so very long after I came there, I can't say now just how long.

Q How how long have you known her since, up to what time? A What I mean in a general way, knew their family in town, it has been my understanding they were there or some of the family all the time, or most of the time; well all the time; what I mean is some of the family.

Q Did you know her husband? A Yes, sir.

Q What was his name? A Moss, that is, he always went by the name of Moses Grubbs.

Q Well, did you know any of their children? A Yes, sir.

Q What was some of their names? A Well, there was one that was called, sometimes Ned Foreman, and some called him Ned Grubbs, and then there was George Grubbs and Lizzie Grubbs and Dick Grubbs, that was among the older children.

Q Do you know this one here (indicating Nelson Grubbs)? A This one here I believe yes, I am not sure whether it is George or Dick, or that they called Dick Grubbs.

Q Was there one they called Dick? A Yes, sir.

Q Do you know any other name for Dick? A No, that was the name; I don't know any other.

Q Do you know where Dick went to school? A Yes, sir, he went to school there at Iola; that is the name, he went to school there, he graduated there at the High School, that is my recollection.

Q Did you know one they called Nelson, or did they have one by that name? A I don't remember one by that name, being called that.

Q You lived in town? A Yes, sir.

Q What is your occupation? A Vagabond labor, I run the whole thing, but then wood making is my trade, wood work rather.

Q Where did these people live when you first knew them? A They were living west of the river on a farm.

Q About how far from Iola? A Well it is somewhere, that is to go out where they lived, it would have been along about close to two miles, a mile and a half or two miles.

Q They lived there when you first learned to know them? A Yes, sir.

Q How long did they live over there before they moved to town? A I can't tell you, they lived there, it must have been they lived there in town, well from fifteen to twenty years and over.

Q In town? A In town, of course I had nothing to particularly call my attention to the time they came in.

Q Did you see them there as you saw other people? A Oh yes, the same as I would other people, that is all.

Q Did they ever work for you, any of the family? A One of the girls worked for us some, but I don't remember now which one it was.

Q Did you know one they called Harry? A I don't remember him, not by that name.

Q Did you know one by the name of Rizzie, a girl? A Yes, sir.

Q Know whether she is married or not? A Yes, sir, I think she is, that is my understanding.

Q Do you know her husband? A Yes, sir, Newman I believe, that is my remembrance now, that she married Newman.

Q You know where Newman lives? A I think he is living there in Iola.

Q You have never missed her? A I haven't missed her, no, sir.

Q Well, when was the last time you saw any of this family up there?

A Well it is hard to tell now, it seems to me that it has been a good while; last winter they had the smallpox there; I wasn't down there, but then that was the talk, they had it, that was the report.

Q Were they living in town then? A Yes, sir, some place they have been living ever since they have been there in town.

Mr. Mellette: Well, where was this woman when you call Nancy Grubbs in 1878? A Well my remembrance is that she was there; that is, out on the farm, out west of town, that is, they were living on the farm there.

Q Do you know whether she wasn't down in the Cherokee Nation at that time? A No, sir, I don't; that is, not at that time.

Q Isn't it a fact that two of the children have always lived up there, Harry and Arthur of these applying for citizenship in the Nation, and that the other people come up there to visit them sometimes? A That I don't know, that is, about the living there, that is, I don't know that they have been away, I don't know that they have been away; my understanding is that they have been there.

Q I am not talking about your understanding; A Why I say I don't know that they haven't been away some.

Q You made the remark a while ago, that some of the family were there all the time? A Yes, sir.

Q Now what did you mean by that? A Well that the family, that is, that where they were living that the family was there.

Q Own any property? A Own that farm.

Q All the family? A The Grubbs, that is, Nancy, and my understanding is, rather that that was her name.

Q You don't know what she was there all the time? A No, sir.

Q The children all lived there too, didn't they? A Well I think so, that is, those that I have mentioned.

Q Well Harry and Arthur? A Well Harry, yes, sir, I think so.

Q But you don't pretend to say that the old lady, Nancy Grubbs, has made that her home all the time? A Not all the time, no, sir.

Q Do you know anything about her living up on Pigeon Creek in the Cherokee Nation? A No, sir, I don't.

Q Do you know anything about her ever coming to the Cherokee Nation? A No, sir, only just of the reports is all.

Q Then you did hear reports? A I have heard that she has been here a few times.

Q And she never was here when you were a boy or a man, is that right?

Q You were in that country in 1878? A 1878, yes, sir.

Q And you know nothing about Nancy Grubbs or her family before that time? A No, sir.

Q How long have you lived there, before you became acquainted with her? A I don't think it was a great while afterwards, I had just been there, just done some work for Mr. Grubbs, but I can't tell you now just how long, or how soon it was, it wasn't a great while after I went there.

Q One year or two years? A I am satisfied it was inside of two years.

H. P. GRAY, appearing before the Commission and being duly sworn and examined, testified as follows:

Mr. Hastings: What is your name? A H. P. Gray.

Q What is your postoffice address? A Iola, Kansas.

Q How long has that been your postoffice, or home? A 23 years last December.

Q You know Nancy Grubbs, or Nancy Ross? A Yes, sir.

Q How long have you known her? A Well, I have known her for 23 years maybe now, I got acquainted with the Grubbs family right after I got there.

Q Where were they living when you got acquainted with them? A They were living in a little cabin a mile and a half west and a mile north of Iola.

Q Did they afterwards move to town? A Yes, sir.

Q Did you know them after they moved there? A Yes, sir, they lived on the same street that I did, about six blocks south.

Q Now how long have they lived there? A Well, it is right close to 20 years, I wouldn't like to say because I didn't make any note of it.

Q Well, your best judgment as to the time? A My best judgment is it is eighteen years last spring since they moved in there.

Q You know where they moved from when they moved to town? A Yes, sir, they moved from that cabin.

Q Did you Nancy Ross' or Nancy Grubbs' husband, what his name was? A Mose Grubbs, yes, that is the fellow that I supposed was the husband.

Q Did you know any of the children? A Yes, sir.

Q Name some of them? A Well the oldest one was Lou I think that is the oldest one, and the next was Kiz, I may be mistaken now, I don't swear I know exactly, but Kiz and Dick - oh confound it I forget the other names, I would know it if I would hear it, but I don't recollect the names, they were the oldest; well George was older than Dick, George was next to Kiz according to my best judgment; he is about 28 years old I should think.

Q George married? A He has been once or twice, I don't know whether he has got a wife now or not.

Q Do you know where he lives? A No, I do not; I saw him this summer but I don't know where he lives.

Q Where did you see him? A He was there at Iola a few days.

Q Where is Ned Foreman? A Ned Foreman, he is down in this way or some other Nation, I forget, down here.

Q Do you know how long he has been away from up there? A About some three or four years ago last fall when he left there.

Q Where is this old woman, Nancy? A She lives there in town, I think, when she is at home, she is away some, she was down here about a year or two or three years ago, down in this country somewhere, close to this town.

Q Did you hear of the strip payment about that time? A Yes, she came about that time, her and all the children of them up there, pretty near all.

Q Well I believe you said you got acquainted with them about '93?

A Yes.

Q Have you known her since that time? A Yes, sir, I have always known her ever since that.

Q I believe you said they moved to town about

Q I believe you said they moved to town about 18 years ago, to the best of your judgment? A I think that is about it.

Q You know whether Kizile is married or not? A I do not.

Q Do you know whether they had the smallpox in their family last winter or not? A I think they did, I was told them had by the Marshal, that is the man that told me, I didn't go down to see, for I had no use for the smallpox.

Q Mr. Gray, do you know this one (indicating Nelson Ross.)? A Yes, I do now, he looks like Uncle Mose.

Q Looks like his father, does he? A Yes, it has been a long time since I have seen him to know him, I wouldn't have known him to meet him out on the streets, wouldn't have known him.

Q What did they call him up there? A I can't tell you now, but there is half of the fellows there, especially among the colored fellows had some kind of a nick name that nobody else don't know who they were except by that name.

Q But you just recognize him as a Grubbs? A Yes, sir.

Mr. Mellotte: Well, who is this man sitting here (Nelson Ross.)? A He is one of the Grubbs family.

Q You swear that? A Well, I have always been told he was, and he used to live with them.

Q Well he hasn't been up in that country for a good many years, has he? A Oh I don't know, it hasn't been a great many years since he was there.

Q Did he go to school there? A Yes, sir.

Q How far is it from Iola to the Cherokee line? A Well sir, I can't tell you.

Q About how far? A Why I should think it is right close to ninety miles, I may be away yonder mistaken because I never was over the road except I came down here the other night and I came all the time in the night.

Q Isn't it a fact it is about 60 miles? A Well it ought to be farther than that.

Q Well how long does it take to come from Iola to the Cherokee Nation? A It took me from eight o'clock in the morning till 5:15 the next morning to come here, but the biggest part of it was lying over waiting for trains.

Q How far is from here to where you live? A I don't know, I can't say anything about the distance, I never was over the road, I can't say.

Q What railroad do you live on? A I live on the Santa Fe and Missouri Pacific, they cross there at Iola.

Q How far do you live from Coffeyville? A I don't know.

Q About how far? A I can't tell you for I never was over that country and never paid no attention to it.

Q You don't live over fifty miles from Coffeyville? A Why I would think so.

Q Well, where did Nancy Grubbs live in 1875? A I can't tell you.

Q Where did Nancy Grubbs live in 1885? A She lived in town, I think.

Q Do you know that she lived there? A Well -

Q Do you know whether she was there at all during the year 1885?

A In that country, yes, sir.

Q You swear she was there during that year? A Yes, sir.

Q Did you see her? A There never has been a month I didn't know, that I didn't see her, only when she was down here about three years ago.

Q Well, we will confine ourselves to the year 1885 please: did you see her in 1885? A Well I don't know, I can't tell you, but they didn't live on their farm then, out in the country then.

Q Well, will you swear that you saw Nancy Grubbs at Iola in 1885?

A I wouldn't answer that question, for I don't recollect.

Q Did you see her in 1886? A Oh I can't know what years I have seen her in, I never lived her from there, I don't recollect about the years.

Q Would you be likely to miss her if she would go away from home?
A Well I would suppose so.

Q Why? A Because I saw her frequently and she washed a great deal, or used to.

Q Well, is there any reason why you should keep track of her?

A Nothing only that she is an old settler there and I got acquainted with them when I first came to the country.

Q Do you pretend to say that Nancy Grubbs couldn't have been away from that town for six months without you knowing it? A No, I would not say that, most anybody could have been away from that town and we not know it, not know anything about it, but the family hasn't been away from there.

Q What do you mean by the family? A The children generally.

Q Well, now name the children that you mean by saying the family?

A Well, Lou I guess, Lou has been away from the last several years, she died, she was Gravens' wife, she was Wash Ross' wife in the first place when I first knew her.

Q Now we are talking about Nancy Grubbs and not her family and I want to know whether you can swear that she hasn't been there all the time since you knew her, or not? A Well she has a great deal, the biggest part of the time, but I wouldn't say she hasn't been there all the time, I recollect once that she was at Fort Scott some little time but I don't recollect how long that was, the majority of the years since I have been there I run a meat market, I used to deal with the Grubbs when they had any meat to buy of me, and they usually bought meat right along, more or less.

Q Isn't it a fact that Nancy Grubbs hasn't kept house for twenty or thirty years? A No, it is not.

Q That the older children who lived in Iola kept the house there, Harry and Arthur? A Well they might have kept the house a great deal of the time, but Nancy Grubbs has been there.

Q You don't say she ever kept that as her house, she kept the house, run the house? A Why yes, I suppose so, she lived there.

Q Well, didn't she live there with her older children, Arthur and Harry? A Well now that is a question, whether she lived with them or there with her, I don't know how that was, but they all lived there.

Mr. Hastings: Now you have known them since '78 I believe? A Yes, sir.

Q Now how often, or about how often, have you seen them since that time? A Why I used to see them of course there near every week, day, she nearly always came to town when she lived out in the country and washed every day, old Uncle Mose used to fetch her to town frequently and when he didn't she come afoot, and back home; she has washed for my folks lots of times.

Q Well, how frequently did you see her after she came to town? A Oh pretty near every big occasion, especially any sort of a social, she would always help the woman, everybody called her Aunt Nancy, she was known by that and nothing else.

Q Did you ever miss her for any considerable length of time? A No, I never missed her away from there any great length of time.

Mr. Mallette: Could she have been away from there without you missing her? A Oh she might, yes, sir, I don't suppose she was gone; she was a very popular colored woman among the women folks.

Commissioner: This testimony in this case will be made part of the record on Freedmen D-612, D-1020, D-1023, D-1009, D-316.

Brace 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.

Sworn to and subscribed before me this 19th of October, 1901.

W. M. Jones
Commissioner

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of JAMES ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Mellette & Smith, Cherokee Nation, by
W. V. Hastings:

By Mr. Smith:

The Applicant moves the Commission to take the certified
copy of the decree of the Court of Claims in the case of
Noble Whitire, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209 filed in the Mariak Hayden case P. D. 463, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariak Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

George Bush, N 1200;

By W. V. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1866, or that he had been a continuous resident
of the Cherokee Nation since that time, or that he is a descendant
of such a person. Second: Because the case is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same is
called and filed in each individual case.

Commission:

The motion of the applicant for the applicant will be
entertained and the decree of the Court of Claims filed in the case
of Mariak Hayden will be made a part of the record by reference to
all the cases that may come before the Commission which come
within the provisions of the act of Congress, and the authority granted
by Judge Will of the United States Court, of the Eastern District
Indian Territory.

By Mr. Smith:

The applicant further moves that a copy of the said decree
be filed in the case of the said George Bush, and that a copy
of the said decree be filed in the case of the said George Bush
or all of the cases that may come before the Commission.

in the case of Moses Whitmore, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
Notary Public.

Cher Fr-D 1010

Cher Fr-D 1010

10

7-11-10

RECEIVED
JUL 13 1901

COPIED TO THE
FILED
JUL 13 1901

[Handwritten signature]

I have the honor to acknowledge the receipt of your letter of the 11th inst. in relation to the above matter. I am sorry to hear that you are unable to attend to the same at this time. I will be glad to hear from you again when you are able to do so.

Very respectfully,
 J. H. [Name]

[Faint, mostly illegible text follows, including what appears to be a return address and possibly a date like "JUL 13 1901".]

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 2, 1901.

In the matter of the application of Maira French for the enrollment of herself as a Cherokee Freedman by intermarriage and for the enrollment of her child as a Cherokee Freedman.

Appearances:

L. T. Brown, attorney for applicant;
W. W. Hastings, of counsel for Cherokee Nation.

Maria French, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Maria French.

Q How old are you? A I am 48.

Q What is your postoffice? A Lenapah.

Q What district do you live in? A Geeweescoorse.

Q You apply to be enrolled as a Cherokee Freedman? A No, sir, I am an adopted citizen.

Q Who do you want to enroll? A I have three children.

Q Want to enroll yourself and three children? A Yes, sir, one is of age.

Q What are your children's names? A James.

Q How old is James? A He is 27.

Q He must apply for himself, he is over 21, I want those under age?

A I have one under age, Emaline, she is 18 this fall.

By L. T. Brown: What was your husband's name? A My husband went by the name of William French or William Gillis.

Q Now which is right, you go by? A French I go by.

Q You and your daughter Emaline claim citizenship through him?

A Yes, sir.

Q When were you and he married? A In '75.

Q Where were you married? A On Snow Creek.

Q Is he living or dead? A He has been dead ever since '83.

Q You and him live together as man and wife from your marriage in '75 up until his death in '83? A Yes, sir.

Q During that time how many children were born to you? A Five.

Q Give me the names of those living? A James and Emaline; and Mary.

Q All three of these children living? A Yes, sir.

Q Where were ~~xxxxxxxx~~ they born? A On Snow Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: Where were you born? A I was born in Kentucky.

Q How old are you? A I am 48.

Q When did you come to this country? A I came to this country 35 years ago.

Q You came here in '66? A Yes, sir.

Q Who did you come with? A I came with my parents.

Q Settled on Snow Creek? A Yes, sir.

Q What was your maiden name? A Little, I was the daughter of Stephen Little.

Q Did you ever have a child older than one of those? A No, sir.

Q This child that you have given here is the oldest child you have ever had? A Yes, sir.

Q Were you ever married before? A No, sir.

Q Never lived with anybody as his wife? A No, sir.

Q How long had you known your husband before you married him? A I think I knowed him about four years.

Q Had he been married before? A Not that I know of.

Q Did he have any children? A No, sir, not that I know of.

Q How you any reason to believe that he was married before?

A I can't say, because I didn't know him.

Q Didn't you make some inquiry about it? A No, sir, I didn't.

Maria French - 2.

there is people knows him better than me.

Q You have got no information at all upon that subject? A No, sir, he always said he never was married.

Q Who married you? A Nathan Buffin.

Q Have you got a certificate of marriage? A No, sir.

Q Did you marry in the spring or fall? A Married in August, August 10.

Q Lived with your husband until his death? A Yes, sir.

Q Where? A Where at; at Fort Gibson.

Q Were you married to him? A Yes, sir, I was living with him but I wasn't with him when he died.

Q How long had he been in Fort Gibson? A He went to take his mother home and was taken sick and died.

Q Where were you living married? A Married on California Creek.

Q Near what point? A Not near any town, the nearest town to me was Coffeyville.

Q When was your ~~husband's~~ oldest child born? A In '74.

Q When was the next to him born? A She was born in '82, November 17.

Blue Thompson, being duly sworn by Commissioner Needles, testified as follows:

L. T. Brown: State your name? A Blue Thompson.

Q You are? A 51.

Q Your postoffice address? A Chetopa.

Q You a Cherokee Freedman? A Yes, sir.

Q Do you know the applicant, Maria French? A Yes, I know her.

Q Did you know her husband during his life time? A Yes, sir.

Q What was his name? A Bill French, or Bill Gillis either one of them two, Bill Gillis he generally went by more till he got quite a young man.

Q Then what name did he go by? A Bill Gillis or Bill French.

Q How long did you know him? A Well, I knowed him seven or eight years possible.

Q Do you know whether he was a slave? A No, I don't know whether or not he was a slave.

Q When did you see him for the first time after the close of the war? A Fort Gibson.

Q In what year was that? A In '66, right in the fall.

Q You know whether or not he lived in the Cherokee Nation from the time you saw him in '66 until his death? A Well, I don't know personally, I know he came north from Gibson and the next time I met him he was married to her, I don't know whether he was inside all that time or not.

Q Where was he living the last time you saw him? A Well I saw Mrs. French and him I think on Russell Creek the last time I saw him alive, that is as far as I can recollect.

Mr. Hastings: You didn't know this man before the war? A No, sir, didn't know him before the war.

Q About what age was he when you saw him? A Well I expect he was possibly fifteen or sixteen years old maybe, or maybe less.

Q You were not present at their marriage? A Indeed no.

Q Do you know whether this man French married or lived with anyone as his wife before he commenced to live with this woman? A No, I need to run with him, he never had no wife.

Q Up to that time? A No, sir; that is, I mean while he was at Gibson.

Q I mean at the time he and this woman commenced living together?

A Yes, even did he have any wife before that?

Q Before he and this woman commenced living together, not while he was at Fort Gibson? A No, sir, not to my knowing.

Marie French - 3.

- Q Well do you know? A No, you know I can't know only Fort Gibson.
Q I am trying to get in the record whether or not you know? A
A Well, I don't know.
Q Did you know this woman before he and her commenced living together?
A I did.
Q Have you any information as to whether she married before that
or not? A I have not.
Q Don't know about that? A No, sir.
Q With whom was French, or Gillis, living when you first saw him
in '65? A Well I don't know who he lived with, I think he stayed
with Bill Smith sometimes and first one place and another, he was
just a lad of a boy.
Q Just a lad of a boy? A Yes, sir.
Q What time did you see him? A About in the fall, kinder late
in the fall, I know it was getting kinder cold.
Q You don't know what he was doing? A Well, once in a while we
would go around and chop up a little fire wood, and kinder work
around a little bit.

- Marie French, recalled, testified:
By Mr. Hartings: You state now that you were never married and you
never had a child before you married or commenced living with French?
A Yes, sir.
Q I want to now if you can give me the exact date of the birth of
this first child? A Yes, sir.
Q Well, give it to me? A She was born December 26,
Q In what year? A In '74.
Q Did you apply for these children before the Kern-Glifton commis-
sion? A Yes, sir, I did every time.
Q By what name, French? A Yes, sir, I applied for all my children,
their names ought to be there.
Q By the name of French or Gillis? A Well it is Gillis or French.

- L. E. Daniels, being duly sworn by Commissioner Needles, tes-
tified as follows:
By L. T. Brown: What is your name? A L. E. Daniels.
Q Your age? A 56.
Q Postoffice Clerks? A Yes, sir.
Q You a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Your name on the authenticated roll of 1860? A Yes, sir.
Q Know the applicant, Marie French? A Yes, sir.
Q Know her husband? A Yes, sir.
Q Living or dead? A He is dead.
Q To whom did he belong at the beginning of the Civil War? A Well
I don't know of my own knowledge.
Q When did you see him for the first time after the close of
the war? A I seen him in '65 sometime, I am not certain what time
it was, but at Fort Gibson.
Q Know whether or not he continued to lived in the Cherokee Nation
until his death? A I know that he stayed there over a year and I
never seen him any more than for seven or eight years, maybe longer.
Q Where was he living then? A When I moved up here he was up at
here.
Q With whom was he living? A With Marie French: that is Bill
French.
Q You don't know who his owner was? A No, sir, not
of my own knowledge.
By Mr. Hartings: Do you know whether he had ever been married or
lived with anybody else as his wife when he and this woman commenced
living together? A No, when I moved up here they were living to-
gether.

Marie French - 4.

- Q You don't know what became of him '66 or '67 till that time?
A No, sir, not till I came up here.
Q In '77? A Yes, sir.
Q You don't know what time in '66 you saw this boy? A Yes I do, he was there in the summer of '66 and he stayed there a while.
Q Who did he live with? A Sometimes I would see him with Son Tooley, his young master; I don't know that of my own personal knowledge, only what was said.
Q You don't know what he was doing down there? A Just walking around there like all the balance.
Q Did his father live there? A I don't know his father.
Q Did his mother live there? A His mother wasn't there at that time.
Q Do you know what his mother's name was? A Mandy Gillis.
By L. T. Brown: Was Son Tooley a Cherokee Indian? A Yes, sir.
Q Was William French recognized around there as the former slave of Son Tooley?
Mr. Davenport: I object to that.
Commissioner: I hardly think that is admissible.

Luster Foreman, being duly sworn by Commissioner Needles, testified as follows:

- By L. T. Brown: State your name? A Luster Foreman.
Q Your age? A About 50 or 60, I don't know just exactly.
Q Postoffice address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Does your name appear upon the authenticated roll of 1880?
A Yes, sir.
Q Do you know the applicant, Marie French? A No, sir.
Q Did you know her husband during his life time? A Yes, sir.
Q What was his name? A William French.
Q How long did you know him, Mr. Foreman? A I knowed him about two years.
Q Do you know to whom he belonged at the beginning of the war?
A No, sir.
Q Do you know where he was in the year 1866? A Yes, sir, part of the time.
Q Where was he? A In Fort Gibson.
Q You know how long he continued to remain there around Fort Gibson during that year? A That is the time I got acquainted with him, he was there in '66 up till '67, along about there I guess, I don't know exactly what time, he stayed there till his mother came.
Q Who is his mother? A Mandy Gillis.
Q She living or dead? A Dead.
Q He came to Fort Gibson before his mother did? A Yes, sir.
Q How long before? A I don't know how long, he came there in '66, stayed with old Mrs. Gillis a while and Son Tooley.
Q Did William French have any sisters? A Yes, sir.
Q Do you know who returned first, his sister or he? A Will French returned first.
Q What is his sister's name? A Alfred Smith's wife, I have only heard her name.
Q Where does she live? A In Fort Gibson.
Mr. Hastings: You never knew this boy before the war? A No, sir.
Q That was the first time you had seen him, was after the war?
A Right in Gibson, yes, sir.
Q You were living there at that time? A Yes, sir.
Q Was this boy married down there? A Not as I know of.
Q Did he have anybody for his wife? A I don't know that either.
Q Don't you know whether he was living down there with anybody or

Marie French - B.

his wife? A No sir, he was just about like I was then.

Q How were you you? A I didn't have anybody, just running around.

Q What makes you remember you saw him there 35 years ago, especially in the year '66? A Son foolsy and myself used to gamble around.

Q You have been gambling ever since? A No, sir, I have parted.

Q And you know you saw him there at that time? A Yes, I knowed him, I am well acquainted with him.

Q About how old was he at that time? A You asked me too soon ag-in, I can't tell nothing about anybody's age.

Q What size was he, a young man? A Oh he was a young man, about like myself.

Q How old were you at that time? A I don't know, I don't know my age to-day.

Q You never saw him ~~sixtythreefourfifty~~ after that time?

A No, sir, I haven't seen him since.

Q You don't know this is his wife? A Did I say she was?

Q He asked you all along in his questions did you know this woman's husband; did you say he was her husband or not? A No, he asked me about Will French, and I told him.

Q He said every time, this woman's husband, Will French, and you have testified he was her husband? A I don't know about her, I know about him, that is what I am testifying about, him.

Q You don't know then that she ever lived with him? A I don't know it.

Q And you don't know he was her husband? A I don't know nothing about that lady, she is a stranger to me.

Q And you don't know whether she was the same person or not?

A I don't know nothing about it.

Commissioner: You knew William French and that is all you know about it? A Yes, sir, I knew him personally.

Charlie Chambers, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Charlie Chambers.

Q Your age? A 70 years old.

Q Your postoffice address? A Hudson.

Q Are you a recognised citizen of the Cherokee Nation? A Yes, sir.

Q Is your name upon the authenticated roll of 1880? A Yes, sir.

Q Know the applicant, Marie French? A Yes, sir.

Q Know her husband during his life time? A Yes, sir.

Q Know whether or not they were ever married? A Yes, sir.

Q How do you know it? A I was right there in the country when they married.

Q What is her husband's name? A Bill French.

Q Do you know whether Bill French has a sister or not, or did you know her? A Yes, sir.

Q What was his sister's name? A I can't just recollect her name, but I know he had a sister.

Q Do you know Bill French's mother's name? A Yes, sir, her name was Amanda.

Q Amanda what? A Amanda Gillis.

Q Do you know whether this Bill French and this applicant Marie French, continued to live together until his death? A Yes, sir.

Q Do you know her son James French? A Yes, sir.

Q At the time he was born, were they living together as man and wife? A Yes, sir.

Q Do you know her daughter Malina? A Yes, sir.

Q At the time she was born were they living together as man and wife? A Yes, sir.

Maria French - 6.

- Q So recognized in the community? A Yes, sir.
- Commissioner: Was William French a slave, do you know? A I think he was.
- Q Do you know whether he was or not? A Yes, sir, he was a slave.
- Q Who did he belong to? A Belonged to Mrs. Gillis.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q How do you know he belonged to Mrs. Gillis? A I saw him there and he said himself; his mother stayed there, and I know his mother belonged to her.
- Q You saw him at Mrs. Gillis' place? A She was living over on the river.
- Mr. Hastings: Near what river was he living? A On Illinois.
- Q Now what time were you ever there? A Why my goodness, I was over there right often, I lived close to their master.
- Q What age was this boy when the war came up? A I can't tell you that.
- Q Was he grown? A No, sir, he wasn't grown.
- Q Was he married before the war? A No, sir.
- Q What was his mother's name? A His mother's name was Arinda.
- Q What was his sister's name? A I just can't call her name.
- Q Was his sister older or younger than he? A I don't recollect whether he was older or younger, but I know it was his sister.
- Q Did he have any other brothers or sisters? A I don't know about any other brothers.
- Q Have any other sisters? A I think he did.
- Q Why don't you remember their names if you know this boy? A This boy and me were together a great deal.
- Q Were not you about 20 years older than him? A No, sir.
- Q Was he about the same age as you? A No, sir, he was little younger than me.
- Q About how much younger? A I can't tell you.
- Q Where were you living when the war came up? A Park Hill.
- Q Where was this boy living? A Living over on the river like I told you.
- Q What place on the river? A I can't tell you just which place he was living now but he was living over there near Nave's place.
- Q On the east or west side of Illinois river? A On the west side.
- Q And how far from town? A I guess it was about six or seven miles, maybe that far.
- Q What was his mistress' name? A Mrs. Gillis.
- Q What was her husband's name? A His name was Gillis too.
- Q Do you know his father's name? A No, sir, I didn't know him; that is the name we used to call her, Mrs. Gillis.
- Q Did they have any children? the Gillises? A If they did I didn't know them, I don't think that they had any children.
- Q You don't know Preacher Allen's wife at T-hlequah is one of them? A No, sir.
- Q When did you see this boy first after the war? A The first time I saw him I saw him when I came up to this part of the country, on Snow Creek.
- Q About what time was that? A That was sometime in '67.
- Q Was he and this woman then married? A They were not married then.
- Q About how long after that were they married? A It was quite a little while, I guess about a year or two after I came up here, before they married.
- Q Was he living with any woman in '67 up here as his wife? A Not as I know of.
- Q Was he living near you? A He was just riding about among his own people there, riding around, I saw him first one place and another.

Marie French - 7.

Q How long after you came up here till you got acquainted with this woman did you know her before she married him? A Yes sir, I knew her before she married.

Q Did she have a child before they married? A I think she did.

Q Do you know who married them? A No, sir, I don't know who married them.

Q You don't know about the year? A No, I don't just know what year they were married in.

Q Do you know who she had been living with as husband and wife prior to her marriage? A No, sir, I don't know any more than just living with her father.

Q Where has she lived since the death of French? A Why she has lived, well she was living on California Creek first.

Q Since his death where has she been living? A She has been living right there on the Verdigris river on the west side up there above to Lenapah.

Q Where are these children that she is applying for? A Up there, some of them.

Q Where are the rest of them? A I guess she has got them here with her.

Marie French, recalled, testified as follows:

Mr. Hastings: Mr. French, you appeared before the Kern-district Commission, didn't you? A Yes, sir.

Q And at that time you only applied for two children, didn't you?

A No, sir.

Q You swear now you have three? A I do sir; I first applied to Lenapah for four and one was very sick when I applied and she died on the 6th of April, 1886, and that left three, and when I came to the payment Mr. Turner said he couldn't find but two.

Q Now you swear that you applied for three children? A I applied for four.

Q And you heard what Charlie Chambers said about you having a child before you married? A I can't help what Mr. Chambers said, I know all the children better than Mr. Chambers.

Q Have you been married since the death of your husband? A No, sir, never.

Q Who do you live with? A Myself and my daughter and I keep my hired hands, is all the help I have.

By L. F. Brown: You own a farm upon the public domain of the Cherokee Nation? A Yes, sir, own a farm right across the river from Coosa.

Rec'd Bond.

Q How long have you been on that place? A I have made that farm since my husband's death.

Q Before that time, did you own an improvement on the public domain?

A Yes, sir, my husband had a little farm on California Creek and it was very thinly settled, and we had my children left that farm and moved up close to my people so I could get protection for my children.

Commissioner: Did you ever have a child born before you married William French? A No, sir, my children is all French's children.

Q The question is, whether either of your children were born before you married French? A No, sir.

Q You swear had a child until after you married French? A No, sir.

Q Ever have an orphan child grown with you, or an adopted child?

A No, sir, no adopted or orphan child.

Q Mr. Chambers is mistaken then? A Yes, sir, I have no orphan child, they are all mine.

Q When Mr. Chambers said you had a child before you married William French, he is mistaken, is he? A I guess he is.

Q I think I am mistaken about it, you make no mistake? A I am not.

Marie French - 8.

- Q You say positively you never did? A No, sir, I never did.
- Q Is your name on any of the rolls of Cherokee Nation? A I have been.
- Q Did you ever draw any money from the Cherokee Nation? A I never did.
- Q For yourself or your two children? A The two children drew, that is all.
- Q Which two? A Jim and Emeline.
- Q Why didn't you draw? A I don't know sir, I was an intermarried.
- Q Did your husband ever draw any money? A No, sir.
- Q Is his name on any of the rolls of the Cherokee Nation? A It was on the authenticated roll every time.
- Q Is it there now? A I don't know sir, I have asked them to look for it, he says they can't find out; if you will allow me to tell you; I was going to tell you he was on the 1880 roll once, my husband and Guskey Brown got in some trouble here. The 1880 authenticated roll of Cherokee Freedmen examined and neither applicant, Marie French, or her husband, William French, identified thereon.
- The 1886 census roll of Cherokee Freedmen examined and the applicants not identified thereon.
- The Kern-Clifton roll examined, and the applicant, Emeline French, identified thereon, page 131, No. 3255., Cowwessocowee district, as Emeline French.

Commissioner: Marie French applies for the enrollment of herself and her daughter Emeline. She applies for the enrollment of herself as an intermarried citizen. She avers that she was married to one William French in the year '73, and he died in the year 1882. She avers that he was the slave of one Mrs. Gillis, and there is testimony presented to that effect. She avers that during said married life there was born unto her one child, Emeline, 18 years of age, and Emeline is identified upon the Kern-Clifton roll, but cannot be identified upon any other roll. She avers that her maiden name was Little, that she was a non citizen. She was married in '73 by to her husband, William French. No proof of marriage, other than that they lived together as man and wife, is presented. For particulars, see testimony. She makes satisfactory proof as to residence, consequently Marie French will be listed for enrollment as an intermarried Cherokee Freedman upon a doubtful card. Said Emeline French will also be listed for enrollment as a Cherokee Freedman on a doubtful card. She will be notified by mail of the action of the Commission when the same is arrived at.

Supplemental testimony.

Katie Vann, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Katie Vann.
- Q Your age? A 56.
- Q Your postoffice? A Letapah.
- Q You know Marie French? A Yes, sir.
- Q How long have you known her? A Lets see, I have known her about 25 years.
- Q Did you know her husband, William French? A Yes, sir.
- Q Did you know Marie French before she and William French were married? A Yes, sir, I saw her, I wasn't very well acquainted with

Maria French - 9.

day.

Q Did she have any children before she and William French were married? A One.

Q What was its name? A Mary.

Q Do you know whether or not Mary is still living? A Yes, sir, she is married.

By L. T. Brown: How do you know it was her child? A She said it was her child and I seen her with it when it was small, taking care of it.

Q That child living or dead? A It is living.

Q What is its father's name? A I have forgotten its name, I did know once who its father was, I heard them all talking about it, calling his name; some of them here can tell you his name better than I can; I wasn't acquainted with him.

Nelson Murrell, being duly sworn by Commissioner Needles, testified as follows:

By S. S. Davenport, Cherokee attorney: What is your name?

A Nelson Murrell.

Q Your postoffice? A Coffeyville.

Q Do you know Maria French? A Yes, sir.

Q Did you know her husband, William French? A Yes, sir.

Q Did you know her before she and William French was married?

A Yes, sir.

Q Had Maria any children before she and William French was married?

A One.

Q What was its name? A Mary.

By L. T. Brown: Is it living or dead? A Living.

Q What is its father's name? A We called him Markham I believe.

Q How do you know it is her child, you were not present, were you? A No, but she was living about 200 yards from me.

Q How do you know, if you lived in 200 yards of her? A I don't know, all she said, it was her child.

Q Just heard it was? A Yes, sir.

Commissioner: Did you see this child in this woman's arms? A Yes, sir.

Q Saw her nursing it? A Yes, sir, seen her nursing it, everybody there knew it was her child; that is, all the neighbors and everybody.

Q Was her mother living there? A Her stepmother.

Q She was living in her stepmother's house? A Yes, sir.

Q That before she married French? A Yes, sir.

Q How long before? A Along about six months.

L. T. Brown: Did you know William French during his life time?

A Yes, sir.

Q Knew whether or not William French and Maria French were married?

A Yes, sir.

Q Were you present at their marriage? A Yes, sir, married right in my house.

Commissioner: Who married them? A I have forgotten.

Q Was the child there? A Yes, sir.

L. T. Brown: Know her child Baseline? A Yes, sir.

Q Know her child James French? A Yes, sir.

Q Were they born after the marriage of William and Maria? A Yes, sir.

Mr. Hastings: Do you know what time they were married? A I can't tell you exactly, but they were married in my house.

Applicant: You say I was married in your house? A Yes.

Q Now tells me to be married in your house, wasn't my father living right there, wasn't I living in the house with my father? A Yes, we had a meeting over there and you and French got married.

Q How come me to leave my father's house to be married in yours?

A Because we had a meeting there, the preacher was there and

Maria French - 10.

came over and married.

Maria French, recalled, testified as follows:

Commissioner: Where was this child born? A Born in my father's house.

L. F. Brown: Mrs. French, have you made application to this Commission for any child by the name of Mary? A No, sir.

Q You have heard the statement of Nelson Murrall and Fattie Vane relative to your having a child prior to your marriage to William French? A Yes, sir.

Q Is it true or not? A Yes, sir.

Q It is true? A Yes, sir.

Commissioner: You were mistaken then when you said you didn't have, in your examination in chief? A Yes, sir.

Q Is that child living? A Yes, sir, I have made no application for Mary.

Q She married? A Yes, sir, I told you it was married.

Q You told me you didn't have any child before you married William French? A I didn't have any before I married William French.

Q Why don't you apply for her? A Because she wasn't his.

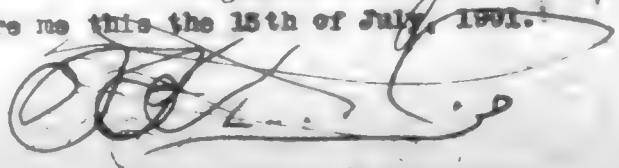
Q You said you applied for four children at one time? A I did, I had five by William French; three of them however is dead. I don't feel satisfied. I want you to call Mr. Chambers and ask him if I was married to Uncle Nelson's house; I wouldn't tell a lie for the Territory.

Q You don't appear to have done so!

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he accurately 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 15th of July, 1901.



Commissioner.

Filed 'D 280

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, T. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Hellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitnire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case P D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Mariah French, D 1616;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the rights of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

The notice of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Hall of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to.

in the case of Moses Whitire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rechenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Earter,
Notary Public.

I, E. C. Magwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Magwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Earter
Notary Public.

Cherokee Freedmen
D-1010

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

In the matter of the application for the enrollment of
Eveline French as a Cherokee Freedman.

-:-

D E C I S I O N.

It appears from the record herein that on July 2, 1901, Maria French appeared before this Commission at Nowata, 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 minor child, Eveline French, as a Cherokee freedman. The application of Maria French being differently classified, is not included in this decision.

The evidence in this case shows that Eveline French was born since 1866, and is a daughter of Maria French and William French, now deceased. The said William French was the slave of a Cherokee citizen at the commencement of the war of the rebellion, and resided in the Cherokee Nation during the time necessary for the acquisition of freedman rights, under Article IX, of the Cherokee treaty of 1866.

It further appears that the said Eveline French has resided continuously in the Cherokee Nation from her birth until the date of this application.

James French, a full brother of said applicant, has heretofore been enrolled, his name appearing as Number 1420 upon the list prepared by this Commission of persons entitled to enrollment as Cherokee Freedmen and approved by the Secretary of the Interior November 16, 1904.

It is, therefore, the opinion of this Commission that
Eveline French should be enrolled as a Cherokee Freedman, 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,

MAY 26 1905

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

In the matter of the application for the enrollment of
EMILINE FRENCH as a Cherokee Freedman.

Cherokee Freedman B 1010.

Protest on behalf of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission dated May 26, 1908 and asks that the record in this case be forwarded to the Secretary of the Interior for review. The mother of this applicant states in 1901, that this child would be 18 years of age in the fall of 1901, yet she testifies that its avowed father, William French died in 1882, or 19 years prior to the date of the application for this child. There is no testimony and can be no testimony that this child was born while she and its alleged father, William French, were living together as husband and wife, because she swears repeatedly that James-French--William French died in 1882. If this be true he is not the father of the child and she does not claim any rights of her own person, and therefore, the child can acquire none through her.

All the testimony introduced is for the purpose of tending to show that William French, the avowed father of Emiline French, was entitled as a Cherokee freedman, but there is really not a line of testimony which goes to show that this child was born while they were living together as husband and wife and can be no testimony to that effect.

In view of the contradictions of this applicant to their children she had born to her, particularly Mary, testified of by Nelson Murrell and Charley Chambers and others, it will be seen that the mother of this applicant is unworthy of belief, and we submit that this applicant should not be enrolled as a citizen of the Cherokee Nation.

Respectfully submitted,

Attorneys for the Cherokee Nation.

COMMISSIONERS:
JAMES BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary.

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

611
COVER IN REPLY TO THE FOLLOWING:
Cherokee Freedman

D-1010.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 26, 1905.

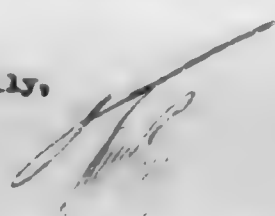
Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated May 26, 1905, granting the application for the enrollment of Emeline French as a Cherokee Freedman.

You are advised that you will be given 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. 3-74

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. August 1, 1905.

Land.
57382-1905.

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 July 19, 1905, transmitting the record of the application for enrollment as a Cherokee Freedman by Emeline French.

May 26, 1905, the Commission decided favorably to the applicant.

The record shows that the applicant was born since 1866 and is a daughter of Maria French and William French now deceased; that William French was the slave of a Cherokee citizen and entitled to Freedman rights under article 9 of the Cherokee treaty of 1866.

It further appears that Emeline French has resided continuously in the Cherokee Nation from birth; that James French, a full brother, has heretofore been enrolled, his name appearing at No. 3400 on a list of persons entitled to enrollment as Cherokee freedmen approved by the Department November 16, 1904.

The attached protest of the Cherokee Nation has been carefully considered.

In view of the record the approval of the Commission's

-2-

decision favorable to the applicant is recommended.

Very respectfully,

C. F. Larrabee.

Acting Commissioner.

M.M.M.
W.

-2-

Decision favorable to the applicant is recommended.

Very respectfully,

G. P. Harrabee.

Acting Commissioner.

H.M.M.

V.

D. C. 47567-1905.
I.T.D. 9742-1905.

W.C.F.
Y.P.
LIB

LRS

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

October 12, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 19, 1905, you transmitted the record in the matter of the application of Exeline French for her enrollment as a Cherokee freedman.

The Nation protests against the Commission's decision.

Reporting August 1, 1905, the Indian Office recommended that the Commission's decision, favorable to the applicant, be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation and the Commission's decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

1 inclosure.

Secretary.

Cherokee Freedmen
No. 1463

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

JH
Muskogee, Indian Territory, October 21, 1905.


Rell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are advised that the decision of the Commission to the Five Civilized Tribes, dated May 26, 1905, granting the application of Emeline French as a Cherokee freedman, was affirmed by the Secretary of the Interior on October 12, 1905.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,



Commissioner.

Incl. S-284

D1010

Maria French wife Bill French
is Grandison Latta's sister had 2
or 3 children when French married
her. They were expelled from the
nation as Indians by agent John
Jervis.

Cher fr D 1011

Cher fr D 1011

0

301011

JUL 18 1918

RECEIVED
 JUL 18 1918
 THE
 DEPARTMENT OF THE ARMY
 WASHINGTON, D. C.
 FROM THE
 OFFICE OF THE
 ADJUTANT GENERAL
 WASHINGTON, D. C.
 TO THE
 OFFICE OF THE
 ADJUTANT GENERAL
 WASHINGTON, D. C.
 SUBJECT:

[Handwritten signature]
 [Handwritten text]
 [Handwritten text]

[Large handwritten signature or initials]

RECEIVED

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., July 8, 1891.

In the matter of the application of James French for enrollment as a Cherokee Freedman.

Appearances:

L. T. Brown, for applicant;
W. W. Hastings, of counsel for Cherokee Nation.

James French, being duly sworn and examined by Commissioner Hec-les, testified as follows:

- Q What is your name? A James French.
Q How old are you? A 27.
Q What is your postoffice address? A Lenapah.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A No one but myself.
Q Are you married? A Yes, sir.
Q Is your wife a citizen? A Yes, sir.
Q What is her name? A Clara French.
Q What was her name before you married her? A Clara Rogers.
Q What is your mother's name? A Maria French.
Q You claim your citizenship through your father? A Yes, sir.
Q What was your father's name? A Bill French.
Q Where were you born? A Up here on Snow Creek.
Q You born in the Cherokee Nation? A Yes, sir.
Q Lived in the Cherokee Nation all your life? A Yes, sir.
Q Living here now? A Yes, sir.
Q What business are you in? A Farming.
Q Is your name on any of the rolls of the Cherokee Nation? A It is on the Kern-Clifton roll.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1886 census roll of Cherokee Freedmen examined and the applicant not identified thereon.

The Kern-Clifton roll examined and the applicant identified thereon, page 151, No. 3254, Cooweescoowee district;

The Wallace roll examined and the applicant identified thereon page 114, No. 3407, Cooweescoowee district.

L. T. Brown: Have you ever voted in the Cherokee Nation? A Yes, sir.

Q Own a farm on the public domain of the Cherokee Nation? A Yes, sir.

Q The Maria French who has just applied is your mother? A Yes, sir.

Mr. Hastings: You say you are 27 years old? A Yes, sir.

Q What MONTH is your birthday? A March 24.

Q You were 27 last March? A Yes, sir.

Q Born March 27, 1874? A Yes, sir.

Commissioner: James French applies for the enrollment of himself. He cannot be identified upon any of the authenticated rolls of 1880 or the census roll of 1886. He is duly identified upon the Kern-Clifton and Wallace rolls, according to page and number of the roll as indicated in the testimony. He makes satisfactory proof as to residence. He swears that he is the child of William French and Maria French, and the testimony taken in the matter of the application of Maria French by herself this day on card D 1010 will be made part of the record in the case at bar, and a copy thereof will be filed herewith. Said James French will be listed for enrollment.

James French - 2

as a Chartered Professor of a learned court. He will be notified by the Commission at his post office address of their decision.

Witness my hand

James 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.

James G. Jones

sworn to and subscribed a before me this the 15th day of July, 1902.

[Signature]

File with James French, Cherokee Freedman B-1011.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., July 2, 1901.

In the matter of the application of Maria French for the enrollment of herself as a Cherokee Freedman by intermarriage and for the enrollment of her children as a Cherokee Freedman.

Appearances:

L. T. Brown, attorney for applicant;

W. W. Hastings, of counsel for Cherokee Nation.

MARIA FRENCH, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Maria French.
Q How old are you? A I am 48.
Q What is your postoffice? A Lenapah.
Q What district do you live in? A Coowascoowee.
Q You apply to be enrolled as a Cherokee Freedman? A No sir, I am an accepted citizen.
Q How do you want to enroll? A I have three children.
Q Want to enroll yourself and three children? A Yes sir, one is dead.
Q What are your children's names? A James.
Q How old is James? A He is 27.
Q He must apply for himself, he is over 21, I want those under age?
A I have one under age, Emeline, she is 18 this fall.
By L. T. Brown: What was your husband's name? A My husband went by the name of William French or William Gillis.
Q Now which is right, you go by? A French I go by.
Q You and your daughter Emeline claim citizenship through him?
A Yes, sir.
Q When were you and he married? A In '78,
Q Where were you married? A On Snow Creek.
Q Is he living or dead? A He has been dead ever since '82.
Q You and him live together as man and wife from your marriage in '75 up until his death in '82? A Yes sir.
Q During that time how many children were born to you? A Five.
Q Give me the names of those living? A James and Emeline and Mary.
Q All three of these children living? A Yes, sir.
Q Where were they born? A On Snow Creek.
Q In the Cherokee Nation? A Yes, sir.
Mr. Hastings: Where were you born? A I was born in Kentucky.
Q How old are you? A I am 48.
Q When did you come to this country? A I came to this country 35 years ago.
Q You came here in '66? A Yes, sir.
Q Who did you come with? A I came with my parents.
Q Settled on Snow Creek? A Yes, sir.
Q What was your maiden name? A Little, I was the daughter of Stephen Little.
Q Did you ever have a child older than one of these? A No, sir.
Q This child that you have given here is the oldest child you have ever had? A Yes, sir.
Q Were you ever married before? A No, sir.
Q Never lived with anybody as his wife? A No, sir.
Q How long has your husband known your husband before you married him? A I think I knowed him about four years.
Q Had he been married before? A Not that I know of.
Q Did he have some children? A No, sir, not that I know of.
Q Have you any reason to believe that he was married before?
A I can't say, because I didn't know him.
Q Haven't you made some inquiry about it? A No, sir, I didn't.

there is people knows him better than me.

Q. You have got no information at all upon that subject? A. No, sir, he always said he never was married.

Q. Who married you? A. Nathan Darrin.

Q. Have you got a certificate of marriage? A. No, sir.

Q. Did you marry in the spring or fall? A. Married in August, August 10.

Q. Lived with your husband until his death? A. Yes, sir.

Q. Where? A. Where at, at Fort Gibson.

Q. Were you married to him? A. Yes, sir, I was living with him but I wasn't with him when he died.

Q. How long had he been in Fort Gibson? A. He went to take his mother home and was taken sick and died.

Q. Where were you married? A. Married on California Creek.

Q. Near what point? A. Not near any town, the nearest town to me was Coffeyville.

Q. When was your eldest child born? A. In '64.

Q. When was the next to him born? A. She was born in '62, November 17.

BLUE THOMPSON, being duly sworn by Commissioner Needles, testified as follows:

L. T. Brown: State your name? A. Blue Thompson.

Q. Your age? A. 51.

Q. Your postoffice address? A. Onstapan.

Q. You a Cherokee Freedman? A. Yes, sir.

Q. Do you know the applicant, Maria French? A. Yes, I know her.

Q. Do you know her husband during his life time? A. Yes, sir.

Q. What was his name? A. Bill French, or Bill Gillis either. one of them two, Bill Gillis he generally went by more, till he got up quite a young man.

Q. Then what name did he go by? A. Gill Gillis or Bill French.

Q. How long did you know him? A. Well, I knowed him several or eight years possibly.

Q. Do you know whether he was a slave? A. No, I don't know whether or not he was a slave.

Q. When did you see him for the first time after the close of the war? A. Fort Gibson.

Q. In what year was that? A. In '66, right in the fall.

Q. You know whether or not he lived in the Cherokee Nation from the time you saw him in '66 until his death? A. Well, I don't know personally, I know he come north from Gibson and the next time I saw him he was married to her, I don't know whether he was inside all that time or not.

Q. Where was he living the last time you saw him? A. Well I saw Mrs. French and him I think on Russell Creek the last time I saw him alive, that is as far as I can recollect.

By Needles: You don't know this man before the war? A. No, sir, didn't know him before the war.

Q. About what age was he when you saw him? A. Well I expect he was possibly 35 or 40 or six or seven years old more, or maybe less.

Q. You were not present at their marriage? A. Indeed no.

Q. Do you know whether this man French married or lived with anyone as his wife before he was asked to live with this woman? A. No, I don't know whether he ever had a wife.

Q. Up to that time? A. No, sir, not to my knowledge, I don't know he was at Gibson.

Q. I know at the time he got the woman commenced living together?

Q. You mean did he know any wife he was that?

Q. Before he got this woman commenced living together, and where he was at Fort Gibson? A. No, sir, not to my knowledge.

Q Well do you know? A No, you know I can't know only Fort Gibson.
Q I am trying to get in the record whether or not you know? A
A Well, I don't know.
Q Did you know this woman before he and her commenced living together?
A I did.
Q Have you any information as to whether she married before that
or not? A I have not.
Q Don't know about that? A No, sir.
Q With whom was French, or Gillis, living when you first saw him
in '66? A Well, I don't know who he lived with. I think he stayed
with Bill Smith sometimes and first one place and another, he was
just a lad of a boy.
Q Just a lad of a boy? A Yes, sir.
Q What time did you see him? A About in the fall, kinder late
in the fall, I know it was getting kinder cold.
Q You don't know what he was doing? A Well, once in a while we
would go around and chop up a little fire wood, and kinder work
around a little bit.

MARIA FRENCH, recalled, testified:

Mr. Hastings: You state now that you were never married and you
never had a child before you married or commenced living with French?

A Yes sir.
Q I want to know if you can give me the exact date of the birth of
this first child? A Yes, sir.
Q Well, give it to me? A She was born December 26.
Q In what year? A In '74.
Q Did you apply for these children before the Kern-Clifton Commis-
sion? A Yes, sir, I did every time.
Q By what name, French? A Yes, sir, I applied for all my children,
their names ought to be there.
Q By the name of French or Gillis? A Well, it is Gillis or French.

L. D. Daniels, being duly sworn by Commissioner Needles, tes-
tified as follows:

By L. T. Brown: What is your name? A L. D. Daniels.
Q YOUR AGE? A 56.
Q Postoffice Claremore? A Yes sir.
Q You a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Your name on the authenticated roll of 1880? A Yes, sir.
Q Know the applicant, Maria French? A Yes, sir.
Q Know her husband? A Yes, sir.
Q Living or dead? A He is dead.
Q To whom did he belong at the beginning of the Civil War? A Well
I don't know of my own knowledge.
Q When did you see him for the first time after the close of
the war? A I seen him in '66 sometime, I am not certain what time
it was, but at Fort Gibson.
Q Know whether or not he continued to live in the Cherokee Nation
until his death? A I know that he stayed there over a year and I
never seen him any more than for seven or eight years, maybe longer.
Q Where was he living then? A When I moved up here he was up
here.
Q With whom was he living? A With Maria French; that is still
French.
Commissioner: You don't know who his owner was? A No, sir, not
of my own knowledge.
Mr. Hastings: Do you know whether he had ever been married or
lived with anybody else as his wife when he and this woman commenced
living together? A No, when I moved up here they were living together.

-4-

Q You don't know what became of him '66 or '67 till that time?
A No, sir, not till I came up here.
Q In '67? A Yes, sir.
Q You don't know what time in '66 you say this boy? A Yes I do, he was there in the summer of '66 and he stayed there a while.
Q Who did he live with? A Sometimes I would see him with Sen Tooley, his young master; I don't know that of my own personal knowledge, only what was said.
Q You don't know what he was doing down there? A Just walking around there like all the balance.
Q Did his father live there? A I don't know his father.
Q Did his mother live there? A His mother wasn't there at that time.
QQ Do you know what his mother's name was? A Mandy Gillis
By L. T. Brown: Was Sen Tooley a ~~xxxxxxxx~~ Cherokee Indian?
A Yes, sir.
Q Was William French recognized around there as the former slave of Sen Tooley?
Mr. Davenport: I object to that.
Commissioner: I hardly think that is admissible.

LUSTER FOREMAN, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Luster Foreman.
Q YOUR AGE? A About 50 or 60, I don't know just exactly.
Q Postoffice address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Does your name appear upon the authenticated roll of 1880?
A Yes, sir.
Q Do you know the applicant, Maria French? A No, sir.
Q Did you know her husband during his life time? A Yes, sir.
Q What was his name? A William French.
Q How long did you know him, Mr. Foreman? A I knowed him about two years.
Q Do you know to whom he belonged at the beginning of the war?
A No, sir.
Q Do you know where he was in the year 1866? A Yes, sir, part of the time.
Q Where was he? A In Fort Gibson.
Q You know how long he continued to remain there around Fort Gibson during the year? A That is the time I got acquainted with him, he was there in '66 up till '67, along about there I guess, I don't know exactly what time, he stayed there till his mother came.
Q Who is his mother? A Mandy Gillis.
Q She living or dead? A Dead.
Q He came to Fort Gibson before his mother did? A Yes, sir.
Q How long before? A I don't know how long, he came there in '66, stayed with old Mrs. Gillis a while and Sen Tooley.
Q Did William French have a sister? A Yes, sir.
Q Do you know who returned a sister of his? A Will French returned first.
Q What is his sister's name? A Alfred Smith's wife, I have only heard her name.
Q Where does she live? A In Fort Gibson.
Mr. Hastings: You never knew this boy before the war? A No, sir.
Q That was the first time you had seen him, was after the war?
A Right in Gibson, yes, sir.
Q Were you living there at that time? A Yes, sir.
Q Was this boy married down there? A Not as I know of.
Q Did he have anybody for his wife? A I don't know that either.
Q Do you know whether he was living down there with someone for

his wife? A No sir, he was just about like I was.

Q How were you? A I didn't have anybody, just running around.

Q What makes you remember you saw him there 55 years ago, specially in the year '66? A Son Tooley and myself used to gamble around.

Q You have been gambling ever since? A No, sir, I have farmed.

Q And you know you saw him there at that time? A Yes, I knowed him, I am well acquainted with him.

Q About how old was he at that time? A You asked me too soon again, I can't tell you anything about anybody's age.

Q What size was he, a young man? A Oh he was a young man, about like myself.

Q How old were you at that time? A I don't know, I don't know my age to-day.

Q You never saw him after that time?

Q No, sir, I haven't seen him since.

Q You don't know this is his wife? A Did I say she was.

Q He asked you all along in his questions did you know this woman's husband; did you say he was her husband or not? A No, he asked me about Will French, and I told him.

Q He said every time, this woman's husband, Will French, and you have testified she was her husband? A I don't know about her, I know about him, that is what I am testifying about, him.

Q You don't know then that she ever lived with him? A I don't know it.

Q And you don't know he was her husband? A I don't know nothing about that lady, she is a stranger to me.

Q And you don't know whether she was the same person or not?

A I don't know nothing about it.

Commissioner: You knew William French and that is all you know about it? A Yes, sir, I knew him personally.

CHARLIE CHAMBERS, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Charlie Chambers.

Q Your age? A 70 years old.

Q Your postoffice address? A Hudson.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Is your name upon the authenticated roll of 1860? A Yes, sir.

Q Know the applicant, Maria French? A Yes, sir.

Q Know her husband during his life time? A Yes, sir.

Q Know whether or not they were ever married? A Yes, sir.

Q How do you know it? A I was right there in the country when they married.

Q What is her husband's name? A Bill French.

Q Do you know whether Bill French has a sister or not, or did you know her? A Yes, sir.

Q What was his sister's name? A I can't just recollect her name, but I know he had a sister.

Q Do you know Bill French's mother's name? A Yes, sir, her name was Amanda.

Q Amanda who? A Amanda Gillis.

Q Do you know whether this Bill French and this applicant here Maria French, continued to live together until his death? A Yes sir.

Q Do you know her son James French? A Yes, sir.

Q At the time he was born, were they living together as man and wife? A Yes, sir.

Q Do you know her daughter Euline? A Yes, sir.

Q At the time she was born were they living together as man and wife? A Yes, sir.

- Q So recognized in the community? A Yes, sir.
- Commissioner: Was William French a slave, do you know? A I think he was.
- Q Do you know whether he was or not? A Yes, sir, he was a slave.
- Q Who did he belong to? A Belonged to Mrs. Gillis.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q How do you know he belonged to Mrs. Gillis? A I saw him there and he said himself; his mother stayed there, and I know his mother belonged to her.
- Q You saw him at Mrs. Gillis' place? A She was living over on the river.
- Mr. Hastings: Near what river was he living? A On Illinois.
- Q Now what time were you over there? A Why my goodness, I was over there right often, I lived close to their master.
- Q What age was this boy when the war came up? A I can't tell you that.
- Q Was he grown? A No, sir, he wasn't grown.
- Q Was he married before the war? A No, sir.
- Q What was his mother's name? A His mother's name was Amenda.
- Q What was his sister's name? A I just can't call her name.
- Q Was his sister older or younger than he? A I don't recollect whether he was older or younger, but I know it was his sister.
- Q Did he have any other brothers or sisters? A I don't know about any other brothers.
- Q Have any other sisters? A I think he did.
- Q Why don't you remember their names if you know this boy? A This boy and me were together a great deal.
- Q Were not you about 20 years older than him? A No, sir.
- Q Was he about the same age as you? A No, sir, he was little younger than me.
- Q About how much younger? A I can't tell you.
- Q Where were you living when the war came up? A Park Hill.
- Q Where was this boy living? A Living over on the river like I told you.
- Q What place on the river? A I can't tell you just which place he was living but now he was living over there near Nave's place.
- Q On the east or west side of Illinois river? A On the west side.
- Q And how far from town? A I guess it was about six or seven miles, maybe that far.
- Q What was his mistress' name? A Mrs. Gillis.
- Q What was her husband's name? A His name was Gillis too.
- Q Do you know his father's name? A No, sir, I didn't know him; that is the name we used to call her, Mrs. Gillis.
- Q Did they have any children; the Gillises? A If they did I didn't know them, I don't think that they had any children.
- Q You don't know Preacher Allen's wife at Tablequah is one of them? A No, sir.
- Q When did you see this boy first after the war? A The first time I saw him I saw him when I came up to this part of the country, on Snow Creek.
- Q About what time was that? A That was sometime in '67.
- Q Was he and this woman then married? A They were not married then.
- Q About how long after that were they married? A It was quite a little while, I guess about a year or two after I came up here, before they married.
- Q Was he living with any woman in '67 up here as his wife? A Not as I know of.
- Q Was he living near you? A He was just riding about among his own people, there, riding around, I saw him first one place and another

Q How long after you came up there till you got acquainted with this woman; did you know her before she married him? A Yes sir, I knew her before she married.

Q Did she have a child before they married? A I think she did.

Q Do you know who married them? A No, sir, I don't know who married them.

Q You don't know about the year? A No, I don't just know what year they were married in.

Q Do you know who she had been living with as husband and wife prior to her marriage? A No, sir, I don't know any more than just living with her father.

Q Where has she lived since the death of French? A Why she has lived, well she was living on California Creek first.

Q Since his death where has she been living? A She has been living right there on the Verdigris River on the west side up there close to Lenapah.

Q Where are these children that she is applying for? A Up there, some of them.

Q Where are the rest of them? A I guess she has got them here with here.

MARIA FRENCH, recalled, testified as follows:

Mr. Hastings: Mrs. French, you appeared before the Kern-Clifton Commission, didn't you? A Yes, sir.

Q And at that time you only applied for two children, didn't you?

A No, sir.

Q You swear now you have three? A I do sir; I first applied to Lenapah for four and one was very sick when I applied and she died on the 6th of April, 1893, and that left three, and when I came to the payment Mr. Turner said he couldn't find but two.

Q Now you swear that you applied for three children? A I applied for four.

Q And you heard what Charlie Chambers said about you having a child before you married? A I can't help what Mr. Chambers said, I know all the children better than Mr. Chambers.

Q Have you been married since the death of your husband? A No, sir, never.

Q Who do you live with? A Myself and my daughter and I keep my hired hands, is all the help I have.

By L. T. Brown: You own a farm upon the public domain of the Cherokee Nation? A Yes, sir, own a farm right across the river from Goose Neck Bend.

Q How long have you been on that place? A I have made that farm since my husband's death.

Q Before that time, did you own an improvement on the public domain?

A Yes, sir, my husband had a little farm on California Creek and it was very thinly settled, and he and my children left that farm and moved up close to my people so I could get protection for my children.

Commissioner: Did you ever have a child born before you married William French? A No, sir, my children is all French's children.

Q The question is, whether either of your children were born before you married French? A No, sir.

Q You never had a child until after you married French? A No, sir.

Q Ever have an orphan child around with you, or an adopted child?

A No, sir, no adopted or orphan child.

Q Mr. Chambers is mistaken then? A Yes, sir, I have no orphan child, they are all mine.

Q When Mr. Chambers said you had a child before you married William French, he is mistaken, is he? A I guess he is.

Q There is no guessing about it, you ought to know? A I say he is.

Q You are positively you never did? A No, sir, I never did.
Q Is your name on any of the rolls of Cherokee Nation? A I have been.
Q Did you ever draw any money from the Cherokee Nation? A I never did.
Q For yourself or your children? A The two children drew, that is all.
Q Which two? A Jim and Emeline.
Q Why didn't you draw? A I don't know sir, I was an intermarried.
Q Did your husband ever draw any money? A No, sir.
Q Is his name on any of the rolls of the Cherokee Nation? A It was on the authenticated roll every time.
Q Is it there now? A I don't know sir, I have asked them to look for it, he says they can't find out; if you will allow me to tell you; I was going to tell you he was on the 1880 roll once, my husband and Guskey Brown got in some trouble here.

The 1880 authenticated roll of Cherokee Freedmen examined and neither applicant, Maria French, or her husband, William French, identified thereon.

The 1898 census roll of Cherokee Freedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined, and the applicant, Emeline French, identified thereon, page 131, No. 3255, Coowasee district, as Emeline French.

Commissioner: Maria French applies for the enrollment of herself and her daughter Emeline. She applies for the enrollment of herself as an intermarried citizen. She avers that she was married to one William French in the year '75, and he died in the year 1882. She avers that he was the slave of one Mrs. Gillis, and there is testimony presented to that effect. She avers that during said married life there was born unto her one child, Emeline, 16 years of age, and Emeline is identified upon the Kern-Clifton roll, but cannot be identified upon any other roll. She avers that her maiden name was Little, that she was a non citizen. She was married in '73 to her husband, William French. No proof of marriage, other than that they lived together as man and wife, is presented. For particulars, see testimony. She makes satisfactory proof as to residence, consequently Maria French will be listed for enrollment as an intermarried Cherokee Freedman upon a doubtful card. Said Emeline French will also be listed for enrollment as a Cherokee Freedman on a doubtful card. She will be notified by mail of the action of the Commission when the same is arrived at.

-----o-----
Supplemental testimony.

KATIE VANN, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Katie Vann.
Q Your age? A 56.
Q Your post-office? A Lenapah.
Q You know Maria French? A Yes, sir.
Q How long have you known her? A Lets see, I have known her about 25 years.
Q Did you know her husband, William French? A Yes, sir.
Q Did you know Maria French before she and William French were married? A Yes, sir, I saw her, I wasn't very well acquainted with

Mar.
Q Did she have any children before she and William French were married? A One.

Q What was its name? A Mary.

Q Do you know whether or not Mary is still living? A Yes, sir, she is married.

By L. T. Brown: How do you know it was her child? A She said it was her child and I seen her with it when it was small, taking care of it.

Q That child living or dead? A It is living.

Q What is its father's name? A I have forgotten its name, I did know once who its father was, I heard them all talking about it, calling his name: some of them here can tell you his name better than I can; I wasn't acquainted with him.

HELSON MURRELL, being duly sworn by Commissioner Needles, testified as follows:

By J. S. Davenport, Cherokee attorney: What is your name?

A Helson Murrell.

Q Your postoffice? A Coffeyville.

Q Do you know Maria French? A Yes, sir.

Q Did you know her husband, William French? A Yes, sir.

Q Did you know her before she and William French was married?

A Yes, sir.

Q Had Maria any children before she and William French was married?

A One.

Q What was its name? A Mary.

By L. T. Brown: Is it living or dead? A Living.

Q What is its father's name? A We called him Markham I believe.

Q How do you know it is her child, you were not present, were you? A No, but she was living about 200 yards from me.

Q How do you know, if you lived in 200 yards of her? A I don't know, all she said, it was her child.

Q Just heard it was? A Yes, sir.

Commissioner: Did you see this child in this woman's arms? A Yes, sir.

Q Saw her nursing it? A Yes, sir, seen her nursing it, everybody there know it was her child; that is, all the neighbors and everybody.

Q Was her mother living there? A Her stepmother.

Q She was living her in her stepmother's house? A Yes, sir.

Q That before she married French? A Yes, sir.

Q How long before? A Along about six months.

L. T. Brown: Did you know William French during his life time?

A Yes, sir.

Q Know whether or not William French and Maria French were married?

A Yes, sir.

Q ~~Remember~~ ~~where~~ Were you present at their marriage? A Yes, sir, married right in my house.

Commissioner: Who married them? A I have forgotten.

Q Was the child there? A Yes, sir.

L. T. Brown: Know her child Maclin? A Yes, sir.

Q Know her child James French? A Yes, sir.

Q Were they born after the marriage of William and Maria? A Yes, sir.

Mr. Hastings: Do you know what time they were married? A I can't tell you exactly, but they were married in my house.

Applicant: You say I was married in your house? A Yes.

Q How was he to be married in your house, wasn't my father living right there, wasn't I living in the house with my father? A Yes, we had a wedding near there and you and French got married.

Q How come he to leave my father's house to be married in yours?

A Because we had a wedding there, the preacher was there and you

came over and married.

MARIA FRENCH, recalled, testified as follows:

Commissioner: Where was this child born? A Born in my father's house.

L. T. Brown: Mrs. French, have you made application to this Commission for any child by the name of Mary? A No, sir.

Q You have heard the statement of Nelson Marrell and Katie Vann relative to your having a child prior to your marriage to William French? A Yes, sir.

Q Is it true or not? A Yes, sir.

Q It is true? A Yes, sir.

Commissioner: You were mistaken then when you said you didn't have in your examination in chief? A Yes, sir.

Q Is that child living? A Yes, sir, I have made no application for Mary.

Q She married? A Yes, sir, I told you it was married.

Q You told me you didn't have any child before you married William French? A I didn't have any before I married William French.

Q Why don't you apply for her? A Because she wasn't his.

Q You said you applied for four children at one time? A I did, I had five by William French; three of them however I don't; I don't feel satisfied. I want you to call Mr. Chambers and ask him if I was married to Uncle Nelson's house; I wouldn't tell a lie for the Territory.

Q You don't appear to have done so.

Brace 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.

Brace C. Jones

Sworn to and subscribed before me this the 27th of July, 1901.

M. D. Green
Notary Public

Commissioner

1011

COMMISSION TO THE WELFARE OF THE INDIANS

FILED

AUG 1 1902

[Handwritten signature]

AS SO ORDERED

OFFICE OF THE COMMISSIONER OF THE BUREAU OF INDIAN AFFAIRS

Fraser D 880.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D. C., May 21, 1902.

In the matter of the application of FRANK ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Hallett & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Loose Whitacre, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F D 498, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

James Frank, D 1011;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1866, or that he had been a continuous resident of
the Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in that particular case.

Commission:

The copies of the decrees for the applicant will be
entertained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in
all the cases above named and the copies of those which come
within the scope of the Commission's jurisdiction recently granted
by Judge Dill of the United States Court, of the Northern District,
Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed thirty days to file any of the proof of any
or all of the reasons other than the decree already referred to

in the case of Moses Whitmire, trustee, vs-Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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

(Signed) E. G. Rethenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

E. C. Bagwell
P. G. Reuter
Notary Public.

Cherokee Freedmen D 1011.

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

In the matter of the application of James French for enrollment as a Cherokee Freedman.

DECISION:

The record in this case shows that on July 8, 1901, James French appeared before the Commission at Nowata, Indian Territory, and made personal application for enrollment as a Cherokee Freedman. Copies of the testimony taken at the same time and place in the case of Mariah French, et al., are made a part of the record herein.

The evidence shows that James French was born since 1866 and is a son of one William French (deceased) through whom he claims the right to enrollment; that the said William French was the slave of a Cherokee citizen at the commencement of the rebellion; and that he resided in the Cherokee Nation in the fall of 1866 and for at least one year thereafter.

The evidence further shows that the applicant, James French, has lived in the Cherokee Nation all his life.

It is, therefore, the opinion of this Commission that James French should be enrolled as a Cherokee Freedman, in accordance with the provisions of Section 21 of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

James Bixby.

Chairman.

(SIGNED)

T. B. Needles.

Commissioner.

(SIGNED)

C. R. Breckinridge.

Commissioner.

(SIGNED)

W. E. Stanley.

Commissioner.

Nowata, Indian Territory,

this JAN 2 1904

11157

COMMISSIONERS
YANK DIXON,
THOMAS B. HINDLES,
C. H. BRACKENRIDGE,
W. E. STANLEY.

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

NEVER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D-1011.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 4, 1904.

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 January 2, 1904, granting the application of James French for the enrollment of himself as a Cherokee freedman.

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.

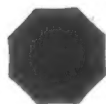
Respectfully,



Chairman.

Enc. H-9.

**END
OF
REEL**



Continued

