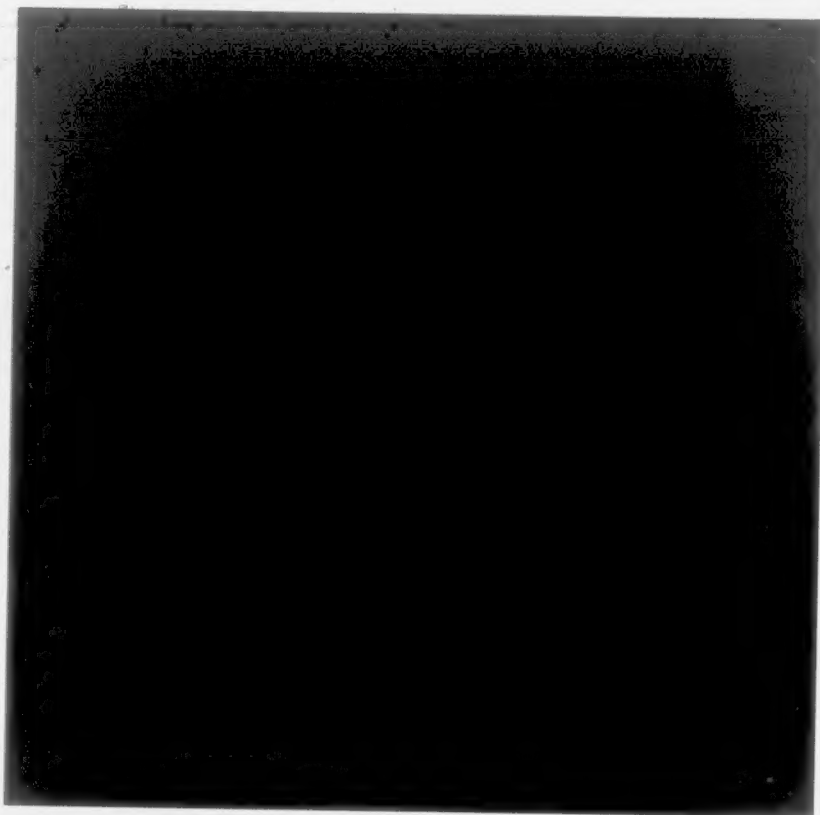
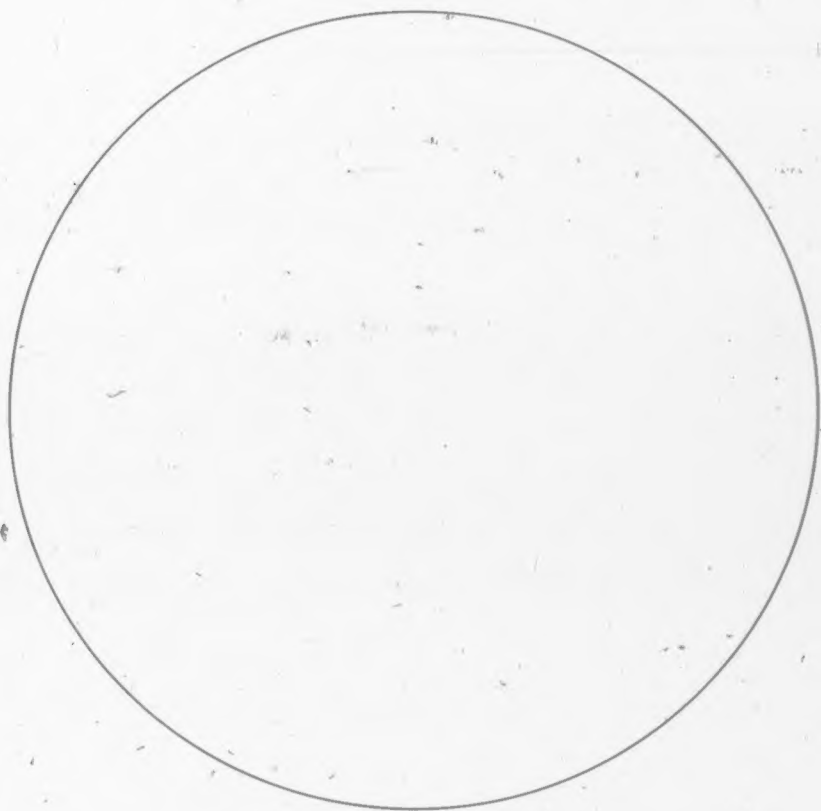
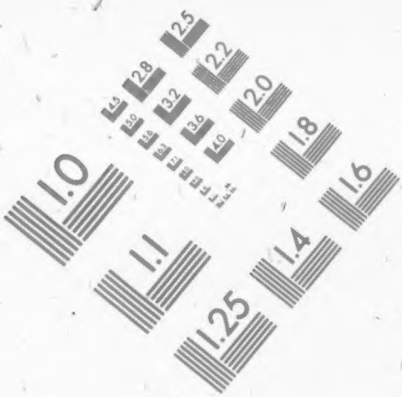
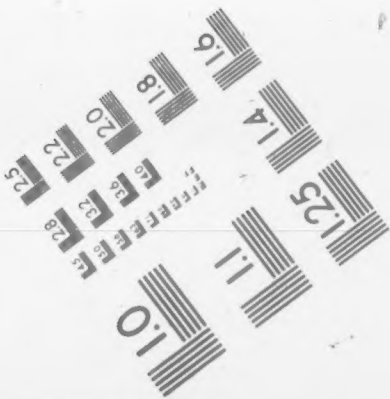
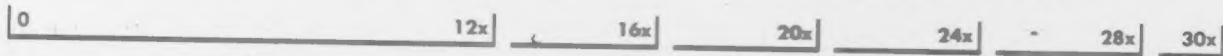


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APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES
1898 - 1914

ROLL 399

CHEROKEE MEND (ACT OF 1900) 316 - 435

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WASHINGTON: 1983

Cher Memo 311.

Cher Memo 316

2
CHEROKEE.

316

Johnnie B. Lambert

REFUSED
ACT OF MAY 31
MEMORANDUM

EA ✓

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 12 1904

CHAS. R. M. H.

(Memo.)

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

In the matter of the application of Jonnie B. Lambert for enrollment as a citizen of the Cherokee Nation; said Lambert being sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Jonnie B. Lambert.
Q How old are you? A 24 years old.
Q What is your post office address? A Muskogee.
Q What district do you live in? A Muskogee.
Q Are you a recognized citizen of the Cherokee Nation? A No, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A No, sir.
Q Have you ever been admitted to Cherokee citizenship? A No, sir.
Q Did you ever apply to the Dawes Commission in 1896? A Yes, sir.
Q What is your father's name? A Richard T. Peak.
Q What is your mother's name? A Susan A. Peak.
Q Are they living? A My father is ~~ix~~ dead.
Q Are you married now? A Yes, sir.
Q What is your husband's name? A John Lambert.

Com'r Needles:--Mrs. Lambert, from the fact that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such, your name is not upon any of the rolls of the Cherokee Nation now in the possession of this Commission, and from the further fact that on the 8th of September, 1896, your father Richard T. Peak applied for the enrollment of yourself, under the provisions of the Act of Congress approved June 10th, 1896, and that his application for your enrollment as a Cherokee citizen by blood was denied, your application is governed by the provisions of the Act of Congress of May 31st, 1900. Under the provisions of which, this Commission is without jurisdiction to receive, consider or make any record of your application; consequently your application for enrollment as a Cherokee citizen by blood is refused. If you desire to have the Secretary of the Interior to consider your case, you will so state to the Commission in writing and the matter will be referred to him when the rolls of the Cherokee Nation are sent to him for his approval.

---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 18th day of March, 1901.



Commissioner.

Cher Mem 317

Cher Memo 817

CHEROKEE

317

Frank Owens

REFUSED
ACT OF MARCH 3, 1900
MEMORIALS

CA

11/11/37

Faint, mostly illegible handwritten text, possibly a list or notes, covering the majority of the page.

11/11/37

(Name.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., MARCH 21st, 1901.

In the matter of the application of Frank Owen for enrollment as a citizen of the Cherokee Nation; said Owen being sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Frank Owen.
Q How old are you, Mr. Owen? A 40 years old.
Q What is your post office address? A Cheska, I. T.
Q In what district do you live? A Creek Nation it is.
Q Are you recognized citizen of the Cherokee Nation? A That is what I claim all the time.
Q By blood or intermarriage? A I claim to be by blood.
Q Who do you desire to enroll? A Just Frank Owen.
Q Did you ever apply for enrollment in any other Nation or Tribe?
A No, sir.
Q Is your name on the roll of 1880? A I guess it is.

Tribal Rolls of citizens of the Cherokee Nation examined and applicant's name not found thereon.

- Q What was your father's name? A Named Dave Owen.
Q Is he living? A No, sir; he is dead.
Q Was he an Indian? A No, sir; he was a white man.
Q What is your mother's name? A Mary.
Q Is she living? A No, sir, she is dead.
Q Was she an Indian? A That is what she claimed.
Q When did she die? A I don't know; I was awful small.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A I don't know; I was awful small.
Q Did you ever draw any Cherokee money? A No, sir; I was in the Pawnee country.
Q Where were you born? A Over at the place they call Cherokee City; I was over there when the strip opened, I was in the Pawnee country at the time.
Q You have never drawn any money as a Cherokee citizen have you?
A No, sir; I never got over here.
Q Did you ever live in the Cherokee Nation? A Yes, sir; I lived over there.
Q When? A I disremember what year it was.
Q How long have you lived in the Cherokee Nation? A I lived there a good while, I don't remember how many years.
Q Did you ever apply to the Dawes Commission in 1896, under the Act of July 10th? A No, sir, this is the first time I ever applied to them in anything.
Q Were you ever admitted by the Cherokee Council or Cherokee authorities as a Cherokee citizen? A Ever since I recollect myself I have been out ranselling for myself and been on the ranch all the time.

Com'r Needles:--Mr. Owens, your examination develops the fact that you are not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and your name does not appear upon any of the Cherokee Rolls now in the possession of this Commission, your application, therefore, is governed by the provisions of the Act of May 31st, 1900, which provides that this Commission is without authority to receive, consider or make any record of your application. If you desire to have the Secretary of the Interior consider your case, you will so state to this Commission in writing and the matter will be referred to him when the final rolls of the Cherokee Nation are made; consequently the application for your enrollment is refused.

Frank Case--2.

T. 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.

T. O. Rossen

Subscribed and sworn to before me this 21st day of March, 1901.



Commissioner.

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Cher Memo 318

Cher Memo 318

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MAR 25 1900

[Handwritten signature]
ACTING CLERK

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March, 21st, 1901.

In the matter of the application of John C. Talk, for the enrollment of himself as a citizen of the Cherokee Nation, he being duly sworn and examined by Commissioner T. B. Needles, he testified as follows:

- Q What is your name? A. John C. Talk.
Q What is your age? A. 46 years old.
Q What is your post office address? A. Muskogee, I. T.
Q Do you reside in Muskogee? A Yes sir.
Q Creek Nation? A Yes sir.
Q Are you a recognized citizen of the Cherokee Nation? A No sir not a recognized citizen.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Not that I know of.
Q Did you apply to any of the constituted authorities of the Cherokee Nation? A Yes sir.
Q What disposition did they make of your case? A I suppose they passed on it unfavorably.
Q Did you apply to the Dawes Commission in 1896? A. In '96 or '97, yes sir.
Q Under the provisions of June 10th 1896? A Yes sir.
Q What disposition did they make? A. They reported it unfavorably.

Q The authenticated roll of 1880 and the census rolls of 1896 of the Cherokee Nation examined and the name of the applicant not found thereon.

Upon examination of the records of the Dawes Commission it is found that said applicant applied to the Dawes Commission to be enrolled as a citizen of the Cherokee Nation; judgment is found on page 188, case #288, Booklet "A" filed August 28th 1896; his application for enrollment as a citizen of the Cherokee Nation was at that time refused; case was appealed to the United States Court for the Northern District and the judgment of the Commission was sustained.

Mr. Talk, upon examination of your case, it develops the fact that you are not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such and never have been recognized as a Cherokee citizen. Your name does not appear upon any of the rolls of the Cherokee Nation, and furthermore that you applied in 1896 to the Dawes Commission under the provisions of June 10th 1896, to be admitted to Cherokee citizenship and your application was refused. You appealed the same to the United States Court for the Northern District, Indian Territory

and the judgment of the Commission was sustained, which is final. Consequently, your application is governed by a provision in the act of May 31st, 1900, which provides that this Commission is without jurisdiction to receive, consider, or make any record of your application for the reasons above given, and consequently your application for enrollment at this time as a Cherokee citizen by blood is rejected. If you desire to have the Secretary of the Interior consider your case you will so state to the Commission in writing, and the matter will be referred to him when the rolls of the Cherokee Nation are sent to him for approval.

=====

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

W. A. Stephens

Subscribed and sworn to before me this the 21st of March, 1901

[Signature]

COMMISSIONER.

CHEROKEE

318

John C. Smith

REFF
ACT

Cher Memo 319

Cher Memo 319

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
WASHINGTON, D. C. 20315
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RMAM

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, L. T., March 22, 1901.

In the matter of the application of James C. Laster for enrollment as a Cherokee citizen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A James C. Laster.
Q What is your postoffice? A McLouth, Kansas.
Q You reside in the State of Kansas? A Yes sir.
Q Are you a recognized citizen of the Cherokee Nation? A No sir, I don't live here.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A By my people here.
Q Is your name on any of the rolls of the Cherokee Nation? A No sir.
Q Did you ever apply to the Cherokee Nation to be admitted as a citizen? A No sir.
Q Did you apply to the Dawes Commission in 1896? A No sir.

The authenticated roll of 1880 and the census roll of 1896 of the Cherokee Nation have been examined and the name of the applicant is not found of record thereon.

- Q Have you ever resided in the Cherokee Nation? A No sir.

Commissioner Needles-

Mr. Laster, your examination develops the fact that your application is governed by the provisions of the Act of May 31, 1900. Under the provision of the Act of May 31, 1900, the Commission is without jurisdiction to, receive, consider, or make any record of your application for the reason that you are not a recognized citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such; consequently, your application for enrollment as a Cherokee citizen by blood is rejected. If you desire to have the Secretary of the Interior consider your case, you will so state to the Commission in writing, and the matter will be referred to him when the rolls of the Cherokee Nation are sent to him for approval.

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

Subscribed and sworn to before me this 22nd day of March, 1901.


Commissioner.

CHEROKEE . 319

James C. L. Lester

REFUSED

ACT OF
MEMORIAL

C 1

Cher Memo 320

Cher Memo 320

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REJECTED:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee I.T., March 25, 1901.

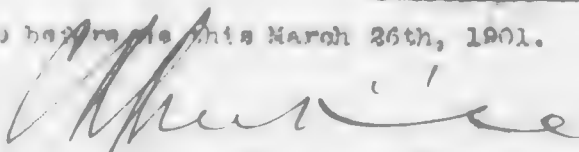
In the matter of the application of Charles K. Brown for the enrollment of himself and three children as Cherokee citizens by blood being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Charles K. Brown.
Q What is your age, Mr. Brown? A Twenty-nine.
Q What is your post-office address? A Grapeland. It is in the Chickasaw Nation Territory.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir, - not of the Cherokee, of the Chickasaw; - that is, I mean I live there.
Q Are you recognized by the Chickasaw authorities as a citizen or by the Cherokee authorities? A No sir, not now.
Q You apply to be enrolled as a Cherokee citizen do you? A Yes sir.
Q Have you ever had application to be enrolled in any other tribe? A No sir.
Q For whom do you apply besides yourself? A My three children.
Q What are their names? A One of them is named Helen Brown.
Q How old is Helen? A She is about seven years old.
Q What is the name of the next child? A Ivey.
Q How old is Ivey? A Five years old.
Q Next one? A Gladys, two years old.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A No sir.
Q Have you ever applied to the authorities of the Cherokee Nation to be enrolled as a citizen? A No sir.
Q Did you ever apply to the Dawes Commission in 1899? A No sir.

Com'r Needles: Mr. Brown, for the reason that your name does not appear upon any of the authenticated rolls of the Cherokee Nation, and that you have never been recognized by the Cherokee authorities as a Cherokee citizen, your application is governed by the provisions of the Act of Congress of May 31, 1900, which provides that this Commission has no jurisdiction to receive, consider or make any record of your application, consequently your application for enrollment as a Cherokee citizen by blood will be rejected, for the want of jurisdiction; if you desire to have the matter submitted to the Secretary of the Interior you will so state to the Commission in writing, and the same will be forwarded to him for his consideration.

H. 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 March 26th, 1901.



Commissioner.



Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 20, 1902.

In the matter of the application of Charles Brown for the enrollment of himself and three children.

Neither the applicant nor his children are identified on any of the tribal rolls of the Cherokee Nation now in possession of the Commission, nor does it appear that they were ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or Commissions on Citizenship, or by the Commission to the Five Civilized Tribes, or the United States Court on appeal as provided for in the act of Congress approved June 10, 1898.

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.



COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Charles M. Brown,
Granther, Indian Territory.

Sir:

On the 25 day of March, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your three minor children, Helen Brown, Ivy Brown, and Gladys Brown as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stats. 321).

The act of May 31, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application for any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

C.M.D-8.

The Commission has, therefore, on this day decided that you and your three minor children above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By SIGNED. James Bixby.
Acting Chairman.

Encl. N-320
Register.

COMMISSIONERS
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEADLES,
C. R. BRECKINRIDGE

ALLISON I. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Chero. Mem. 330.

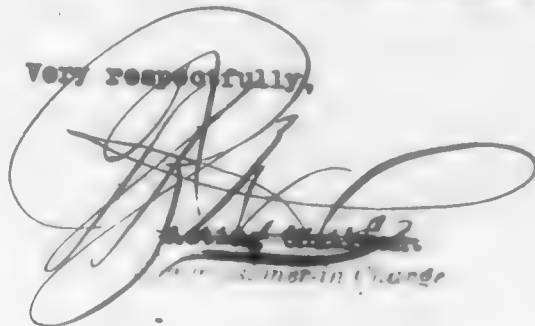
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Charles M. Brown et al., Cherokee Memorandum No. 330, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Allison I. Aylesworth
Secretary

JUN 20 1902

CHEROKEE

320

Charles M. Brown
et al.

REFUSED
ACT OF MARCH 3, 1900
MEMORANDUM.

Cher Memo 321

Cher Memo 321



EXHIBIT

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., March 25, 1901.

In the matter of the application of Joseph W. Brown for the enrollment of himself as a Cherokee citizen by blood; being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Joseph W. Brown.
Q What is your age, Mr. Brown? A Thirty years old.
Q What is your post-office address? A Muskogee.
Q What district do you live in? A I live ten miles south of here now I disremember the district.
Q Is it Cherokee Nation? A Yes, Cherokee Nation all right; I haven't been right in that settlement but a few days, I have been still lower down, down at Briartown.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir, I suppose so.
Q By blood or intermarriage? A By blood.
Q Who do you desire to enroll? A Just myself.
Q What was your father's name? A George Washington Brown.
Q Is he living? A No sir.
Q What is your mother's name? A Her name was Elizabeth Steadley, was her maiden name.
Q She living? A No sir.
Q Your father a Cherokee citizen by blood? A No sir.
Q Your mother? A Yes sir.
Q Where were you born? A I was born in Tennessee.
Q Is your name on the roll of 1830? A No sir.
Q Is it on the roll of 1896? A No sir.
Q Have you ever been recognized by the Cherokee Authorities as a Cherokee citizen? A I have not, no, sir.
Q Did you ever apply to the Dawes Commission in 1896, under the Act of July 10th? A No sir.
Q How long have you lived in the Cherokee Nation? A It has been fifteen years since I first come, and then I was just a boy; I aint been there all the time, but I aint been out much of the time.

Com'r: Upon examination of the Cherokee rolls in possession of this Commission, the name of Joseph W. Brown cannot be found.

Commissioner Needles:- Mr. Brown, for the reason that your name does not appear upon any of the rolls of the Cherokee Nation, and you have never been recognized by the constituted authorities of the Cherokee Nation as a citizen, your case is governed by the Act of Congress of May 31, 1900, and this Commission has no jurisdiction to receive, consider or make record of your application; if you desire to have your case considered by the Secretary of the Interior, you will so state to this Commission in writing, and same will be forwarded to him when the rolls of the Cherokee Nation are forwarded to him for approval;- consequently your application for enrollment as a Cherokee citizen is rejected.

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

Subscribed and sworn to before me this March 25th, 1901.

M. D. Green
Commissioner.

321

CHEROKEE.

Joseph W Brown

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

81v

Cher memo 322

Cher Memo 322

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4-5-7

DEPARTMENT OF THE N. H.
SUBMISSION TO THE FIVE ENLARGED STATES

FILED

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(Memo.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., MARCH 25th, 1901.

In the matter of the application of Steve Evander Pauley for the enrollment of his wife, ELLIE, and children as citizens of the Cherokee Nation; said Pauley being sworn and examined by Commissioner T. R. Needles, testified as follows:

- Q What is your name? A Steve Evander Pauley.
Q What is your age, Mr. Pauley? A 37 years old.
Q What is your post office address? A Summit.
Q In what district do you live? A In this district.
Q In the Creek Nation? A Yes, sir.
Q Who do you desire to enroll? A My wife.
Q Yourself? A No, sir.
Q Any children? A Yes, sir.
Q Do you want to apply for your children? A Yes, sir.
Q What is the name of your wife? A Ellie.
Q How old is Ellie Pauley? A 27.
Q What was her name before you married her? A Ellia Hall.
Q What are the names of your children? A Rosa May.
Q How old is Rosa May? A Ten years old.
Q The name of the next child? A Rebecca Jane.
Q How old is Rebecca Jane? A Eight years old.
Q Any other children? A Ida May, she is eleven months old.
Q Is that all? A Yes, sir.
Q Is your wife a recognized citizen of the Cherokee Nation? A No, sir; not yet that is what I am trying for now.
Q Has she ever been recognized as a Cherokee citizen? A No, sir.
Q Did she ever apply to the Cherokee Council? A Yes, sir; we have applied there.
Q Rejected were you? A Yes, sir.
Q Have you ever applied to the Dawes Commission, in 1896? A Yes, sir.
Q Were you rejected then? A No, sir; but I never got the proof in time to get it into the United States Court.
Q Where was she born? A She was born in Missouri.
Q Has she any other name besides Ellie? A No, sir.

Q Who else applied at the same time? A R. E. Pauley.
Q Is R. E. Pauley her father? A Yes, sir.
Q How long has your wife been living in the Cherokee Nation? A Been living here ten years, sir.
Q Her name is not on any of the rolls of the Cherokee Nation?
A No, sir.

Tribal Rolls of citizens of the Cherokee Nation examined and applicants' names not found thereon.

COM'R NEEDLES:--Mr. Pauley, the proof shows that the application for the enrollment of your wife, Ellie, and the three children named herein, is governed by the Act of May 31st, 1900, and that your wife's name is not found upon any of the rolls of the Cherokee Nation; that they have never been recognized by the Cherokee authorities as Cherokee citizens, and this Commission has no jurisdiction to receive, consider, or make any record of your application for their enrollment as citizens of the Cherokee Nation, consequently your application for their enrollment will be rejected.

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Elie Paulcy, et al. - 2.

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 26th day of March, 1901.

Notary Public.

M. D. Quinn
Notary Public

CHEROKEE.

322

Ellie Pauling et al

REFUSED

NOV 10 1880

EA

Cher Memo 323

Cher Memo 323

Memorandum
323

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE GREAT PLAINS

FILED

5

MEMORANDUM FOR THE COMMISSIONERS OF THE GREAT PLAINS
RE: [Illegible text]

TO THE COMMISSIONER OF THE GREAT PLAINS
FROM THE COMMISSIONER OF THE GREAT PLAINS

Commissioner McKinstry—I have caused the Cherokee Authent-
ticated Roll of 1890, the Star Payment Roll of 1894, and the
Census Roll of 1896, to be carefully searched for the name of
Sarah Starr, for whose enrollment as a Cherokee citizen application
was made by her son, James Starr, at Muskogee, Indian Territory,
March 25, 1901; and her name is not found upon any of said rolls.

It is ordered that an authenticated copy of this statement
be attached to the testimony in the case of this applicant, Cherokee
Memorandum Number 583.

The undersigned, being duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes, he took in full
the preceding statement and order, and that the foregoing is a
full and correct transcript of his stenographic notes thereof.

Arthur E. Croninger

Subscribed and sworn to before me this day of October, 1901.

C. R. Buckinridge

Commissioner.

113

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113

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 28, 1901.

In the matter of the application of James Starr for the enrollment of himself and mother, Sarah Starr, as Cherokee citizens; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A James Starr.
Q What is your age, Mr. Starr? A 36.
Q What is your postoffice address? A Princeton, Kentucky.
Q Where do you reside? A I live in Kentucky.
Q For whom do you apply? A Myself, and mother.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A By blood.
Q Is your name upon any of the authenticated rolls of the Cherokee Nation? A My father's.
Q I am talking about you? A No sir, not that I know of.
Q Have you ever been recognized by the Cherokee authorities as a citizen? (No answer)
Q Where were you born? A In Tennessee.
Q Did you ever live in the Cherokee Nation? A Never did.
Q Did you ever apply to the Dawes Commission in 1896 under the Act of June 10th, 1896? A No sir.

The Cherokee authenticated roll of 1880, and the census roll of 1896 examined, and the names of the applicant and his mother are not found of record thereon.

- Q As I understand, your name is not on any of the rolls of the Cherokee Nation, never been recognized as a citizen of the Cherokee Nation by the authorities, and never applied to the Dawes Commission for admission. Those are the facts, are they? A Yes sir.
Q What is your mother's name? A Sarah Starr.
Q Where does she reside? A Same place I do, Kentucky.
Q What is her age? A She's about 54.
Q Why is she not here in person? A She's sick; down in bed.
Q Was she ever recognized as a citizen of the Cherokee Nation?
A No sir.
Q Her name appear upon any of the rolls of the Cherokee Nation?
A I don't know whether it does or not.
Q Did she ever live in the Cherokee Nation? A No sir.
Q Born and raised in Tennessee? A Yes sir.
Q Never to your knowledge applied to the Dawes Commission in 1896; four years ago? A No sir.

Well, Mr. Starr, your examination develops the fact that your application is governed by the provisions of the Act of Congress approved May 31, 1900. Under the provisions of the Act of Congress approved May 31, 1900, the Commission is without jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. If you desire to have the Secretary of the Interior consider your case, you will so state to the Commission in writing, and the matter will be referred to him when the rolls of the Cherokee Nation are sent to him for approval.

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

Subscribed and sworn to before me this 28th day of March, 1901.

T. B. Needles

CHEROKEE.

323

James Starr et al

REFUSED
ACT OF MARCH 1830
MEMORIAL

Cher Memo 324

Cher Memo 324

(Memo.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., MARCH 26th, 1901.

In the matter of the application of Susan Dunham for the enrollment of herself and children as citizens of the Cherokee Nation; said Dunham being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Susan Dunham.
Q What is your age, Mrs. Dunham? A 50 years old.
Q What is your post office address? A Muskegee.
Q What district do you live in? A Creek Nation.
Q You live here? A Yes, sir.
Q Are you a recognized citizen of the Cherokee Nation? A No, sir.
Q Who do you desire to have enrolled? A Myself and my children.
Q What are the names of your children? A Sarah Bell is the oldest one, she is married; then William Henry.
Q How old is William Henry? A He will be 27,-
Q All of these over 21 and those married will have to apply for themselves; have you got any children under 21? A Yes, sir; I have got four or five. John Wesley, he is just 20; Charles Ambrose.
Q How old is Charles Ambrose? A He is 17; Marcus Lafayette.
Q How old is he? A He is 15.
Q The next one? A May.
Q How old is May? A 14.
Q Any others? A No, sir.
Q Have you ever been recognized by the Cherokee Nation as a citizen? A No, I think not.
Q Is your name on any of the rolls of the Cherokee Nation?
A No, sir.
Q Did you ever apply to the Dawes Commission in 1896, under the Act of July 10th, 1896? A Well, I did not myself but my brother did.
Q Did anybody apply for you? A My brother.
Q What was your brother's name? A Jesse L. Ryner.
Q Did you ever reside in the Cherokee Nation? A Yes, sir.
Q How long? A 17 years.
Q Did you ever apply to the Cherokee authorities, you or anyone for you, to be admitted to citizenship? A Yes, sir.
Q Were you accepted or refused? A I don't know what they did do.

Tribal Rolls of citizens of the Cherokee Nation examined and applicant's name and that of her children not found thereon/

COM'R NEEDLES:--Mrs. Dunham, your evidence develops the fact that your application is governed by the provisions of the Act of May 31st, 1900. Under the provisions of the Act of Congress of May 31st, 1900, the Commission is without jurisdiction to receive, consider, or make any record of your application for the enrollment of yourself and children, for the reason that you are not a recognized citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such.

It further appears that upon examination of the records of this Commission, Docket B, page 114, in case No. 3165, that you applied on the 8th day of September, 1896, according to the provisions of an Act of Congress passed July 10th, 1896, to be admitted as citizens of the Cherokee Nation, and that your application was refused, which under the law is final; consequently the application of yourself for the enrollment of yourself and children, John W., Charles A., Marcus L. and May Dunham, is refused. If you desire to have the Secretary of the Interior consider your case, you will so state to the Commission in writing and the matter will be referred to him for his approval.

Susan Durham, et al.--2.

J. O. Ransom, 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. Ransom

Subscribed and sworn to before me this 27th day of March, 1901.

~~Commissioner.~~

J. O. Ransom
Notary Public.

Mem 473

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

FILED
5 1901

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AGING CHAIRMAN

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Commissioner Breckinridge.— With respect to Cherokee Memorandum Case Number 324, the same being the application of Susan Dunham for enrollment of herself and four minor children, which application was made to the Dawes Commission March 26th, 1901, I desire to state and enter upon the record the following:

I have had a careful search made of the Cherokee Authenticated Roll of 1890, the Strip Payment Roll of 1894, and the Cherokee Census Roll of 1896, for the name of Susan Dunham, and her name is not found upon any one of said rolls.

I have also had the Cherokee Strip payment roll of 1894 and the Cherokee Census Roll of 1896 carefully searched for the names of her four minor children included in her application, namely: as follows: John W. Dunham, age 20; Charles A. Dunham, age 17; Marcus L. Dunham, age 15; May Dunham, age 14; and the names of none of these children are found on said rolls.

I have also instituted careful search through the records of the Dawes Commission relating to applications made for citizenship in 1896, and the subsequent action of the United States Court with reference thereto, and I find in Docket B 114, case 5855, that on September 8th, 1896, the application of Susanna Dunham was made. Answer was made, and the application was denied by the Commission at Vinita, Indian Territory, October 24th, 1896, and the record shows that no appeal was taken therefrom.

The testimony in this case shows that Susan Dunham claims to be a sister of Jesse L. Tyner. The record shows that Jesse L. Tyner and others did appeal to the United States Court from the decision of the Dawes Commission in 1896, but also it shows that Susan Dunham was not a party to the appeal, and as shown in the record of Court Case 191, Book 2 of Commission record of Cherokee citizenship judgments of the United States Court, page 240, neither Susan Dunham nor any of her children were included in the list of persons there given and admitted on appeal by the court.

It appears from the Commission record that the papers in the Susan Dunham case were used as evidence by her brother, Jesse L. Tyner, and by other relatives in their appeal; but it nowhere appears that she or any of her children were parties to an appeal.

It is obvious, therefore, from the full testimony and record in this case, that neither the applicant or any of her children has ever been recognized in any manner whatever by the Cherokee authorities or by the United States authorities as a citizen of the Cherokee Nation, nor have any of them been admitted or enrolled as such. The youngest of said children was 14 years of age when the present application was made to this Commission for enrollment March 26th, 1901. Therefore, two rolls, that of 1894 and 1896, have been made of the Cherokee Nation since the birth of the youngest of these children, and they are considered to be properly listed ~~in~~ under the Act of May 31st, 1900, for rejection by this Commission for lack of jurisdiction.

It is ordered that a copy of this statement be attached to each copy of the original testimony as filed in this case.

[Signature]
Commissioner.

The undersigned, *Arthur Croninger*, states that on *September 27*, the Commission on the *Massachusetts* *State* *Records* *Commission* *has* *been* *informed* *that* *the* *above* *is* *a* *real* *and* *correct* *transcript* *of* *his* *steno-graphic* *notes* *thereof*.

Arthur Croninger

Sworn to and subscribed before me this 5th day of October, 1901.

C. R. Beckwith

Commissioner.

MASSACHUSETTS

WILLIAMS PAPER CO

CHEROKEE

324

Jesse Durham

REFUSED
ACT OF MARCH 3, 1807
MEMORANDUM

Cher. Memo 325

Cher. Memo 325

DEPARTMENT OF THE
COMMISSION TO THE FIVE
M

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., MARCH 26th, 1901.

In the matter of the application of Herndon Lee Randall for the enrollment of himself and child as citizens of the Cherokee Nation; said Randall being sworn and examined by Commissioner T.B. Needles, testified as follows:

- Q What is your name? A Herndon Lee Randall.
Q How old are you, Mr. Randall? A 36 years old.
Q What is your post office address? A Sa licaw.
Q What district do you live in? A Sequoyah.
Q Are you a recognized citizen of the Cherokee Nation? A I am adopted citizen.
Q You are a citizen by intermarriage? A Yes, sir.
Q Who do you desire to enroll? A One little girl.
Q Have you been enrolled yourself? A I don't know whether they have got my name on the rolls or not.
Q Is your wife living? A No, sir; she is dead.
Q Did you ever apply to the Dawes Commission for enrollment? A No, sir; I would like to enroll.
Q Then you apply for yourself and one little girl? A Yes, sir.
Q What was your wife's name? A Rosetta.
Q What was her name before you married her? A Weaver.
Q Is she a citizen by blood? A Yes, sir.
Q Is she living? A No, sir.
Q When did you marry her? A I married her in '87.
Q Have you any certificate of marriage? A No sir, I left my certificate with the Clerk according to the Cherokee law.
Q About what would be her age now? A 34.
Q Did you marry in 1887 according to the laws of the Cherokee Nation? A Yes, sir.
Q Procured a license? A Yes, sir; I was married two years previous to that.
Q Where were you married? A Going Snake District.
Q When did she die? A A year ago last May.
Q Have you married since? A Yes, sir.
Q White woman? A I married a Cherokee.
Q What is her name? A ~~Julia~~ Duncan. *Q Will her full name A Julia Duncan*
Q Is she done enrolled? A No, sir.
Q Is she a Cherokee by blood? A Yes, sir.
Q Why don't you apply for her enrollment then? A I will.
Q There is some thing you are not letting out here, it seems to me? A All her folks have been enrolled, and they have not enrolled her; she come a little late to get on the roll.
Q You don't apply for the enrollment of your present wife do you? A If I knew how to go about it.
Q You will have to say that you will apply for her? A Well.
Q What is her age? A 23 years old.
Q Is she a recognized citizen of the Cherokee Nation? A She is not admitted; her father applied to this Commission a few years ago.

BY J. L. RADON, Cherokee Representative:

- Q What was her father's name? A Marion Duncan.

BY COMMISSIONER NEEDLES:

- Q What is the name of the child you desire to enroll? A Viola May.
Q How old is it? A Eight years old.
Q What was her (Applicant's first wife's) father's name? A Joe Weaver.
Q Is he living? A Yes, sir; I suppose he is.
Q What was her mother's name? A America.

- Q Is she living? A No, sir; she is dead.
Q How do you say you suppose she is enrolled as? A Jessie.
Q You think Jessie, as enrolled there, is she? A Yes, sir.
Q Why? A Because there is no other one named Jessie.
Q Did she have a sister named Jessie? A No, sir.
Q Did she have any sisters? A Yes, sir.
Q What were their names? A Brunette is one, Joanne.
Q And say Joseph Weaver was your wife's father? A Yes, sir.
Q Is Joe Weaver living? A Yes, sir.
Q Where is he living? A Going Snake.
Q Where was your wife born? A In Going Snake, I went to
post office.
Q Did she always live in Goingsnake? A No, sir, she lived in
Sequoyah county.
Q Has she always lived in the Cherokee Nation? A Yes, sir.
Q Did you live with her continuously from the time of your mar-
riage until her death? A Yes, sir.
Q Were you separated? A No, sir.
Q Your present wife and her father and people have been denied by
the Commissioner in 1896, you have no authority to enroll your wife?
A They have not been notified that they have been denied, I don't
think.

That he is of the Cherokee Nation examined and applicant's
name and that of his child found thereon as follows:

1896 Census Roll; page 1096, #1248 Rosa, Randall, Sequoyah
District;

1894 Census Roll; page 1096, #1244, Viola Randall, Sequoyah
District.

The name of the present applicant and that of his present
wife are not found upon any of the rolls in the possession of
the Commissioner.

- Q You were enrolled in 1896, were not you? A I don't know.
Q You say you were married in 1897? A Yes, sir.
Q What got of did you say you had of your marriage? A I haven't
got any proof with me, but I can get proof in Going Snake.
Q Who married you? A Joe Smallwood.
Q What became of the licenses? A I returned them to the Clerk
for record and never got them any more.
Q You can get a certified copy of them? A I don't know; I
wrote to his son for a copy of them and they could not get them.

CHIEF REPLY:-- Herman L. Randall applies for the
enrollment of his self, his present wife, Judie, and a child
Viola. He avers that he was married to one Rosetta Weaver in
the year 1897, a Cherokee citizen by blood, but makes no satis-
factory proof of his marriage; He avers that as a result of
said marriage he has one child, Viola May, eight years of age.
The name of said Viola is found upon the census roll of 1896. The
name of his wife, Rosetta, is identified upon the census roll
of 1894. She cannot be fully identified upon the unauthenticated
authenticated roll of 1890, but the indications are that she
was a citizen of the Cherokee Nation and child of Joe Weaver,
whose name appears upon the authenticated roll of 1890. The
name of her brothers and sisters appear upon said roll. He
averts that he lived with his wife continuously from the time of
their marriage until the date of her death. Since her death
he has married one Judie Danson. The name of Judie Danson is
not found upon the authenticated roll of 1890, nor any of the
rolls in the possession of this Commission, but the records of
the Commission develop the fact that on September 7, 1896, the

COMMISSION IN THE
INDIAN MATTERS
M. H. H. H.

Herndon L. Randall, et al ---3

father of said Judie Duncan applied for the admission of himself and his family, including said Judie, to be admitted to citizenship under the act of June 18th, 1906; said case being #4968, page 330, Book B, and that said Judie Duncan's application was refused, and no appeal was taken; consequently the matter of the enrollment of the said Judie Duncan comes under the provisions of the act of May 31st, 1900, under which act the Commission is without jurisdiction to receive, consider or make any record of her application for the reason that she is not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and for the further reason that she was refused admittance as stated in the testimony by this Commission in 1904. The papers in the case of Judie Duncan will be forwarded to the Secretary of the Interior, when the rolls of the Cherokee Nation are forwarded to him. By reason of the fact that the Secretary of the Interior has not yet decided upon the application of Judie Duncan which will be forwarded to him, his final judgment as to the enrollment of her husband, Herndon L. Randall, will be suspended and his name will be placed upon a doubtful card, awaiting the decision of the Secretary of the Interior as to the citizenship of his present wife. If she is not admitted to citizenship of course the said Herndon L. Randall will have married out under the laws of the Cherokee Nation.

The name of Viola Child, Viola K. will also be placed upon the doubtful card, and final judgment as to her enrollment will be suspended, awaiting for her certification of her mother, Rosetta Weaver, upon the authenticated roll of 1900, and it will be necessary for Herndon L. Randall to file with this Commission satisfactory proof of his marriage to Rosetta Weaver in order to aid the enrollment of his self.

Now comes the Cherokee Nation, by its representative, Mr. Raugh, and protests against the enrollment of the said Herndon L. Randall having been placed upon a doubtful card, averring that by reason of the laws of the Cherokee Nation his marriage to Judie Duncan he has forfeited his right in the Cherokee Nation.

By Mr. J. L. Raugh, Cherokee Representative:

- Q Who was the mother of Rosetta Weaver? A America.
- Q Was she a white woman? A I think so, I never saw her.
- Q Was she married to Rosetta's father? A Yes sir.
- Q Was his former wife living at the time, or do you know?
- A I could not tell you.

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

Subscribed and sworn to before me this March 25th, 1901.

M. D. Green
Notary Public,
Cherokee Nation.

CHEROKEE.

Judith Randall

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Q 1v

Cher memo 326

Cher Memo 326

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 29 1901

[Signature]
ACTING CHAIRMAN

RELEASE: BOSTON: 1901

Department of the Interior,
Comptroller to the Five Civilized Tribes,
Wash., D.C., March 27, 1901.

In the matter of the application of Virginia Brown for the enrollment of herself as a Cherokee citizen, being sworn and examined by Commissioner Breckinridge and testified as follows:

- Q How old are you now? A Virginia Brown.
- Q How old were you? A Born in '44.
- Q What is your post-office? A Kansas City.
- Q Do you live in the Cherokee Nation? A No sir, I don't live in the Nation.
- Q Where do you live? A I live in Kansas City.
- Q In the State of Missouri? A Yes sir.
- Q How is it you want to have enrolled, just yourself? A Myself.
- Q Do you claim to be a Cherokee by blood? A I don't claim to be a Cherokee, I claim to be a Delaware.
- Q Are you on any of the rolls of the Cherokee Nation? A No sir, I am down here, - I wrote to find out. (Produces letter)
- Q Have you ever lived in the Cherokee Nation at any time during your life? A Yes sir.
- Q How long did you live here? A I lived ten years ago.
- Q How long did you live here? A I lived two years and a half.
- Q How were you admitted to citizenship by the Cherokee authorities or by any other authorities? A No sir, I didn't go to ask; I only staid there.
- Q You have never been admitted to citizenship and never been placed on any roll? A No sir, never been placed on any roll at all; that's what I have been asking for.
- Q Give me the name of your father? A Willie Correll.
- Q Your mother's name? A Marley.
- Q Is your father dead? A Yes sir.
- Q Is your mother dead? A Yes sir. Far as I know of.
- Q How long have you been known as Brown? A 18 years.
- Q What was your name before that? A Correll.

1897 Cherokee authenticated roll examined for applicant's name and same not found thereon;
1896 Cherokee census roll examined for applicant's name and same not found thereon.

Com'r Breckinridge: The applicant applies for the enrollment as a Delaware; she is 56 years of age and states that she never lived in the Cherokee Nation except two and a half years some ten years ago, and that she lives at this time in the State of Missouri; she further states that she has never been admitted to any roll by the Cherokee authorities, nor admitted to citizenship in any manner whatever; an examination of the rolls of 1890 and 1896 fails to find any record of her enrollment, under either her present or her former name; under these conditions it is not deemed that the Commission has any jurisdiction over her application, and it will be listed for rejection for lack of jurisdiction; this action will be communicated to the Secretary of the Interior, and if it is approved by him, it will be final in the matter.

X.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 March 28, 1901.

[Handwritten signature]

Com'r.

CHEROKEE

Virginia Brown

REFUGEE
ACT OF
MAY 1850

81

Cher Memo 327

Cher Memo 327

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 29 1901

[Signature]
ACTING CHAIRMAN

ONE

Department of the Interior,
 Commission to the Five Civilized Tribes,
 Muskogee, I. T., March 27, 1901.

In the matter of the application of Rebecca Victoria Yancy for the enrollment of herself as a Cherokee citizen by blood, being sworn and examined by Commissioner Breckinridge she testified as follows:

- Q Give me your full name? A Rebecca Victoria Yancy.
 Q How old are you? A I don't know exactly, I guess I am about 52.
 Q What is your post-office? A Kansas City, Missouri.
 Q Do you live in the Cherokee Nation? A No I don't live there.
 Q Where do you live? A I live in Kansas City.
 Q You live in Missouri? A Yes sir, I live in Missouri.
 Q Who is it you want to have enrolled? A Just myself.
 Q Do you claim to be a Cherokee by blood? A Well I guess so, I don't know what else; I am some kind of Indian, I reckon it must be that.
 Q Are you on any of the rolls of the Cherokee Nation? A No.
 Q This is your first application? A Yes sir.
 Q You have never been on any roll at all? A No, no, this is the first time I have ever seen anything about it at all.
 Q You have never been recognized as a citizen of the Cherokee Nation? A No sir, I never have; I have never been down here before; I just heard about this thing going on and I come to see.
 Q Give me the name of your father? A My father is dead, and I don't know his name. Died when I was a little bit of a thing, and my mother too; I know what they said her given name was, Nancy was her given name, and she belonged to a man named Rice; he captured her from the Indians.
 Q What was your name before your marriage? A Rebecca Rice.
 Q Your father's name was Rice? A No, my mother belonged to this man Rice.
 Q Was your mother a slave? A He captured her in Virginia, Richmond, Virginia; that's where he got her.
 Q How long have you been named Yancy? A Why ever since the war.
 Q What was your name when you were a girl, Rebecca Rice? A That's what they called me; they always went by their owner's names.

1890 Cherokee authenticated roll examined for applicant's name and not found thereon;

1896 Cherokee census roll examined for applicant's name and same not found thereon.

- Q You have never lived in the Cherokee Nation at all? A No sir/

Com'r Breckinridge: The Commission has no power to enroll you; has no jurisdiction over your case.

Com'r Breckinridge: The applicant claims to be a Cherokee by blood; she states that she lives in Missouri, and has never lived at any time in the Cherokee Nation; she is 52 years of age, and states that she was borne her present name since the Civil War; she does not appear upon any roll of the Cherokee Nation, and states that she has never been enrolled at any time or recognized in any manner as a Cherokee citizen; under the existing law, this Commission has no jurisdiction over her application, and a memorandum will be made thereof, and she is listed for rejection for lack of jurisdiction; this action will be reported to the Secretary of the Interior, and if approved by him, it will be final under the law in her case.

Rebecca Victoria Vandy 8

J. D. Iron, Clerk, 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. D. Iron

Subscribed and sworn to before me this March 29, 1901.

C. M. Heine

Clerk of the Court

CHEROKEE.

327

Rebecca Gancy

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Ex 1x

Cher. Memo 326

Cher Memo 328

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

1891

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Memorandum.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T. MARCH 23, 1901.

In the matter of the application of Robert H. Pauley, for the enrollment of himself as an intermarried citizen, and the enrollment of his wife and five minor children as citizens by blood of the Cherokee Nation. He being first duly sworn by Commissioner Breakinridge, testified as follows:

Examination by the Commissioner:

- Q Give me your full name. A Robert H. Pauley.
Q How old are you? A 59.
Q What is your postoffice address? A Summit.
Q In what district do you live? A I live in the Creek Nation, right on the line in the Cherokee and Creek.
Q You live just across the Creek line? A Yes sir.
Q Do you live inside of the Creek line? A Yes sir.
Q How long have you lived there? A Moved there this year?
Q Where did you live before that? A In the Cherokee.
Q Who is it you want to enroll, yourself and family? Yes sir.
Q You have a wife? A Yes sir.
Q How many children have you? A Five.
Q Are these children all under 21 years of age? Yes sir. One of them is an adopted child. She had a son when me and her was married.
Q Not a child of this marriage? A No sir.
Q They are all under 21 years of age? A Yes sir.
Q Does this adopted child go by your name? A No sir.
Q Do you claim to be a Cherokee by blood? A No sir, I am a white man.
Q Is your wife a Cherokee by blood? A Yes sir.
Q When did you marry your wife? A In 1857.
Q Give me the name of your wife. A Clarissey.
Q How old is she? A 35.
Q You say she is a Cherokee by blood? A Yes sir.
Q Where was she born? A She was born on the White River on the line between Missouri and Arkansas. I do not know whether it was in Missouri or Arkansas.
Q So your wife was born in either Missouri or Arkansas, you do not know which? A No sir, right on the line.
Q How long has she lived in the Cherokee Nation? A 12 years.
Q Has she ever been admitted to any of the rolls of the Cherokee Nation? A No sir, no sir. I tried to get her on the Dawes Commission, but I was too late.
Q Has she ever been admitted to citizenship by the Cherokee Council ~~or any other authority?~~ A Yes sir, ~~and she~~
Q ~~will~~ ~~set~~ ~~up~~ ~~the~~ ~~proof~~ ~~and~~ ~~everything~~ ~~and~~ ~~got~~ ~~it~~ ~~in~~ ~~too~~ ~~late~~.
Q What was your wife's name when you married her? A Cordal.
Q Give me the name of her father. A Her father's name was Joe Hall.
Q She had been married before she married you? A Yes sir.
Q Is her father dead? A Yes sir.
Q Give me the name of her mother. A Beckey.
Q Is she dead. A Yes sir.
Q Give me the names of these four children by this marriage.
A William A. Pauley.
Q How old is that child. A 13.
Q The next child? A Orval.
Q How old is that child? A 8.
Q The next child? A Elisee.
Q How old is that child? A She is 4.
Q The next child? A Lee Boy (or Lorey).
Q How old is it? A One.
Q These children are all living are they.

Commissioner: Consult the roll for Clarisey. A I have done so.
Q Your wife was Cordal in 1880 was she? A Yes sir.
Commissioner: Look on the roll of 1880 for Clarisey Cordal.
Clerk: The name does not appear.

The 1880 authenticated roll of the citizens of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the citizens of the Cherokee Nation examined, and the names of the applicants not found thereon.

The applicant applies for the enrollment of himself, his wife and four minor children. He began the application by including an adopted child, but at the present he has fixed it to the four children of this marriage. He claims he married his wife in 1887, and that he is a white man and his wife a Cherokee by blood. He cannot, however, possess any rights except through his wife. He states that his wife was born in Missouri or Arkansas, and came to the Cherokee Nation some 18 years ago, but he states that she has never been admitted to citizenship by any authority whatever, nor has she ever been admitted upon any of the rolls of the Cherokee Nation. A consultation of the rolls available at this time confirms this statement. As any rights possessed by the applicant and the children must arise through the wife and mother, it follows from the records stated that this Commission has no jurisdiction at this time over applications of this character, there being no admission to citizenship nor any enrollment whatever of any member of the family, therefore no further proceedings will be taken with the applicant upon the ascertainment of this status, and a memorandum will be made of this case, and this application will be listed for rejection upon account of lack of jurisdiction, and this memorandum will be forwarded to the Secretary of the Interior, and his decision will be final, if he approves the decision of this Commission.

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R. T. Pauley

In the matter of the application of Robert E. Pauley for the enrollment of his step-son, John David Cordal, as a citizen by blood of the Cherokee Nation. He being first duly sworn by Commissioner Breakinridge, testified as follows:

By the Commissioner:

- Q Give me the name of the child. A John David Cordal.
Q How old is this child? A 16.
Q You say that this is a child of your wife by a former husband?
A Yes sir.
Q Is he living now? A Yes sir.

Supplemental Decision.

It appears from the last statement of the applicant that what he calls his adopted child is a child of his wife by a former husband, but as shown in the decision rendered heretofore, in regard to the mother of this child, she has no status whatever as a Cherokee citizen under which the child could inherit. A careful examination of the rolls shows that the child's name is not on any of the roll and therefore the same decision is rendered in the case of the child, John David Cordal, as in the case of the mother and her children of her present marriage, namely, that this Commission has no jurisdiction whatever over the application, and he will be listed for rejection for that reason. The decision of the Commission will be forwarded to the Secretary of the Interior for his approval.

Kate DeBord, being first duly affirmed states that as stenographer to the Commission to the Five Civilized Tribes she reported in full all proceedings had, and correctly recorded the testimony in this case, and that the foregoing is a full and complete transcript of her stenographic notes thereof.

Kate DeBord

Subscribed and affirmed to before me this 1st day
of April, 1902.

[Signature]
Notary Public.

CHEROKEE

Robert E. Pemberton

REFUSE
ACT OF MARCH 1838
MEMORANDUM

9 1/2

Cher Memo 329

Cher Memo 329

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

APR 11 1901

[Handwritten signature]
ACTING

Memorandum

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., MARCH 27, 1901.

In the matter of the application of Robert E. Pauley for the enrollment of himself as an intermarried citizen, and the enrollment of his wife and five minor children as citizens by blood of the Cherokee Nation. He being first duly sworn by Commissioner Breckinridge, testified as follows:

Examination by the Commissioner:

- Q Give me your full name? A Robert E. Pauley.
Q How old are you? A 59.
Q What is your post office? A Summit.
Q In what district do you live? A I live now in the Creek Nation right on the line in the Cherokee and Creek.
Q You live just across the Creek line? A Yes sir.
Q Do you live inside of the Creek line? A Yes sir.
Q How long have you lived there? A Never there this year.
Q Where did you live before that? In the Cherokee.
Q Who is it you want to enroll-- yourself and family? A Yes sir.
Q You have a wife? Yes sir.
Q How many children have you? A Five.
Q Are these children all under 21 years of age? A Yes sir. One of them is an adopted child. She had a son when me and her was married.
Q Not the child of this marriage? A No sir.
Q They are all under 21 years of age? A Yes sir.
Q Does this adopted child go by your name? A No sir.
Q Do you claim to be a Cherokee by blood? A No sir, I am a white man.
Q Is your wife a Cherokee by blood? A Yes sir.
Q When did you marry your wife? In 1887.
Q Give me the name of your wife. A Clarisey.
Q How old is she? A 35.
Q You say she is a Cherokee by blood? A Yes sir.
Q Where was she born? A She was born on the White River on the line of Missouri and Arkansas. I do not know whether it was in Missouri or Arkansas.
Q So your wife was born in either Missouri or Arkansas, you do not know which? A No sir, right on the line.
Q How long has she lived in the Cherokee Nation? A 12 years.
Q Has she ever been admitted on any of the rolls of the Cherokee Nation? A No sir, no sir. I tried to get her on the Dawes Commission, but I was too late.
Q Has she ever been admitted to citizenship by the Cherokee Council, or Commission, or any authorities, whatever? A No sir, none at all. I got up the proof and everything and got it in too late.
Q What was your wife's name when you married her? A Cordal.
Q Give me the name of her father. A Her father's name was J. W. Hall.
Q She had been married before she married you? A Yes sir.
Q Is her father dead? A Yes sir.
Q Give me the name of her mother? A Beckey.
Q Is she dead? A Yes sir.
Q Give me the name of these four children by this marriage.
A William A. Pauley.
Q How old is that child? A 12.
Q The next child? A Orvel.
Q How old is that child? A 8.
Q The next child? A Hideo.
Q How old is that child? A She is 4.
Q The next child? A Lee Roy (or Leroy)
Q How old is it? A One.
Q These children are all living are they? A Yes sir.

R. T. Pauley-----2-----

Commissioner: Consult the roll there for Clarisey. A I have done so.

Q Your wife was Cordal in 1880 was she? A Yes sir.

Commissioner: Look on the roll of 1880 for Clarisey Cordal .

Clerk: The name does not appear, sir.

The 1880 authenticated roll of the citizens of the Cherokee Nation examined and the name of the applicants not found thereon.

The 1896 Census roll of the citizens of the Cherokee Nation examined and the names of the applicants not found thereon.

The applicant applies for the enrollment of himself, his wife and four minor children. He began the application by including an adopted child, but at present he has fixed it to the four children of this marriage. He claims he married his wife in 1887, and that he is a white man and his wife a Cherokee by blood. He cannot, however, possess any rights except through his wife. He states that his wife was born in Missouri or Arkansas, and came to the Cherokee Nation some 12 years ago, but he states that she has never been admitted to citizenship by any authority whatever, nor has she ever been admitted upon any of the rolls of the Cherokee Nation. A consultation of the rolls available at this time confirms this statement: As any rights possessed by the applicant and the children must arise through the wife and mother, it follows from the records stated that this Commission has no jurisdiction at this time over applications of this character, there being no admission to citizenship nor any enrollment whatever of any member of the family, therefore no further proceedings will be taken with the applicant upon the ascertainment of this status, and a memorandum will be made of this case, and this application will be listed for rejection upon the account of lack of jurisdiction and this memorandum will be forwarded to the Secretary of the Interior, and his decision will be final if he approves the decision of the Commission.

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R. E. Pauley-----3-----

In the matter of the application of Robert E. Pauley for the enrollment of his step-son, John David Cordal as a citizen by blood of the Cherokee Nation. He being first duly sworn by Commissioner Breckinridge, testified as follows:

By the Commissioner:

- Q Give me the name of the child. A John David Cordal.
Q How old is this child? A 18.
Q You say this is a child of your wife by a former husband? A Yes Yes sir.
Q Is he living now? A Yes sir.

Supplemental Decision.

It appears from the last statement of the applicant that what he calls his adopted child is a child of his wife by a former husband, but as shown in the decision rendered heretofore, in regard to the mother of this child, she has no status whatever as a Cherokee citizen under which the child could inherit. A careful examination of the rolls shows that the child's name is not on any of the rolls, and therefore, the same decision is rendered in the case of this child, John David Cordal, as in the case of the mother and her children of her present marriage, namely, that this Commission has no jurisdiction whatever over the application, and he will be listed for rejection for that reason. The decision of the Commission will be forwarded to the Secretary of the Interior for his approval.

-----o-----

Kate DeBord, having been first duly affirmed, states that as stenographer to the Commission to the Five Civilized Tribes she reported in full all proceedings had, and correctly recorded the testimony in this case, and that the foregoing is a full and complete transcript of her stenographic notes thereof.

Kate L. Bord

Subscribed and affirmed to before me this 1st Day
of April, 1901.

Notary Public.

CHEROKEE.

John D. Cordell

RECEIVED
ACT OF MAY 31, 1900
MEMORANDUM.

81

Cher Memo 330

Cher Memo 330

DEPARTMENT OF
COMMISSION OF THE FIVE

FILED
AUG 2 1901

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MEMORANDUM.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MEMPHIS, I. T. MARCH 27, 1901.

In the matter of the application of Fannie Rice for the enrollment of herself and child as citizens by blood of the Cherokee Nation. She being first duly sworn by Commissioner Breckinridge, testified as follows:

Examination by the Commissioner:

- Q Give me your full name. A Fannie Rice.
Q How old are you? A 21.
Q What is your present office? A Housekeeper.
Q Do you live in the Cherokee Nation? A No sir.
Q Where do you live? A In the Creek Nation.
Q You are applying for Cherokee enrollment are you? A Yes sir.
Q Who is it you want to enroll besides yourself? A Baby.
Q Have you a husband? A Yes sir.
Q When did you marry him? A Been married about three years.
Q Is he a white man or a Cherokee? A White man.
Q He married you late to be enrolled-- he married after December 16, 1893, did he? A Yes sir.
Q Do you do not apply for him? A No sir.
Q Do you desire to be a Cherokee by blood? A Yes sir.
Q How long did you live in the Cherokee Nation? (No answer)
Q Were you born in the Cherokee Nation? A No sir. Yes sir.
Q Have you lived in the Cherokee Nation all your life? A Yes sir.
Q When did you come to the Creek Nation? A I could not tell.
Q How long ago? A I do not know.
Q Since you were married? A No sir before I married.
Q Well, you have not lived all of your life then in the Cherokee Nation? A No sir.
Q You have lived part of the time in the Creek Nation.
Q You do not know how old you were when you came to the Creek Nation.
A No sir.
Q Has it been a long while? A Been a good while.
Q Are you on any of the rolls of the Cherokee Nation? A No sir.
Q Have you ever been admitted to citizenship in any way? A No sir.
Q Have any of your people ever been admitted to citizenship as far as you know? A No sir, not that I know of.
Q Give me the name of your father. A Charles Durham.
Q Is he alive? A Yes sir.
Q Give me the name of your mother. A Susan Durham.
Q Is she alive? A Yes sir.
Q When were you married-- how long ago? A Been about two years.
Q What was the name of your husband? A John M. Rice.
Q Were you ever married except to him? A No sir.
Q Give me the name of your child? A Jessie Rice.
Q How old is that child? A 10 months old.
Q Have you a certificate of your marriage to your husband? A Yes sir.
Q Let me have it, please. A I haven't it with me.
Commissioner: Give me the 1890 enrollment of Fannie Rice.
Clerk: Same does not appear upon the roll.
Commissioner: Do you find her father, Charles Durham?
Clerk: No sir.
Commissioner: Sarah Durham? A No sir.
Commissioner: Find them on the roll of 1894? A No sir.

The 1890 authenticator roll of the citizens of the Cherokee Nation examined, and the names of the applicant's not found thereon.

The 1894 census roll of the citizens of the Cherokee Nation examined and the names of the applicants not found thereon.

Fannie Rice

Kate DeBord, being first duly affirmed states that as stenographer to the Commission to the Five Civilized Tribes, she reported in full all proceedings and correctly recorded the testimony in this case, and that the foregoing is a true and complete transcript of her stenographic notes thereof.

Kate DeBord

Subscribed and affirmed to before me this 1st day of April, 1902.

J. H. Adams
Notary Public.

CHEROKEE.

Fannie Rice et al

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

94

Cher Memo 331

Cher Memo 331

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

APR 10 1891

[Handwritten signature]

SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MEMPHIS, I. T. MARCH 27, 1891.

M E M O R A N D U M .

In the matter of the application of Sarah Ball Reed for the enrollment of herself and her four minor children as citizens by blood of the Cherokee Nation. She being first duly sworn by Commissioner Breakinridge, testified as follows:

Examination by the Commissioner:

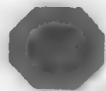
- Q Give me your full name. A Sarah Ball Reed (Reed) .
Q How old are you, A 29.
Q What is your post office? A Haskagee.
Q Do you live in the Cherokee Nation? A No sir.
Q Do you live in the Creek Nation? A Yes sir.
Q Who is it you want to put on the rolls? A Me and my children.
Q How many children have you? A 4.
Q Do you claim to be a Cherokee by blood? A Yes sir.
Q Have you ever lived in the Cherokee Nation? A Yes sir.
Q When did you live there? A Lived there until I was married--
grown-- just a small child.
Q When were you married? I was married in 1880.
Q Since then you have lived in the Creek Nation have you? A Yes.
Q To whom were you married? A I was married to Reed the last
time.
Q Who were you married to the first time? A Joseph Miles Case.
Q Is he dead? A Yes sir.
Q Was he a white man or a Cherokee? A He was a white man.
Q And after that you married again did you? A Yes sir.
Q Who did you marry the second time? A Will Reed.
Q Is he dead? A No sir.
Q You are not living with him now? A Yes sir.
Q Well, why don't you give your name as Sarah Ball Reed?
A I know it is-- I aimed to.
Q You have only been married those two times? A That is all.
Q Give me the name of your father. A Charles C. Dushan.
Q Is he is alive? A Yes sir.
Q Give me the name of your mother. A Susanna Dushan.
Q Is she alive? A Yes sir.
Q Is your present husband a white man? A Yes sir.
Q Are you on any of the rolls of the Cherokee Nation? A No sir.
Q Is your father or mother upon any of the rolls of the Cherokee
Nation? A I don't know.
Q Have you, or your father or mother ever been admitted to any
citizenship by any authority out of the Cherokee Nation?
A No sir, not that I know of.

Statement by the Commission:

It appears from the Commission records, docket B
page 114, case 1885, that in 1886 Susanna Dushan,
whose name is given by the plaintiff as that of her
mother, applied for admission to citizenship, and that
the application was rejected by the Commission, and
that no appeal was taken from that decision.

- By the Commission: See if the name of the applicant is on the
roll of 1880. A She is not sir.
Q Or her mother? A No sir.
Q Are any of them on the roll of 1880? A No sir.
Q (To applicant) Give me the name of your children.
A Maude A. Case.
Q How old is that child? A She is 7.
Q The next? A Vera Ethel Case.
Q How old? A 5 years old.

CORRECTION



The preceding document(s) has been refilmed
to assure legibility and its image appears
immediately hereafter.

DEPARTMENT OF THE INTERIOR;
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE? I. T. MARCH 27, 1901.

M E M O R A N D U M .

In the matter of the application of Sarah Bell Reed for the enrollment of herself and her four minor children as citizens by blood of the Cherokee Nation. She being first duly sworn by Commissioner Breckinridge, testified as follows:

Examination by the Commissioner:

- Q Give me your full name. A Sarah Bell Case (Reed) .
Q How old are you, A 29.
Q What is your post office? A Muskegee.
Q Do you live in the Cherokee Nation? A No sir.
Q Do you live in the Creek Nation? A Yes sir.
Q Who is it you want to put on the rolls? A Me and my children.
Q How many children have you? A 4.
Q Do you claim to be a Cherokee by blood? A Yes sir.
Q Have you ever lived in the Cherokee Nation? A Yes sir.
Q When did you live there? A Lived there until I was married--
grown-- just a small child.
Q When were you married? A I was married in 1890.
Q Since then you have lived in the Creek Nation have you? A Yes.
Q To whom were you married? A I was married to Reed the last
time.
Q Who were you married to the first time? A Joseph Miles Case.
Q Is he dead? A Yes sir.
Q Was he a white man or a Cherokee? A He was a white man.
Q And after that you married again did you? A Yes sir.
Q Who did you marry the second time? A Will Reed.
Q Is he dead? A No sir.
Q You are not living with him now? A Yes sir.
Q Well, why don't you give your name as Sarah Bell Reed?
A I know it is-- I aimed to.
Q You have only been married these two times? A That is all.
Q Give me the name of your father. A Charles C. Dunham.
Q Is he la alive? A Yes sir.
Q Give me the name of your mother. A Susanne Dunham.
Q Is she alive? A Yes sir.
Q Is your present husband a white man? A Yes sir.
Q Are you on any of the rolls of the Cherokee Nation? A No sir.
Q Is your father or mother upon any of the rolls of the Cherokee
Nation? A I don't know.
Q Have you, or your father or mother ever been admitted to any
citizenship by any authority ax of the Cherokee Nation?
A No sir, not that I know of.

Statement by the Commission:

It appears from the Commission records, docket B
page 114, case 3655, that in 1896 Susanne Dunham,
whose name is given by the plaintiff as that of her
mother, applied for admission to citizenship, and that
the application was rejected by the Commission, and
that no appeal was taken from that decision.

- By the Commission; See if the name of the applicant is on the
roll of 1890. A She is not sir.
Q Does the name of her father appear? A No sir.
Q Or her mother? A No sir.
Q AR any of them on the roll of 1895? A No sir.
Q (To applicant) Give me the name of your children.
A Maude A. Case.
Q How old is that child? A She is 7.
Q The next? A Vera Ethel Case.
Q How old? A 5 years old.

S. R. Reed-----2-----

- Q The next child? A Robert Lee Case.
Q How old? A 3 years old.
Q Next child? A Jennie May.
Q How old is that child? A Two years old.
Q When did you marry your present husband, Reed? A Last August.
Q These children are all living are they. A Yes sir.
Q Are any of these children on the roll of 1896? A No sir.
By the Commissioner:

The applicant applies for the enrollment of herself and four minor children. It appears from the evidence that her mother applied to the Deves Commission for admission to Cherokee citizenship in 1896, and that her application was rejected and that no appeal was taken therefrom. It further appears that neither the applicant or her mother or father, or any of the applicant's children are upon any roll of the Cherokee Nation nor have any of them ever been admitted to citizenship by any authorities whatever. It follows, therefore that the Commission has no jurisdiction over this application, and it will be listed at this time for rejection for that reason, and a memorandum will be made of the case. The decision of the Commission will be reported to the Secretary of the Interior for his approval and if approved by him this action will be final under the present law.

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Kate De Bord, being first duly affirmed states that as stenographer to the Commission to the Five Civilized Tribes she reported in full all proceedings had and correctly recorded the testimony in this case, and that the foregoing is a true and complete transcript of her stenographic notes thereof.

Kate De Bord

Subscribed and affirmed to before me this 4 day of
April 1901.

H. H. Brown

Notary Public.

CHEROKEE

331

Sarah B Reed et al

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

12

Cher Memo 332

Cher Memo 332

(Name.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., MARCH 27th, 1901.

In the matter of the application of William H. Dunham for enrollment as a citizen of the Cherokee Nation; said Dunham being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

- Q Give me your full name? A William H. Dunham.
Q How old are you? A 27 past.
Q What is your post office? A Muskogee.
Q Do you live in the Cherokee Nation? A No, sir.
Q Where do you live? A Live in the Creek Nation.
Q Do you apply for enrollment as a Cherokee? A Yes, sir.
Q Who is it you want to enroll, besides yourself? A Just myself.
Q Do you claim to be a Cherokee by blood? A Yes, sir.
Q Are you on any roll of the Cherokee Nation? A No, sir.
Q Have you ever been admitted to Cherokee citizenship in any way?
A No, sir.
Q Give me the name of your father? A Charles J.
Q Is he dead? A No, sir.
Q Give me the name of your mother? A Susan Ann Dunham.
Q She is alive is she? A Yes, sir.
Q Did you not apply for admission to citizenship in the application of your mother before the Dawes Commission in 1896? A Not that I know anything about.

Tribal rolls of citizens of the Cherokee Nation in the possession of this Commission examined and applicant's name not found thereon.

COM'R BRECKINRIDGE: -The records of the Commission, Docket B, page 114, case #3635, show that Susan Ann Dunham, presumably the mother of the applicant, applied for admission to Cherokee citizenship before the Dawes Commission in 1896; that the application was denied and that no appeal was taken therefrom.

It follows from the records and testimony in this case, the applicant not being upon any roll of the Cherokee Nation and never having been admitted to citizenship in any manner whatever, and apparently his mother having applied to the Dawes Commission in 1896 and been rejected, from which action no appeal was taken, that this Commission has no jurisdiction over his application and only a memorandum, therefore, can be made of the application. This memorandum will be reported to the Secretary of the Interior and will be final, if approved by the same. The applicant at this time will be listed for rejection for lack of jurisdiction.

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J. O. Fosson, 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 28th day of March, 1901.

[Signature]
Notary Public
Commissioner

332

CHEROKEE.

William H. Dunbar

REFUSED
ACT OF MAY 31, 1830
MEMORANDUM.

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Cher Memo 333

Cher Memo 333

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Mar 23
a

Rejected: Memorandum. Cherokee by blood.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 15, 1881.

In the matter of the application of Lydia Mitchell for the enrollment of herself and six children as Cherokees by blood.

Lydia Mitchell, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Lydia Mitchell.
- Q How old are you? A 45.
- Q What is your post office? A Princeton, Ind., or Mount Carmel, Ill., is the place where I have been writing my mail.
- Q Do you live in the State of Illinois? A In the State of Indiana.
- Q Near the Illinois line? A Yes, sir, it is nearer to us to the post office of Mount Carmel than to Princeton.
- Q You live in Indiana? A Yes, sir, Gibson county, Ind.
- Q Who do you want to have put on the roll, just yourself? A Eight children.
- Q Are they all under 21 years of age? A There are two over.
- Q You are only permitted to apply for those under 21; then you apply for these six children? A Yes, sir, six under 21.
- Q Are these children all unmarried? A Yes, sir, I have none married only the eldest boy.
- Q So these six children that you apply for are under 21 and all of them unmarried? A Yes, sir.
- Q You claim to be a Cherokee by blood, do you? A Yes, sir.
- Q Have you ever lived in the Cherokee Nation? A Why I suppose I did when my mother took me away; I stayed all night in Fort Gibson when I was a child, I suppose I live somewhere around here.
- Q About how old were you when you lived in the Cherokee Nation? A About eight or nine years old I suppose.
- Q And you have never been in the Cherokee Nation since that time? A No, sir, not till last week.
- Q Where have you lived all that time? A I have lived all that time in the State of Illinois until about six years ago we moved to Indiana.
- Q So you lived in Illinois and Indiana since you were about eight or nine years ago? A Yes, sir, since I was taken away from here.
- Q Did your father and mother take you away from here? A Yes, sir my mother and stepfather.
- Q Did your mother go to Illinois with you? A Yes, sir.
- Q Did she there live and die? A She moved to Missouri and died there.
- Q She never came back to the Cherokee Nation after they took you to Illinois? A I don't know, sir, my mother and father left me after they took me to Illinois; my step-father is back here at Tahlequah I hear.
- Q Give me the name of your father? A Lewis Blair.
- Q Where is he, dead? A I suppose so.
- Q And the name of your mother? A Polly Blair.
- Q And your mother is dead? A Yes, sir.
- Q Did you say she died in the State of Missouri? A Yes, sir, in the State of Missouri.
- Q You are not upon any roll of the Cherokee Nation? A Not that I know of.
- Q Have you ever been admitted to citizenship by the Cherokee Commission or Council? A No, sir, unless it was before I went away.
- Q You were a child then? A Well, I haven't been admitted.
- Q Nor by the United States Court? A No, sir.
- Q You never applied to the Bureau Commission in 1880 to be admitted as a citizen? A No, sir.
- Q You have been married, have you? A Yes, sir, I am married now.
- Q More than once? A Just once.
- Q To whom were you married? A John Franklin Mitchell.

Lydia Mitchell - 2.

- Q Is he alive? A Yes, sir.
- Q Where is he living? A He is back there where my other two sons is, in the State of Indiana.
- Q He is a white man? A Mixed blood with Mexico; some of his grandparents were white.
- Q He doesn't claim to be a Cherokee? A Not a full blood.
- Q Has he ever lived in the Cherokee Nation? A No, sir, never was out of them two states as I knowed him to be; born and raised in the state of Illinois only the time we lived in Indiana.
- Q When were you and him married? A In 1871.
- Q Give me the names of your six children that are under 21 years of age? A Rosa Mitchell.
- Q How old is this child? A 19.
- Q The next child? A Albert Green Mitchell.
- Q How old is that child? A He is 17.
- Q How the next child? A John D. Mitchell.
- Q How old is that child? A He is 14.
- Q The next child? A Dora, she is 13.
- Q The next child? A Eddie A. Mitchell.
- Q How old is he? A He is 9.
- Q The next child? A Ida Mitchell.
- Q How old is she? A 6.
- Q Are these children all living now? A Yes, sir.
- Q They are all up in Indiana? A I have them all with me excepting Albert.
- Q Where is he? A. He is in the State of Indiana.
- Q Where these children all born in Indiana? A They were born all of them in Illinois.
- Q Was anyone of them ever been in the Cherokee Nation in their lives? A Not till now.
- Q Are they here now? A I have all of them except Albert.
- Q All are in the Nation now except Albert? A Yes, sir, those six under 21.
- Q All these six children are here excepting Albert? A Yes, sir.
- Q And Albert is in Indiana? A Yes, sir.
- Q When did these children we are talking about come here? A They came when I came last week.
- Q And none of them were ever here before? A No, sir.

The 1880 authenticated roll of Cherokee Examinations examined and the applicants not identified thereon.
The 1896 census roll of Cherokee Freedmen examined, and the applicants not identified thereon.

Commissioner Breckinridge: The applicant applies for the enrollment of herself and six children. It appears from the testimony that the applicant was in the Cherokee Nation when a child, and was taken by her parents from the Cherokee Nation when eight or nine years of age to the State of Illinois, and that since that time she has lived exclusively in the States of Illinois and Indiana; that she married in the State of Illinois; that her husband has never been at any time in the Cherokee Nation, and the applicant is not found upon any roll of the Cherokee Nation, nor has she ever been admitted or applied for admission to citizenship by any court, commission or authority whatever. The applicant only returned to the Cherokee Nation last week, at which time she brought five of the six children named in the application. All six of these children are now living; one is still back in the State of Indiana, and all were born in the State of Illinois, and have lived in Illinois and Indiana continuously from the time of their birth until last week. It is evidence that this Commission has no jurisdiction whatever over an application of this character, and only a memorandum can be made of the

Lydia Mitchell - 3.

case, and this application will be listed for rejection for lack of jurisdiction. This decision, if approved by the Secretary of the Interior, will be final, and the applicant will be informed of the result at her post office 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 April, 1901.

W. H. ...
Commissioner.

CHEROKEE.

333

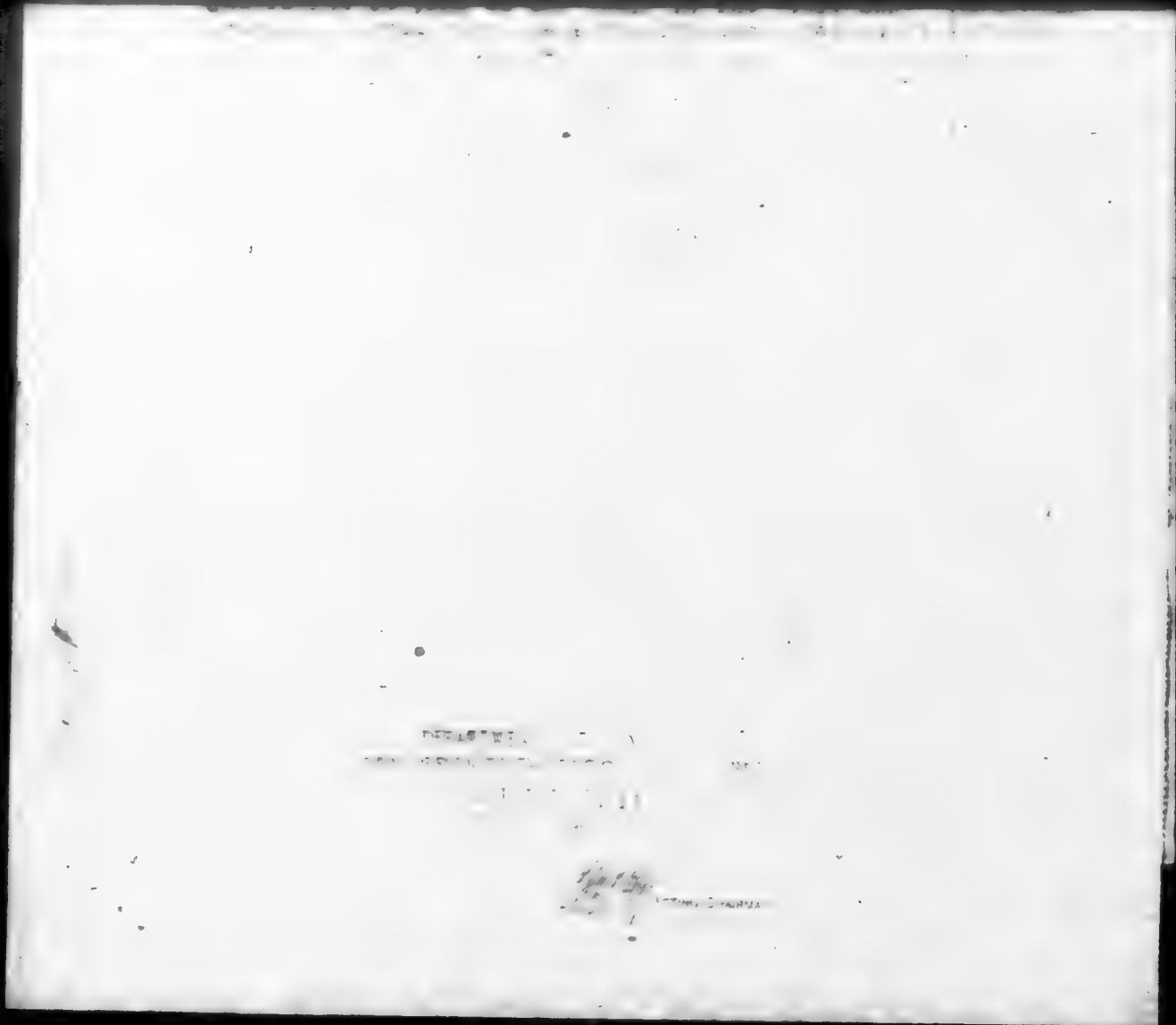
By the writer

REFUSED
ACT OF MAY 31
MEMORANDUM.

of 1

Cher Memo 334

Cher Memo 334



Sherokee by blood.
Rejected, Name.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 22, 1901.

In the matter of the application of Lou Meeks for the enrollment of herself as a Cherokee by blood.

Lou Meeks, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q What is your name? A Lou Meeks.
- Q Who is it you want to have enrolled besides yourself? A My brother Sil! Meeks is on the roll.
- Q I want to know who else you want to have put on the roll besides yourself? A Nobody else but myself.
- Q How old are you? A 22 years old.
- Q What is your post office? A Gibson.
- Q In what district do you live, Illinois? A No, sir, Tahlequah.
- Q Do you claim citizenship as a Cherokee by blood? A Yes, sir.
- Q How long have you lived in the Cherokee Nation? A Ever since I was a little girl about 12 years old.
- Q Where did you live before that? A Before I came to the Nation?
- Q Yes. A Why I lived in the Creek Nation before I came down here.
- Q Where were you born? A In Arkansas.
- Q How long did you live in the Creek Nation? A I stayed there about five years.
- Q Before you lived in Arkansas? A Yes, sir, I was born there and then I came to the Creek Nation.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
- Q Give me the name of your father? A Lewis Meeks.
- Q Is he dead? A Yes, sir.
- Q Give me the name of your mother? A Talitha Jones.
- Q Is she dead? A Yes, sir.
- Q How long has your father been dead? A He has been dead ever since I was a little child.
- Q How long has your wife been dead? A She has been dead about 15 years.
- Q Was her name Jones when she died? A Yes, sir.
- Q She married after your father died, did she? A No, sir.
- Q Well, why wasn't her name Meeks? A Well it was Meeks after she married my father, but it was Jones before.
- Q Well, when she died her name was Meeks? A Yes, sir.
- Q You are not on the roll of 1899 are you? A I don't know, sir, I think my name is on the 1899 roll, that is all I recollect.
- Q Did you draw Cherokee strip money in 1894? A No, sir, I drew the old settler money.
- Q Were you ever admitted to citizenship by the Cherokee Council or Commission? A Yes, sir.
- Q Have you any certificate of your admission? A No, sir.
- Q Have you any proof of your admission at all? A Yes, sir.
- Q Where is your proof? A At Eufaula.
- Q Eufaula, Alabama? A No, sir, in the Creek Nation.
- Q What kind of proof have you? A Abner Brasfield.
- Q Abner Brasfield would hardly be able to give the kind of proof you need; you ought to have a document to show that the Council admitted you, as personal evidence would not be sufficient on a question of that kind; did you never get a document to show that the council had admitted you? A No, sir.
- Q What could Abner Brasfield tell? A Well, his folks got a right and he is my cousin.
- Q And that is the way you think it comes about? You claim then that you are admitted by the Council and you don't claim to have been admitted by a Cherokee Commission or Court, but by the Council; is that it? A I don't know, sir, I was small when my name was first put on the roll.
- Q Did you ever apply to the Dawes Commission for admission to citi-

Lou Meeks - 2.

Q citizenship in 1897 Did you have a brother named John? A Yes, sir.

Q And a brother named Will? A Yes, sir.

Q And your name is Lou? A Yes, sir.

Q And have you a sister named Mary? A Yes, sir.

Q And a brother named Jesse? A No, sir.

Q Who is Jesse A. Meeks? Well I cannot find your name here with your brother John and your aka brother William and your sister Mary, Mary F.; has she got an "r" in her name? A Yes, sir.

Q You all applied before the Dawes Commission in 1896, and you were all rejected and no appeal appears to have been taken from that decision; now have you any recollection of that case? A No, sir, no, sir.

The 1880 authenticated roll of Cherokee citizens examined and the applicant not identified thereon.

The 1896 census roll of Cherokee citizens examined, and the applicant not identified thereon.

Applicant applied to Dawes Commission in 1896, Citizenship Docket A. page 474, Cherokee case No. 8906; rejected, no appeal.

Commissioner Breckinridge- The applicant states that she has lived in the Cherokee Nation since she was 18 years of age; that prior to that time she lived five years in the Creek Nation and that prior to that time she lived in the State of Arkansas. She is not identified upon the roll of 1880 or upon that of 1894 or upon the census roll of 1896. She claims to have been admitted to citizenship by the Cherokee Council, but presents no evidence of such action, and cites only in support thereof that certain cousins of hers were admitted by the Council, which of course has no support to her claim. It further appears that the applicant was rejected by the Dawes Commission in 1896 as set forth in the testimony. Therefore, from the present testimony and evidence, the applicant has never been recognized or admitted in any manner or by any authority to Cherokee citizenship. She is not upon any roll, and the Commission is deemed under these conditions to have no jurisdiction over her application, and she will be rejected for lack of jurisdiction, and a memorandum will be made of her application. This memorandum will be reported to the Secretary of the Interior, and if she be finally rejected as must set forth by the Commission, and that rejection be approved by the Secretary of the Interior, that will, under the law, be final law in her case.

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 29th of April, 1901.



Commissioner.

CHEROKEE.

Low, Meeker

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

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Cher. Memo 335

Cher Memo 335

Almanac 336

Character by blood.

Department of the Interior,
Commission to the Five Civilized Tribes,
Pt. Gibson, I.T., April 25, 1901.

In the matter of the application of William Cornelius Rogers for the enrollment of himself, wife and six children as Cherokee by blood, being sworn and examined by Commissioner Brockington, he testified as follows: *Interrogatories*

- Q Give me your full name? A William Cornelius Rogers.
Q You apply for your enrollment as a Cherokee by blood? A Yes sir.
Q Do you want to apply for anybody besides yourself, myself, wife and six children?
Q What is your age? A 42.
Q What is your next-of-kin? A Wife.
Q In what district do you live? A Sequoyah District.
Q Are you a recognized citizen of the Cherokee Nation? A No sir.
Q You have never been recognized? A No sir.
Q Never been admitted to citizenship by council, or the Commission, or by the Dawes Commission? A No sir.
Q Did you ever apply to the Dawes Commission for admission?
A Yes sir.
Q When, in 1899? A Yes sir.
Q Give me the name of your father? A Lewis T.
Q Is he dead? A Yes sir.
Q Give me the name of your mother? A Harriet.
Q Is she dead? A Yes sir.
Q Give me the name of your wife? A Virginia.
Q How old is your wife? A She is 46 I believe.
Q She is a white woman is she? A Yes sir.
Q When were you and she married? A '76.
Q Give me the name of her father? A Philip Beard.
Q Give me the name of her mother? A Polly Beard.
Q Give me the names of your children, please? A Thomas L.
Q How old is that child? A He will be 21 the 15th of July.
Q He is 20 now? A Yes sir.
Q Give me the name of the next child? A Marion T.
Q How old is that? A Yes sir.
Q Give me the name of the next child? A Harrie.
Q How old is that child? A 17.
Q Give me the name of the next child? A Marion E.
Q How old is that child? A 14.
Q Give me the name of the next child? A Minnie Lee.
Q How old is she? A She is 13.
Q Give me the name of the next child? A Artie Bertieana.
Q How old is that child? A She is 7.
Q That is all is it? A Yes sir.
Q Are these children all living now? A Yes sir.
Q Now I understand you testify that neither you nor your wife nor your children are on my roll? A No sir.
Q And none of you have ever been admitted in any manner to Cherokee citizenship? A No sir.
Q Were your wife and children parties with you in your application to the Dawes Commission in 1899? A I think so, sir.

Country Records of the Dawes Commission June 18, page 244 case 4413, show that William C. Rogers, and others, applied to the Dawes Commission in 1896; a petition filed Aug. 31, for admission to Cherokee citizenship; the application was denied by the Commission; the case was appealed to the United States court and the judgment of the commission was sustained, court number 159.

The reporter's report in the court case just cited, enumerates as respondents to the case William C. Rogers, his wife, Sarah D., and their children, Thomas L., Marion T., Mary H., Harvie E., Minnie L., and Artie B. Rogers.

- Q Is Sarah a part of your wife's name? A Yes sir.

William Cornelius Rogers et al 2

Q Her proper name is Sarah V. A Sarah Virginia.

Q And they have your son Thomas L. as Thomas M., his proper name is Thomas L.? A To sir, they have got it right there, if I made that statement that's an error of mine.

Q What is the initial in Thomas name? A Thomas M.


Q Your daughter Maggie, what's her full name? A Mary Magdalene.

Gen'l Brockbridge: The applicant applies for the enrollment of himself wife and six children; the applicant claims to be a Cherokee by blood; but as shown in the testimony, he is not upon any roll of the Cherokee nation, and has never been recognized or admitted in any manner as a Cherokee citizen; he applied to the Texas Commission in 1896, for admission and was rejected; it is apparent, therefore, that this Commission has no jurisdiction over his application, and only a memorandum thereof will be made at this time; this will be forwarded to the Secretary of the Interior, and will be final in the case, if approved by the Secretary of the Interior; as for the applicant's wife, she is a white woman; her status is the same as regards the record as that of her husband, and she likewise will be listed upon a memorandum as rejected for lack of jurisdiction; the six children named in the testimony are all said to be living at this time; their status is shown to be the same as that of their father and mother, and they likewise will be listed as rejected for lack of jurisdiction, they being classed as Cherokees by blood.

Gen'l Brockbridge: William M. Graves, attorney for the applicants, states that he desires to present his case in full to the Secretary of the Interior, and the Commissioner's decision at this time is that he has no authority to go further into the merits of the case; but that of course the attorney for the applicants can himself address any communication that he desires to the Secretary of the Interior.

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 April 30, 1901.



Commissioner.

CHEROKEE.

335

William C Rogers
et al

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

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Cher Memo 336

Cher Memo 336



MEMORANDUM CASE.

Act of Congress, May, 31st 1900.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, Indian Territory, May 7th 1901.

In the matter of the application of Rebecca Justice for the enrollment of herself as a Cherokee citizen by blood; she being first duly sworn by Commissioner I. B. Needles, testified as follows:

- Q What is your name? A. Rebecca Justice.
Q How old are you? A. I was born in '48, October 28th.
Q That would make you 53 years of age then? A. Yes sir.
Q What is your post office address? A. Mineer, Texas.
Q You reside in the State of Texas do you? A. Yes sir.
Q Do you apply to be enrolled as a Cherokee citizen? A. Yes sir.
Q For whom do you apply besides yourself? A. Just myself.
Q Have you ever been recognized as a Cherokee citizen by the Cherokee authorities? A. No sir never have been.
Q Is your name on any of the rolls of the Cherokee Nation? A. No sir.

The tribal rolls of the Cherokee Nation now in the possession of the Commission examined and the name of Rebecca Justice not found thereon.

- Q Have you ever drawn any money from the Cherokee Nation? A. No sir this is my second time in the Nation.
Q Have you ever been admitted to citizenship in the Cherokee Nation by the Cherokee authorities? A. No sir.
Q Did you apply to the Commissioner in 1896, acting under act of June 10th, 1896, to be admitted to citizenship in the Cherokee Nation? A. No sir.

The citizenship record of the Commission to the Five Civilized Tribes under Act of June 10th 1896, examined and the name of Rebecca Justice not found thereon.

- Q Were you admitted by the United States Court for the Indian Territory upon an appeal from the Commission to the Five Civilized Tribes as a citizen of the Cherokee Nation, under the Act of June 10th 1896? A. No sir.

The court records examined and the name of Rebecca Justice not found to have been admitted by a judgment of the United States Court for the Indian Territory.

- Q Have you always lived in Texas? A. No sir I was raised in Florida.

By Com'r Needles,-

Mrs. Justice, under the provisions of the Act of Congress of May 31st 1900, the Commission is without jurisdiction to receive, consider or make any record in your application for the reason that you are not a recognized citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such. If you desire the Secretary of the Interior to consider your case and will so state to this Commission in writing, the matter will be submitted to the Secretary for his consideration when the final rolls are sent to him for his approval.

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. W. Rice

Subscribed and sworn to before me this 7th of May, 1881 at Vinita,
Indian Territory.



Commissioner.

CHEROKEE.

Rebecca Justice

REFUSED
ACT OF MAY 31, 1833
MEMORANDUM.

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Cher. Memo 337

Cher Memo 337



Births by blood.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Winita, I. T., May 21, 1901.

In the matter of the application of Della Brown for the enrollment of herself and five children as Cherokee citizens; she being sworn and examined by Commissioner C. A. Neesham, testified as follows:

- Q Give me your name. A Della Brown.
Q How old are you? A 27.
Q What is your postoffice? A Salina, Kansas.
Q Do you live in the Cherokee Nation? A No sir.
Q Where do you live? A I live in Salina, Kansas.
Q Do you want to be enrolled as a Cherokee by blood? A Yes sir.
Q You claim as a Cherokee by blood, do you? A Yes sir.
Q Do you want to enroll anybody besides yourself? A No sir.
Q Have you any family? A I have got five children.
Q You would apply for your children too would you? A Yes sir.
Q Is your husband living? A No sir.
Q You only apply then for the children, you don't apply for the husband? A No sir.
Q Are you a recognized citizen of the Cherokee Nation? A No sir.
Q Have you ever lived in the Cherokee Nation? A Yes sir.
Q When did you live in the Cherokee Nation? A It has been about 11 years ago.
Q How long did you live in the nation at that time? A I lived in the nation about 12 years.
Q Ending 11 years ago? A Yes sir.
Q Where did you live before that time? A I was in Missouri.
Q Where were you born? A In Kansas.
Q Where have you lived in the last 11 years? A Carthage, Mo.
Q Except at present you are in Kansas? A I have been in Kansas about three months.
Q Are you on any of the rolls of the Cherokee Nation? A No sir.
Q Have you ever been admitted to citizenship by the Cherokee authorities or by any United States authorities? A No sir.
Q Never been admitted in any manner? A No sir.
Q Give me the name of your father. A George Summers.
Q Is he dead? A Yes sir.
Q Give me the name of your mother. A Elizabeth Summers.
Q Is she dead? A No sir.
Q What was your father a Cherokee or white man? A Cherokee.
Q How long has he been dead? A He has been dead about three years.
Q Was he ever upon any of the rolls of the Cherokee Nation? A No sir, not that I know of.
Q What is your mother, a Cherokee or white woman? A She is a white woman.
Q She, of course, is not upon any roll? A No sir.
Q Were either your father or mother ever admitted to citizenship by any tribunal authority? A Not that I know of.
Q How long since you married? A I have been married 12 years.
Q To whom were you married? A John Brown.
Q He is dead, you say? A Yes sir.
Q Was he a white man? A Yes sir.
Q Give me the names of your children. A Edward Brown.
Q How old is that child? A He is 11 years old.
Q Give me the name of the next child? A Clarence Brown.
Q How old is Clarence? A He is 8.
Q The next child? A Raymond Brown.
Q How old is Raymond? A Five years old.
Q The next child? A Carl Brown.
Q How old is Carl? A Four years old.
Q The next child? A Claude Brown.
Q You never married but once? A No sir.
Q How old is Claude? A He is three.
Q Those children all living now? A Yes sir.

The tribal rolls of the citizens of the Cherokee Nation examined and the names of the applicants not found thereon.

The applicant applied for the enrollment of herself and five children. The applicant is 37 years of age. She states that she lived twelve years in the Cherokee Nation at a period ending 11 years ago, and that prior to and subsequent to that period she has lived all of her life in Kansas and Missouri. She is not a recognized citizen of the Cherokee Nation. She was born in Kansas. She is not upon any roll and has never been admitted in any manner, nor have either her father or her mother ever been recognized or enrolled, or admitted as a Cherokee citizen. The applicant's deceased husband was a white man, a non citizen, and hence she can derive no rights through him. Under the conditions stated, the applicant is considered to come under the act of Congress approved May 31, 1900, which does not permit this Commission to enroll anyone who is not a recognized citizen of the Cherokee Nation and has not been duly and lawfully enrolled or admitted as such. Therefore, the applicant's application for enrollment is listed for rejection for lack of jurisdiction, and a memorandum will be made thereof to that effect. As for the applicant's five children named in the testimony, they are ~~all~~ of the same status as herself, and therefore, these five children will be listed for rejection for lack of jurisdiction, and a memorandum will be made of their applications. The action of the Commission in regard to these applications will be reported to the Secretary of the Interior, and the law provides that if he shall approve of the action of the Commission that approval shall be final in the premises.

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 full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before this 24th day of May, 1901.

E. J. Anderson
W. H. Kendrick
 Commissioner.

CHEROKEE.

337

Della Brown et al

REFUSED

ACT OF MAY 31, 1870

MEMORANDUM.

Cher Memo 338

Cher Memo 338

9

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 23 1901

[Handwritten signature]
ATTORNEY GENERAL

Cherokee.
Memorandum case.

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

In the matter of the application of Ellen Stagg for the enrollment of herself and three children as Shereroes by blood.

Ellen Stagg, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Ellen Stagg.
- Q What is your age? A 51.
- Q What is your post office address? A Cherokee, Texas.
- Q Do you reside in the State of Texas? A Yes, sir.
- Q You apply to be enrolled as a citizen of the Cherokee Nation by blood? A Yes, sir.
- Q Have you ever been recognized by the authorities of the Cherokee Nation as a citizen? A Well, yes, sir, I haven't never been denied.
- Q Does your name appear upon any of the rolls of the Cherokee Nation? A Not unless they appear with Mrs. Childers, my mother.
- Q What was your mother's name? A Sarah Ann Childers.
- Q Is she living? A No, sir, she died the 9th of February.
- Q Was she a recognized citizen of the Cherokee Nation? A Yes, sir.
- Q What was your father's name? A My father has been dead so long I don't forget his name.
- Q Where were you born? A Born in Craig County, Kentucky.
- Q Did you ever reside in the Cherokee Nation? A Yes, sir.
- Q Where? A Coowessocowee, near Jim Jackson.
- Q Did you ever apply to the Cherokee authorities to be admitted as a Cherokee citizen? A Yes, sir.
- Q Did they admit you? A Yes, sir.
- Q Where at? A Why at Afton, at Vinita; Mrs. Childers carried us in then.
- Q Did you ever apply to the Dawes Commission in 1893 under the Act of June 10, to be admitted? A No, sir, I never was before the Dawes.
- Q Are you married? A Yes, sir.
- Q What is your husband's name? A A Stagg.
- Q When were you married? A I have been married four years the 17th of this year past December.
- Q Was A. Stagg your first husband? A No, sir, my first husband was McCain, Henry McCain.
- Q Is he living? A No, sir.
- Q When did he die? A He died in 1891.
- Q Your second husband then was Mr. Stagg? A Yes, sir.
- Q Is Mr. A. Stagg a citizen of the Cherokee Nation? A No, sir, I suppose he was rejected.
- Q Was your first husband? A No, sir, I haven't never come to this country then.
- Q Where were you married the first time? A I married in Kentucky.
- Q What did you first come to the Cherokee Nation? A Been fourteen years ago, I came to the Cherokee Nation in 1886 first, and my mother came, and I had no way to live here, I was a widow, and I went back, and I came once every year until I married here, and then I lived here three years and then I moved again.
- Q Moved where to? A Cherokee, Texas.
- Q What year was that? A Year before last.
- Q That would be 1899? A Yes, sir.
- Q And you have been living in Cherokee, Texas, since 1899?
- A Yes, sir; it is known I have been here the biggest part of my time.
- Q Does your name now appear on any of the rolls of the Cherokee Nation whatever? A None that I know of.
- Q Did you ever draw any money from the Cherokee Nation? A No, sir, never draw any money.
- Q How long has your mother been dead? A She died the 9th of February, this past February.
- Q Where at? A Coowessocowee, near Jim Jackson.
- Q How long has she lived in the Cherokee Nation? A She has been

Ellen Stages - 2.

living here just fourteen years.

Q Do you apply for anyone but yourself? A Yes, sir, I have eight children.

The 1880 authenticated roll of Cherokee citizens examined and the applicants not identified thereon.

The 1896 census roll of Cherokee citizens examined and the applicants not identified thereon.

Q Please give me the names of your children; the oldest under 21 years of age; those 21 and over must apply for themselves.

A Well, Wallace McGain.

Q Wallace is how old? A 14.

Q What is the next child? A Well, I gave you the first one first; the other one is 19.

Q What is his name? A George Washington McGain.

Q What is the next child? A Josiah McGain.

Q How old is Josiah? A He is 18.

Q The next? A That is the three youngest children, there is five older than that.

Q Are these children living at this time? A They are but one of them, one of them is here with me in the Nation.

Q You state that you were admitted by the Cherokee Council? A Yes, sir, at my mother's, there was a man came there taking of the census but he gave us no admit papers or nothing like that.

Q Did you ever appear before the National Council or the Cherokee Courts at Tahlequah? A No, sir, never was.

Q You have no certificate of admission from them? A No, sir, got no certificate of any kind.

Q You never drew any money for your children? A No, sir.

Q And their names are not upon any of the rolls? A No, sir.

Commissioner: Well, Mrs. Stages, under the provision of the Act of Congress of May 31, 1902, the Commission is without jurisdiction to consider or make any record of your application for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. The decision of the Commission will be forwarded to the Secretary of the Interior for his approval.

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.

Bruce S. Jones

Sworn to and subscribed before me this the 25th of May, 1902.

W. McKinstry

Commissioner.

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Commissioner Needles: In Cherokee Memorandum Case Number 338, the same being the application of Ellen Staggs made at Vinita, I. T., May 22nd, 1901, for the enrollment of herself and three children as Cherokees by blood, it is found upon review that the evidence and field judgment are not quite as full as may be desired.

In addition, therefore, to the present record, I make the following statement: Ellen Staggs shows by her testimony that she was never in the Cherokee Nation until 1886. Therefore she cannot be upon the roll of 1880, and a search of that roll shows that she is not upon it. The testimony already shows that she is not upon the roll of 1896, and a search this day of the roll of 1894 shows that she is not upon that roll. She does not know who her father was, as he evidently, according to the testimony, died in the State of Kentucky too early for the applicant to remember him, and there is no evidence that he was ever at any time in the Cherokee Nation; but her mother it appears came to the Cherokee Nation in 1886, and died in February of 1899. A careful search of the rolls shows that her mother has never been admitted to enrollment in 1880, in 1894, or in 1896, or upon the field rolls in the possession of the Commission, and there is no evidence that she was ever enrolled or recognized as a Cherokee citizen in any way whatever. As for the three children named in the testimony: Wallace, George W., and Josiah McCain, the youngest of these children is given as thirteen years of age, and the oldest as nineteen. Evidently all of them were born after the roll of 1880 was made and previously to the making of the rolls of 1894 and 1896. The rolls of 1894 and 1896 have been carefully searched, and none of these children are found upon either of said rolls. Their father was a white man, and hence they can claim only from their mother. In addition to the foregoing, the records of the Daves Commission have been carefully searched, and it does not appear that any of the parties in this application ever had any proceedings before the Daves Commission for admission to Cherokee citizenship in 1896, nor did the mother of Ellen Staggs participate in any proceedings before the said Commission. The only proceedings of the character last indicated under the name of Ellen Staggs or Childers were two cases in which all the parties concerned were rejected by the Commission, and no appeal was ever taken therefrom. There is no case for any one of the name of McCain. It is evident, therefore, that none of the parties of this application have any claim of any character whatever arising from the Daves Commission in 1896 or from the United States Courts growing out of such steps. As for the applicant's claim that she was admitted to citizenship by the Cherokee authorities, it is obvious from her testimony that she refers only to a visit which she states was made at one time by some officials engaged in taking a census. She distinctly states that no certificate was given or any paper of any kind. Of course, this cannot constitute admission in any sense, and it is evident from what has already been shown that neither she nor any of her family was even put on a roll.

It is entirely obvious from the foregoing that neither the applicant nor any one of her three children have ever been recognized and admitted or enrolled as citizens of the Cherokee Nation, and that she has no claim of any character arising from her deceased mother nor from her father, of whom she knows nothing, and hence she and the children named in the foregoing clearly come under the provisions of the Act of Congress approved May 31st, 1900, prohibiting enrollment of applicants of this character, and the field judgment, as recorded on May 22nd, 1901, and set forth in the original testimony, is hereby amended as stated.

To clear up the little ambiguity in the testimony, attention is called to the statement of the applicant in reply to the question: "Are these children living at this time?" to which question she replies, "They are, but one of them, one of them is here with me in the Nation." It is obvious that the record in this particular is somewhat defective. What was doubtless asked her was if these children were living in Kansas at this time, where the applicant is making her home, and that she intended to say, and doubtless did say, that they are, all but one of them, and she adds "one of them is here with me in the Nation." No doubt is entertained that the children were all living at the time of the application, two of whom were back in Kansas, and one of whom had accompanied the mother on her visit at that time to the Cherokee Nation.

And it is ordered that a copy of this statement and supplemental judgment be attached to each of the copies of the original testimony in this case for consideration in connection therewith by the full Commission and Secretary of the Interior.



Commissioner.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.



Sworn to and subscribed before me this 5th day of October, 1901.



Commissioner.

CHEROKEE.

338

Mr. Stagg, et al

REFUSED

407

Cher Memo 339

Cher Memo 339

1874
COMMISSIONER

RE. HIGH,
INDIAN TRIBES.

3

NO. 1000

Commissioner Needles: In Cherokee Memorandum Case Number 330, the same being the application for the enrollment of Martha A. Daves as a Cherokee by blood, it is desired to supplement the record and field judgment as follows:

Martha A. Daves being present and being mentally incompetent, her petition is made for her by her sister, Sally T. Garland. In the testimony of Sally T. Garland, in reply to the question: "Was she (her sister) ever admitted to citizenship in the Cherokee Nation?" she said: "She went through at Tahlequah, and the Commission rejected her, it had been five or six years ago, I don't know which." She was then asked the following question: "You have got no certificate of having been admitted by the authorities at Tahlequah?" she answered: "No, sir, I haven't got any certificate; they said that the mistake, that the reason she was rejected was because she was my half-sister, but she is not my half-sister; there is our names just as that gives." (Hands bible to Mr. Hastings.) It is evident from the foregoing that no certificate was ever issued to them by any Commission or authority at Tahlequah. I have now had the records of the Daves Commission carefully searched, and there is no evidence that Martha A. Daves was ever a party to any proceedings before that Commission. The original record shows that the tribal rolls of the Cherokee Nation in the possession of the Commission have been examined, and applicant's name not found on any of them. It is obvious that after the death of her mother in Georgia her father, a white man, brought these children to the Cherokee Nation some ten or eleven years ago with a view to having them admitted to citizenship. It may be that the failure to admit this woman was owing to a misunderstanding by the Cherokee Council or Commission as indicated by the applicant's sister; but be that as it may, it is perfectly obvious that she has never been a recognized citizen of the Cherokee Nation or admitted or enrolled as such, and therefore has been properly listed for rejection for lack of jurisdiction under the Act of May 31, 1900. A copy of this statement is ordered to be attached to the original testimony in this case.

Arthur G. Browning

The undersigned, being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Browning

Subscribed and sworn to before me this 5th day of October, 1901.

Arthur G. Browning

Commissioner.

CHEROKEE.

339

Martha A. James

REFUSED

ACT OF MARCH 3, 1900

MEMORIALS COM.

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Cher Memo 340

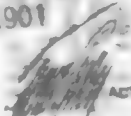
Cher Memo 340

Memo 340

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

FILED

5 1901



ACTING CHAIRMAN

Commissioner Needles. In reviewing Cherokee Memorandum Case Number 340, the same being the application of Ellie Snow for enrollment as a Cherokee citizen by blood, it is desired to call attention to the only statement indicated in the testimony which does not appear to have been read in a conclusive manner in the course of the testimony, and that is his claim that he is on the Old Settler's Roll of the Cherokee Nation. It is not deemed necessary to make any examination into this claim because the old Settler's Roll was a roll of settlers and not of citizens. His being upon that roll would not exclude him from the scope and effect of the Act of May 31, 1906, forbidding the enrollment of all persons who have not been recognized as Cherokee citizens, and duly and lawfully enrolled or admitted as such.

It is ordered that a copy of this statement be attached to each copy of the original testimony as filed in this case.

The undersigned, being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 5th day of October, 1901.


Commissioner.

CHEROKEE.

340

Ellis Snow.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

En

Cher memo 341

Cher Memo 341

M 341

100

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Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 2, 1901.

In the matter of the application of George W. Davis for the enrollment of himself, his wife, Columbia R. Davis, and seven children, as Cherokees by blood.

Columbia R. Davis, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Columbia R. Davis, I always sign it C. R. Davis.

Q What is your age, Mrs. Davis? A 45.

Q What is your postoffice? A It is Melsin now.

Q What district do you live in? A I live at Canadian district.

Q You apply to be enrolled as a Cherokee by blood? A Yes, sir.

Q Want to enroll anybody but yourself? A Myself and children, and my husband was admitted on the 1896, he and my children and husband.

Q What is your husband's name? A Davis.

Q Has he got any other name besides Davis? A George Davis.

Q How old is he? A He is 2 years older than I am.

Q How old is he? A Yes, sir.

Q How how many children have you? A Seven.

Q Give me the names of the children that are under age and unmarried? A I have no one married.

Q They are all under age, are they? A Yes, sir, all but one.

Q Give me the names? A Oscar.

Q How old is Oscar? A Going on 21.

Q Has he any other name besides Oscar? A Willie.

Q Is Willie his first name or middle name? A Oscar Augustus and Willie Lafayette.

Q How old is he? A 13.

Q The next one? A Thomas Jefferson.

Q How old is he? A 15.

Q The next one? A Isaac Thomas.

Q How old is he? A She is 12, going on 13.

Q The next one? A George Washington.

Q How old is he? A He is about 11 I think it is.

Q Well, the next one? A Rosa Ella.

Q How old is Rosa Ella? A She is 7, about 6 or 9 I think.

Q What is the name of the next one? A Charlie Carlton.

Q How old is he? A He is 3 years old.

Q Any others? He the youngest? A Yes, sir, he is the baby.

Q You claim to be a Cherokee by blood? A Yes, sir, I do.

Q What degree of blood have you? A Well, my mother was half breed and you can count it.

Q Your father a white man? A No, sir, he was some Indian.

Q Well, have you ever been recognized by the Cherokee authorities as a Cherokee? A I was recognized as admitted by the Cherokees.

Q Does your name appear upon any of the rolls of the Cherokee Nation? A '96.

Q On the roll of '96? A I think it was, yes, sir.

Q Is your name on the roll of 1897? A No, sir, I just had been admitted at '96.

Q By the Cherokee authorities: Have you any certificate of admission? A No, sir, I haven't seen any place I have been rejected.

Q Do you say you have been rejected? A No, sir, I haven't seen it.

Q Do you know whether you were admitted or not; do you know?

A I reckon I was.

Q What was your father's name? A He was a Mitchell.

Q What was his first name? A Mitchell is all.

Q Didn't have any given name? A John G. Mitchell.

Q Is he living? A Yes, sir, my father is living.

Q Where does he live? A He lives in Texas now.

Q What was your mother's name? A My mother was a Clark before

C.V.D.- 2.

she married.

Q Well, what was her given name? A Martha.

Q Where were you born? A I was born down here close to the Falls somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A Why I have been here off and on, well ever since I was big enough to know anything.

Q Where were you married? A I was married in the state.

Q What state? A In Texas.

Q Where were these children born, for whom you apply? A Why, some was born in some place and some another and I can't remember.

Q Were any of them born in the Cherokee Nation? A Yes, sir.

Q Which ones? A Rosa and Garlie and Emma.

Q The remainder of the children born in some state, were they?

A Yes, sir, I didn't stay altogether in one place all the time, I was sickly and we traveled for our health first in here and out and then back, and then back in the Creek Nation.

Q How long have you lived in the Cherokee Nation continuously the last time you came? A Well, I have been here going on eleven years; twelve years.

Q Been living in the Cherokee Nation for the last twelve years?

A Only we went out in the Creek a while and then come back, just on a visit.

Q You got any relations named Waddell? A There is Martha Clark; '98 is when I was admitted.

By W. W. Hastings, Cherokee Representative: Who admitted you in 1897? A Now, the Cherokee Nation I guess admitted me in 1896.

Commissioner: Have you any certificate of admission, any certificate to show of any proof to show you were admitted? A No, sir.

Q Ever draw any money from the Cherokee Nation? A No, sir; perhaps I have been notified, but I have been out on a visit and never got it.

Q You never drew any money from the Cherokee Nation? A No, sir, never drew a cent.

The 1880 authenticated roll, the 1890 census roll, and the 1894 pay-roll of citizens of the Cherokee Nation examined, and the applicant, Columbia R. Davis, and her children not identified thereon.

Q You never drew for your children either? A No, sir.

Q You say you apply now for the enrollment of your husband?

A He can apply for himself.

Q You said you applied for him? A It is on the same roll I am at.

Q Is your husband a Cherokee by blood? A Yes, sir, his father was a Cherokee and looks like he ought to be.

Q Well, he ought to have done the applying here for himself and wife if he is a Cherokee.

GEORGE W. DAVIS, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George W. Davis.

Q What is your age? A I will be 43 next December.

Q What is your postoffice address? A McLain.

Q You live in Canadian district? A Yes, sir.

Q You apply to be enrolled as a Cherokee by blood? A Yes, sir.

Q Does your name appear upon any of the rolls of the Cherokee Nation? A It ought to appear there.

The 1880 authenticated roll, the 1890 census roll, and the 1894 pay roll of citizens of the Cherokee Nation examined, and the applicant, George W. Davis, not identified thereof.

Q Mr. Davis, have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A No, sir, I haven't been recognized

C.V.D. - 3.

as a citizen I suppose, but if I have been admitted in 1896.

Q Well were you admitted in 1896? A I was admitted, also they never notified, done their duty on their part. I was to have had a notification.

Q Where were you admitted? A I was admitted at Tablequah.

Q By the Cherokee authorities? A By the Council, or else they didn't do their duty to notify me.

Q That is not the question; I asked you if you were admitted?

A I can't swear whether I was or not.

Q Have you any certificate of admission? A No, sir.

Q Ever notified you were admitted? A If I was I don't know it.

Q Ever draw any money as a Cherokee? A No, sir.

Q You are the husband of Columbia Davis, C. R. Davis? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A I have been in the Cherokee Nation off and on all my life, but I haven't lived here all the time.

Q Did you ever apply to the Daves Commission in 1896 for the admission of yourself or wife or family? A We applied before the Cherokee Council.

Q I asked you if you ever applied to the Daves Commission?

A No, sir, I never applied before the Daves Commission.

Commissioner: Well, Mr. Davis and Mrs. Davis, an examination of the records develops the fact that your application is governed by the provisions of the act of May 3, 1900, and you are informed that under the provisions of the act of Congress of that date, the Commission is without jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. Your application will be submitted by the Commission to the Secretary of the Interior when the roll of the Cherokee Nation is transmitted to him for approval. Consequently, the Commission is without jurisdiction to enroll you or your wife or your children. You state in your testimony that you have been admitted by the Cherokee authorities. If this is the case, you can present hereafter a certificate of admission, which will be duly considered, and that should be presented within the next thirty days.

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 correct transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 4th of September, 1901.

[Signature]

Commissioner.

Memo 341

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
5 1901

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Special Agent

Commissioner Beasley: On review of Cherokee Memorandum Case Number 341, the name being the application of George W. Davis, made September 3, 1901, for enrollment of himself, his wife, and seven minor children as Cherokee citizens by blood, it is observed that their child, George W. Davis, the name being the same name as the father, is not put down as George W. Davis, Junior. It is here ordered that the record be corrected so as to make the name of this child appear as George W. Davis, Junior, and a copy of this order will be attached to each copy of the original testimony in this case.

Arthur S. Brominger, being duly sworn, states that as stenographer in the Commission to the Five Civilized Tribes he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur S. Brominger

Subscribed and sworn to before me this 5th day of October, 1901.

D. H. [Signature]
Commissioner.

CHEROKEE 341

George W Davis et al
vs
McLain et al

REFUSED
ACT OF MARCH 1893
MEMORANDUM

Cher Memo 342

Cher Memo 342

Cherokee: Memorandum.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 6, 1901.

In the matter of the application of William H. Driscoll for the enrollment of himself and seven children as Cherokee by blood.

William H. Driscoll, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A William H. Driscoll.
- Q What is your age? A I am going on 55, will be 55 the 22nd of next July.
- Q What is your postoffice? A Well no my postoffice is here at Tahlequah I guess.
- Q What district do you live in? A I will tell you how it is; I went back out in Texas.
- Q Where do you live now? A I have been away from Texas for the last three days.
- Q You live in Texas, do you? A Yes, sir, stay right there now.
- Q Who do you want to enroll besides yourself, anybody? A There is my sons, Jim and Dennis.
- Q Are they under age? A They were under age then.
- Q Well, how are they now? A Well, Jim he is married now.
- Q Then Jim must apply for himself. A And Dennis is 20, and Charley, he is 18, goin on 19, no, 17 going on 19.
- Q Is that all? A No, sir, there is Jess.
- Q How old is Jesse? A He is 15 going on 14.
- Q Any others? A There is George.
- Q How old is George? A He is 12.
- Q Next one? A Malissa.
- Q How old is Malissa? A She is 11.
- Q Well, next one? A Elijah, 9 years old.
- Q Well? A Cynthia.
- Q How old is Cynthia? A She will be 6 years old Christmas day.
- Q Next one? A That is all.
- Q Seven children; have you ever been recognized by the Cherokee authorities as a Cherokee? A Yes, sir, they said I w^h.
- Q Is your name on the rolls of the Cherokee Nation? A It was on there at Tahlequah, Norman had everything fixed up.
- Q You don't know whether it is there or not? A No, sir.
- Q Did you ever draw any money from the Cherokee Nation? A No, sir, never did; I want to be honest with you.
- Q Well, where did you reside now? A Well my family is all in Texas now yet.
- Q Are you married? A Yes, I have a wife and six children at home.
- Q What is your wife's name? A Fissie Driscoll.
- Q What is her age? A 49, going on 50.
- Q She is the mother of these children you apply for? A Yes, sir.
- Q Is she a white woman? A Yes, sir, white woman, Scotch-Irish at that.
- Q Have you any proof of your marriage to her; any certificate of marriage? A I don't know whether I have or not, I know I married her in Texas.
- Q You have got no certificate of marriage with you? A No, sir.
- The 1880 authenticated roll, the 1896 census roll, and the 1894 pay roll of Cherokee citizens examined, and the applicants not identified thereon.
- Q If you live in Texas your postoffice can't be Tahlequah? A Well you see my mail comes right straight back.
- Q Well, what is your postoffice now? A Ringerville, Yearth County, Texas.
- Q You say you have never drawn any money from the Cherokee Nation? A Never did.
- Q Your name is not on any of the rolls of the Cherokee Nation;

where were these children born? A Some were born here in the Territory and some in Texas.

Q Where was Cynthia born? A In the Territory.

Q Cherokee Nation? A She was born in the Chickasaw Nation.

Q Where was Elijah born? A Well, these all were born in Texas but here. I will tell you the truth.

Q Were you living in the Chickasaw Nation when Cynthia was born?

A Yes, sir, I lived there a long time; I lived in the Cherokee Nation a long time.

The 1896 citizenship docket of the Dawes Commission examined, and the following record found: Docket A, page 482, case No. 2778; "W. H. Driskill vs. Cherokee Nation; filed September 9, 1896; answer filed. Application denied. Thomas Norman, Attorney, Ind. Ter., attorney;" no appeal.

Commissioner: Mr. Driscoll, an examination of your case develops the fact that your application for yourself and seven minor children is governed by the provisions of the act of Congress of May 31, 1900. Under the provisions of said act, the Commission is without jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such; and for the further reason that the records of this Commission show that you applied to be admitted to citizenship on September 9, 1896, applying to be admitted under the provisions of the Act of Congress of June 10, 1896, and that your application was denied, and that no appeal was taken; consequently the same was final.

The testimony and judgment will be forwarded to the Secretary of the Interior for his approval, and you will be notified of the same by mail at your postoffice address. We have no right to enroll you or your 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 correct transcript from his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 5th of September, 1901.

Commissioner.

W. H. Driskill
1896

Memo 342

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DEPARTMENT OF THE INTERIOR
COMMISSIONER OF INDIAN AFFAIRS
INDIAN TRIBES

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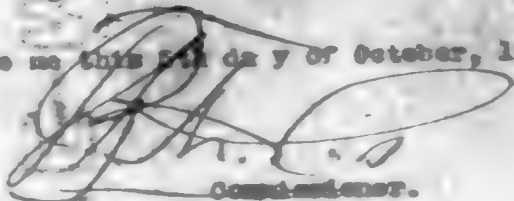
Commissioner Hoeflin: In Cherokee Writings Case Number 542, the same being the application of William H. Wriscoff for the enrollment of himself and seven children as Cherokees by blood, the field judgment is hereby assented to as to include in the rejection the children of the said William H. Wriscoff in addition to the facts clearly set forth in the testimony as enumerated in the field judgment, namely, that none of the parties in this application are identified upon any of the rolls of the Cherokee Nation, and that the father was rejected by the Dawes Commission in 1886, and that no appeal was taken therefrom. It is further noted, as shown in the testimony, that the mother of all of these children is a white woman, and therefore they cannot possess any right except from their father. This citation only strengthens the original field judgment that the applicant and his seven children are clearly come under the provisions of the Act of May 31, 1900, and should be rejected for lack of jurisdiction.

It is ordered that a copy of this statement be attached to the original testimony in the above case.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 5th day of October, 1901.


Commissioner.

CHEFOKEE.

342

William H. Driscoll et al.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Cher memo 343

Cher Memo 343

Answer 42

Cherokee: Anderson.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of James Anderson Briscoll
for the enrollment of himself and one child as Cherokees by blood.

James Anderson Briscoll, being duly sworn and examined by Com-
missioner Needles, testified as follows:

Q What is your name? A James Anderson Briscoll.

Q How old are you? A 20, will be 21 in December.

Q What is your postoffice? A Gordon, Texas.

Q You apply to be enrolled as a Cherokee citizen? A Yes, sir.

Q You desire to enroll anybody besides yourself? A Well, one
child.

Q What is the child's name? A Ivy Balls.

Q How old is it? A One year.

Q Have you ever been recognized as a Cherokee citizen by the
Cherokee authorities? A In 1896 I think.

Q Why you apply in 1896 to be enrolled as a Cherokee citizen?

A Well, that is when we first come back.

Q Well, after you first came in, was you recognized by the Nation
as a citizen? A No, sir.

Q Is your name on any of the rolls of the Cherokee Nation? A Why
our names have been on there for I can't tell you how long, but we
removed them over in 1896.

Q Renewed what in 1896? A Our Cherokee right.

Q How long have you lived in the Cherokee Nation? A Lived back
and forth off and on all my life.

Q I thought you said you lived in Texas? A I say off and on; I
am living there now.

Q When you lived off, you were in Texas? A Yes, sir.

Q Where were you born? A I was born in Arkansas.

Q And do you live now in the Cherokee Nation? A I am now.

Q How long have you lived here? A We have just come over this
year.

Q Where from? A Come from Texas.

Q Where were you married? A Invas married in Texas.

Q Where was this child, Ivy Balls, born? A Born in Texas.

Q How long have you lived in Texas, before you came here? A I
will tell you how it was; I went there and lived some and then came
here and then I would go back again and then come here in the Nation.

Q Just lived back and forth? A All my life.

Q Ever draw any money from the Cherokee Nation? A No, sir.

The 1899 authenticated roll, the 1896 census roll, and the
1894 payroll of Cherokee citizens examined, and the appli-
cants not identified thereon.

The 1896 citizenship record of this Commission examined
and the following record found on Docket A, page 452: "No. 2779;
W. H. Briskill vs. Cherokee Nation; filed September 9, 1896;
answer filed; application denied at Vinita, Indian Territory,
November 9, 1896; Thomas Norman, Ardmore, Ind. Ter., attorney;"
no appeal.

Q What relation is W. H. Briscoll to you? A My father.

Q Did he apply for you to be admitted to Cherokee citizenship when
he applied for himself? A Yes, sir.

Q You say your name appears upon the rolls of the Cherokee
Nation? A Yes, sir.

Q What roll? A I don't know what roll.

Q Don't you know your name isn't on any roll? A I know it is
on the record.

Q What record? A I can't tell what record but we had it put on
there; you will have to look and see I reckon.

J.A.D.

Commissioner: Mr. Driscoll, an examination of the records develops the fact that your application comes under the provisions of the Act of Congress of May 31, 1900, and under the provisions of said Act the Commission is without authority or jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such, and never have been. The records further show that in the suit of your father, W. S. Driscoll, against the Cherokee Nation, wherein he applied for citizenship to the Dawes Commission under the Act of Congress of June 10, 1896, for you as well as himself, your application was refused, and that no appeal was taken therefrom; consequently the judgment of the Commission at that time was final.

This judgment, together with the testimony, will be forwarded to the Secretary of the Interior for his confirmation. By reason of the fact that the Commission has no jurisdiction as to your case, it has none as to your child, Ivy Belle.

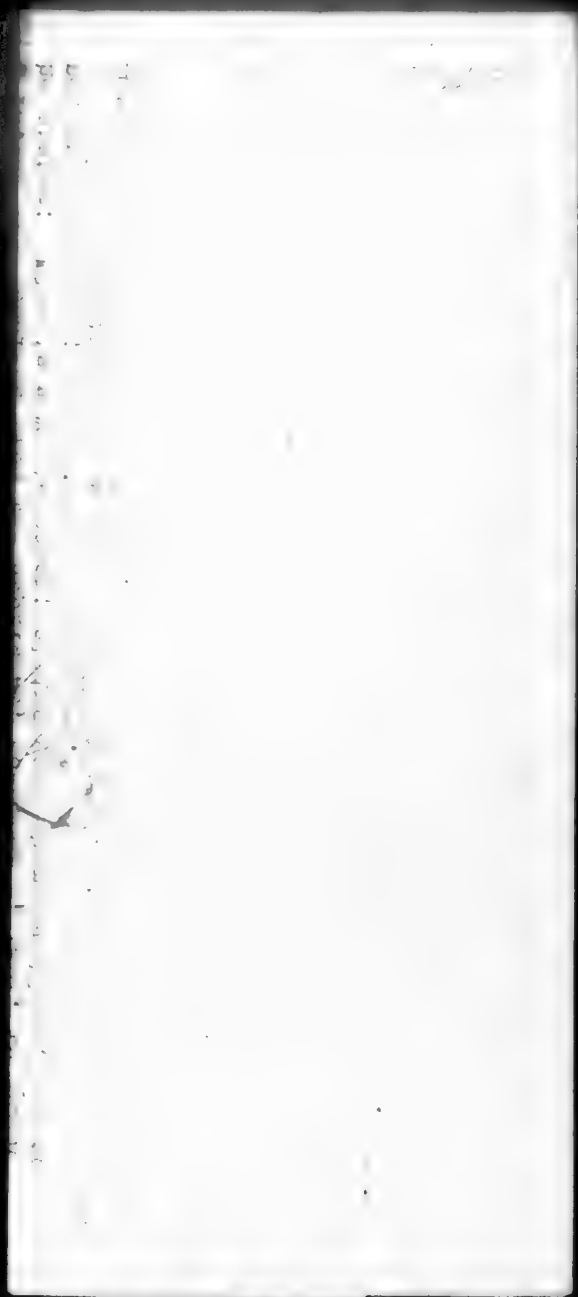
Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and that the foregoing is a true and correct copy from his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 4th of September, 1901.

M. D. Green
M.D.

Commissioner.



Memo. No. 343.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 6, 1902.

In the matter of the application of James I. Briscoll et al to
be enrolled as citizens of the Cherokee Nation.

In response to an inquiry of the Commission as to whether the
mother of the child Ivy Belle is a white woman or a Cherokee by blood,
a letter was received from the applicant, November 8, 1901, in which
he states: "She is a white woman; claims some Cherokee blood, but do
not know how much; has never been enrolled."

It is directed that a copy of this statement be filed with the
original testimony in this case.


Commissioner.

CHEROKEE. 343

James Anderson Dresscoll chas.

REFUSED
ACT OF MAY 31, 1870
MEMORANDUM.

Cher Memo 344

Cher Memo 344

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100 - 44

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Alice Joe for the enrollment of herself and her children as Cherokees by blood.

Appearances:

A. G. Hesse, attorney for applicant;
V. W. Hastings, of counsel for Cherokee Nation.

Alice Joe, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Alice Joe.
Q What is your age? A 40.
Q Your postoffice address? A Muskogee.
Q What district do you live in; you live in Muskogee? A Yes, sir.
Q You apply to be enrolled as a Cherokee fraction? A Yes, sir.
Q Who do you desire to enroll besides yourself?
McRea: Your Honor, she desires to apply for enrollment as a Cherokee by blood.
Q Who do you want to enroll besides yourself? A My children.
Q How many? A Nine.
Q Please give me the names of your children, the oldest unmarried?
A Ten, all under age; Willie McRea.
Q His name isn't Joe then? A No, that is my second husband.
Q How old is he? A 20.
Q The next one? A Mary McRea.
Q How old is Mary? A 18.
Q The next one? A Minnie Joe.
Q How old is Minnie Joe? A 18.
Q The next one? A Roy Joe.
Q How old is Roy? A 14.
Q The next one? A Clara Joe.
Q How old is Clara? A 11.
Q The next one? A Ada Joe.
Q How old is Ada? A 9.
Q Well? A Georgia Joe.
Q How old is Georgia? A 7.
Q The next one? A Edna Joe.
Q How old is Edna? A She is 4.
Q The next one? A Margaretta Joe.
Q How old is Margaretta? A She is 2.
Q Got another one? A This one, Baby Joe.
Q That the name it is going by the balance of its life? A That is what it is, it is all the name I have given her.
Q How old is she? A 6 months.
Q That is ten. Have you ever been recognized as a citizen of the Cherokee Nation? A Well, yes, sir, I lived in the Cherokee Nation all my life.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A No, sir.
Q Have you ever been admitted to Cherokee citizenship by the United States Court or by the authorities of the Cherokee Nation? A No, I wanted to enroll in the year of 1880 but sickness and death taken place the reason why that I didn't.
Q Are you married? A Yes, sir.
Q What is your husband's name? A John Joe.
Q Is he living? A Yes, sir.
Q Is he a citizen? A No, sir.
Q He is a non citizen? A Yes, sir.
Q Where you ever married before? A Yes, sir.
Q What was your former husband's name? A Alex McRea.
Q Is he living? A No, sir.

- Q Did you ever draw any money from the Cherokee Nation? A No, sir.
- Q What was your father's name? A Andrew Jackson.
- Q Is he living? A No, sir.
- Q What was your mother's name? A Mary Jackson; before she married, Horton.
- Q Is she living? A No, sir.
- Q Your maiden name then was Alice Jackson? A No, sir, Horton; my mother was Horton before she married Jackson.
- Q The 1860 authenticated roll, the 1896 census roll, and the 1894 payroll of Cherokee citizens examined, and the applicants not identified thereon.
- Q Did you apply to the Dawes Commission in 1896 under the Act of Congress of June 10, to be admitted to citizenship? A No, sir.
- Q Is this the first application you have ever made? A Yes, sir.
- By A. S. McRea: Mrs. Jee, what degree of Indian blood have you?
A Half.
- Q What was your mother and father, full blood Cherokee?
A Yes, sir, my grandfather and grandmother were full blood.
- Q Now what did you say prevented you from making application in 1880? A Sickness and death; lost my husband at the time.
- Commissioner: Does any of your children's names appear upon any of the rolls of the Cherokee Nation? A No, sir.
- Mr. Hastings: What was your second child's name? A Mary McGree.
- Q You say she is 15? A She is 19; 18 rather.

Commissioner: Mrs. Jee, your examination develops the fact that your application is governed by the provisions of the act of Congress of May 31, 1900. Under the provisions of said act the Commission is without jurisdiction to receive, consider or make any record of your application for the enrollment of yourself and children, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. The testimony in your application will, together with the judgment of the Commission, be forwarded to the Secretary of the Interior for his approval.

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 correct transcript from his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 5th of September, 1901.

M. D. [Signature]
110

Commissioner.

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
YAMAGUCHI
FILED
OCT 8 1901

[Handwritten signature]

CONFIDENTIAL
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Commissioner Reddes: On review of Cherokee Memorandum Case Number 344, the same being the application of Alice Gee for the enrollment of herself and others as Cherokee citizens, said application having been made at Fort Gibson September 4, 1901, the field judgment is amended as follows:

Alice Gee, the applicant, is clearly shown by the testimony never to have been recognized as a Cherokee citizen, and not to have been admitted to citizenship by the Dawes Commission, the United States Courts, or Cherokee authorities. The records of the Dawes Commission have this day been carefully searched, and there is no evidence that she or any of her family were ever applicants before said Commission. In Commission Case 3347, page 62, Book 3, there is an Alice Gee, who is evidently another person; but be that as it may, that Alice Gee was denied admission by the Dawes Commission, appeal was taken to the United States Court, and the decision of the Commission was sustained in Court Case 64. They have been rightly listed for rejection for lack of jurisdiction under the Act of May 31, 1900, and it is here distinctly stated that the children are included with the mother in the field judgment to the foregoing effect, and for their names and ages reference is made to the original testimony. She applied for herself and ten children. Her two older children, William and Mary McGree, are children of a former marriage. They are respectively twenty and eighteen years of age. Their father is dead. No claim is made for these children through their deceased father, and clearly they derive no right through their mother. But in addition to this, as before shown, neither of these children is upon any roll made since their birth, of which there are two, the Strip Payment Roll of 1894, and the Census Roll of 1896, nor have they ever been recognized in any way as Cherokee citizens. Therefore, the fact of their being children of a former marriage makes no exception to their status as different from that of the children of the present marriage. The remaining children (all children of the present marriage, as enumerated in the testimony) of course can possess no rights under the conditions already stated.

A copy of this statement and supplemental field decision will be attached to the original testimony on file in this case.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of October, 1901.


Commissioner.

(COPY)

--Copy--

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND:
72316-1901.
96974-1906.

November 23, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of January 3, 1902, (I.T.D. 8-1902), affirming the decision of the Commission to the Five Civilized Tribes, refusing to receive or consider the application of Alice Gee for the enrollment of herself and ten children. I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 1, 1906, enclosing a motion for a rehearing in this case, which was filed with the Commissioner June 25, 1906, by H. W. Guy, of Muskogee, I.T. attorney for the applicants.

The Commissioner's report shows that all of the parties named in the motion were parties to the original application, except Willie Gee (or Joe), for whose enrollment no record of any application having been received, can be found. The attorney filing this motion was verbally advised by the Commissioner on September 27, 1906, that he would have twenty days within which to furnish the office any information showing any recognition having been given any

of the claimants by the Cherokee tribal authorities, which information has not been furnished. The motion sets up that the claimants have discovered new evidence, which will establish their right to be enrolled as citizens of the Cherokee Nation, but the motion fails in all respects to make the showing necessary for a new trial on the ground of newly discovered evidence, in that the nature of the evidence itself is not set out, nor are the affidavits of the witnesses by which such new evidence is to be established, filed in support of the motion, nor is there any affidavit showing that the so-called new evidence could not have been produced at the original hearing by the exercise of due diligence. There being nothing in the motion to show that the newly discovered evidence is not cumulative, or that it is along lines not heretofore considered in connection with this case, 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.

JWB-M

(CWY)

D.C. 83238.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

Y.P.

I.T.D. 23856-1906.

December 1, 1906.

L.R.S.

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

Sir:

November 1, 1906, you transmitted a motion for rehearing in the Cherokee enrollment case of Alice Gee(Joe) and others, and recommended that the same be denied.

The motion alleges newly discovered evidence, but it answers in no particular the requirements as to motions for rehearing in such cases, and as recommended by you and the Indian Office in its letter of November 23, 1906 (Land 96974), submitting your report, copy of which is inclosed, the motion is denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan

Through the Commissioner,
of Indian Affairs.

First Assistant Secretary.

1 inc. and 3 to Ind. Of.

In the matter of the Enrollment
of Alice Gee, Willie M^c Ree, Mary M^c Ree,
(now Abel) Mimmie Gee, Roy Gee, Clara
Gee, Aola Gee, Georgia Gee, Edna Gee,
Baby Gee, and Willie Gee as citizens
by blood of the Cherokee Nation.

Before the Honorable the Commission
to the Five Civilized Tribes:

Comes now the claimants in
the above entitled cause, by their
attorney and ask that they be
granted a rehearing and
that the case be reopened for the reason

1 That the commission erred in its findings in
the prior adjudication of the case

2 That the said claimants have
discovered new evidence that will
establish their right to be enrolled as
citizens of the Cherokee Nation

3 That the evidence is new, is
material and not cumulative and
could not have been discovered
by the claimants at the prior
hearing of the case

M. W. Gray
Atty for Claimants

CHEFOKEE 344

Alice Johnson

IN THE
ACTS OF THE
MEMORANDUM

Cher Memo 345

Cher Memo 345

M 345

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(None.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 6th, 1901.

In the matter of the application of Minerva Smith for the enrollment of herself and three children as citizens by blood of the Cherokee nation; said Smith being duly sworn, testified as follows:
By the Commission:

- Q What is your name? A Minerva Smith.
Q How old are you? A I am about, near about 40; I am about 50, I am about 54 or 5, about 55.
Q What is your post office address? A Muskegee.
Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
Q Do you apply for the enrollment of anybody besides yourself?
A I have children.
Q How many children? A Ten.
Q Are they all under 21 years of age? A No, sir, not all of them there is three that ain't 20.
Q Give me the name of the eldest one under 21 years of age for whom you apply? A That's Gussie.
Q How old is she? A She is about 18.
Q What is the name of the next one, A Eddie, she is a girl.
Q How old is Eddie? A She is 13.
Q The next child? A The youngest one, that's Fred.
Q How old is Fred? A He is 12.
Q These children are alive and living with you at the present time?
A Yes, sir.
Q Who is the father of your children? A Tom Smith, he is dead.
Q Is he a Cherokee or white man? A No, sir, he is part colored.
Q He is not recognized as a citizen of the Cherokee Nation?
A No, sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation?
A I don't know, I could not tell you nothing about it, Mr. Chornley and Mr. Rasmus had my papers and they were sent to the Commission at Vinita.
Q Did you ever draw any money from the Cherokee Nation?
A No, sir.
Q Is your name on any of the rolls? A Not as I know of.
Q What is the name of your father? A George Griffith.
Q Is he living or dead? A He is dead.
Q What is the name of your mother? A Margaret,
Q Was your father a white man? A No, sir, he was a Cherokee, part white and part Cherokee.
Q Cherokee by blood? A Yes, sir.
Q What was your mother? A My mother was colored and Cherokee.
Q You claim citizenship then though both of your parents?
A Yes, sir.
Q Did you ever apply to the Commission for citizenship in the Cherokee Nation? A No, sir.
Q Did anybody make an application for your enrollment as a citizen of the Cherokee Nation? A Mr. Chornley did.
Q When was that? A At Vinita.
Q About five years ago? A Yes, sir.

The tribal rolls of the Cherokee Nation in the possession of this commission examined and names of applicant not found thereon.

1896 Dawes Commission Decket "A" page 46, case No. 275, Minerva Smith vs. Cherokee Nation; filed August 27th, 1896; answer filed. Application denied at Vinita, Indian Territory, October 14, 1896. No Appeal. Rasmus & Chornley, Tahlequah, Indian Territory, Attorneys.

Minnie Smith, et al.—3.

- Q How long have you lived in the Cherokee Nation? A We have been in the Cherokee Nation about 12 years.
- Q Where did you live before that? A Texas.
- Q You came directly from Texas to the Cherokee Nation?
- A Yes, sir.
- Q How have you lived here continuously since that time? A Yes, sir.

COMMISSIONER Mrs. Smith, under the provisions of the act of Congress approved May 31st, 1900, this commission is without jurisdiction to receive, consider or make any record of your application for the reason that you are not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and as your children derive only such rights as you would have, the application which you make in behalf of yourself and your three minor children is denied.

A copy of the testimony and the judgment of the Commission will be forwarded to the Secretary of the Interior for his review, and you will be notified at a later date of the action of the Department in regard to this matter.

—ooo000ooo—

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

Subscribed and sworn to before me this September 6th, 1901.

C. R. Bucknidge

Commissioner.

CHEROKEE.

*Minerva Smith et al.
Trustees*

RECEIVED
ACT OF
MEMORANDUM.

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Cher Memo 346

Cher Memo 346

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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
SEP 7 1961

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(Name.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 6th, 1901.

In the matter of the application of Isom Eli Baker for the enrollment of his wife, CORA BAKER, and two children as citizens of the Cherokee Nation by blood; said Baker being sworn and examined testified as follows:

By the commission:

- Q What is your name? A Isom Eli Baker.
Q How old are you? A I was, I reckon I was 48 years old the 19th of last March.
Q What is your post office address? A Bennington.
Q Do you apply for the enrollment of yourself as a citizen of the Cherokee Nation? A No, sir.
Q For whom do you make application? A My wife.
Q Do you apply for yourself at all, Mr. Baker? A No, my wife.

CORA BAKER, being duly sworn and examined, testified as follows:

- Q What is your name? A Cora Baker.
Q How old are you? A I was 27 the 13th of last November.
Q You are the wife of Isom E. Baker? A Yes, sir.
Q You apply for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q For whom do you make application besides yourself? A For myself and two children.
Q What is the name of your eldest child? A Alfred Welch.
Q Alfred Welch Baker? A No, sir; my first husband was a Welch.
Q How old is he? A He was 12 years old the 27th of December.
Q What is the name of the next one? A Norman Baker.
Q How old is Norman? A He will be two months old the 17th of this month.
Q Are these children both alive and living with you at the present time? A Yes, sir.
Q What is the name of Alfred Welch? A Thomas Welch.
Q Is he living or dead? A He is dead.
Q Is he a Cherokee or white man? A No, sir, he is a white man.
Q Isom E. Baker is the father of your other child? A Yes, sir.
Q What was your father's name? A Dave Russey.
Q Is he living? A Yes, sir.
Q Is he a white man or Cherokee? A He is a white man.
Q What was the name of your mother? A Her maiden name?
Q No, just her full name? A Mollie Russey.
Q Is she living? A No, sir, she is dead.
Q Is she Cherokee? A She was half Cherokee.
Q What degree of Cherokee blood do you claim, one-quarter?
A One-quarter, I guess.
Q How long have you lived in the Cherokee Nation? A I have lived here two years.
Q Where did you live previous to that time? A In the State of Arkansas, in Little River County.
Q Did you ever live in the Cherokee Nation at all until you came here two years ago? A Not since I was a little baby.
(Applicant said to be living in the Choctaw Nation.)
Q How long have you lived in the Cherokee Nation? A I don't live in the Cherokee Nation.
Q You are living in the Choctaw Nation? A Yes, sir.
Q Have you ever resided in the Cherokee Nation? A Not since I was a child.
Q Have you ever been recognized as a citizen of the Cherokee Nation? (No response.)
Q Did you ever draw any money? A No, sir.

Cora Baker, et al.--2.

Q Have either of your parents ever been recognized as citizens?
A Yes, sir, we haven't got anything at all only the proof.

The tribal rolls of citizens of the Cherokee Nation in the possession of this Commission examined and names of applicants not found thereon.

Q Did you ever apply to this Commission for enrollment as a citizen of the Cherokee Nation? A A No, sir, nothing, only '96 my father went to Yulequah and had the papers fixed what we have got.

Q Did he apply to the council for admission at that time? A I don't know; all I know is that he just brought back our papers and he left it in the hands of a man there and he said, told him there wasn't any use of him staying any longer for him to come home and the man is dead.

Q Have you those papers with you? A Yes, sir, I have some papers here with me.

Citizenship Docket of the Dawes Commission examined and it does not appear that the applicant has ever been before this Commission for enrollment as a citizen of the Cherokee Nation.

The papers you present, Mrs. Baker, are nothing more than an affidavit to the effect that A. J. Smith was well acquainted with one Sam Simpson and Bill Simpson when they were citizens of the State of Tennessee; the Commission cannot file or make these part of your application. The same are returned herewith.

COMMISSION: Cora Baker applies for the enrollment of herself and two children as citizens by blood of the Cherokee Nation. She is not identified upon any of the tribal rolls of the Cherokee Nation, neither does it appear that she was an applicant before this Commission for enrollment as a Cherokee citizen in accordance with the Act of Congress approved June 10th, 1896. Under the provisions of the Act of Congress approved May 31st, 1900, the Commission is without jurisdiction to receive, consider or make any record of this application for the reason that the said Cora Baker is not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such; the application which she makes for the enrollment of herself and children is therefore rejected. A copy of the testimony together with the judgment of the Commission will be forwarded to the Secretary of the Interior for review, and she will be notified at a later date of the action of the Department in regard to her application.

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J. O. Res on, 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 6th of September, 1901.

C. R. Buckinridge

Commissioner.

CHEROKEE.

546

Cora Baker et al

REFUSED
ACT OF MAY 31, 1908
MEMORANDUM

Cher Memo 347

Cher Memo 347

Memo 247

DEPARTMENT OF THE INTERIOR
COMMISSION TO STUDY THE UTILIZATION OF
PUBLIC LANDS
FILED
SEP 11 1904

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Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., September 9, 1901.

In the matter of the application of Fannie E. Wagoner for enrollment as a Cherokee by intermarriage.

Fannie E. Wagoner, appearing before the Commission, and being duly sworn and examined, testified as follows:

- Q What is your name? A Fannie E. Wagoner.
- Q How old are you? A I was born in 1842, the 18th of June.
- Q What is your postoffice address? A Rush Springs.
- Q Is that in the Cherokee Nation? A Chickasaw.
- Q Do you apply to be enrolled as a Cherokee by blood? A My husband was the one that had the blood, my children are making --
- Q Do you then apply for enrollment as a Cherokee by intermarriage?
- A Yes, sir.
- Q You claim your right through your husband? A Yes, sir.
- Q What is the name of your present husband? A George W. Wagoner.
- Q When were you married to him? A The 14th of last April.
- Q Is he a white man or a Cherokee? A He is a white man.
- Q You were married before you married Wagoner? A Yes sir.
- Q What was the name of your first husband? A J. S. Franks.
- Q He was a Cherokee by blood? A Yes, sir.
- Q And you claim your right to enrollment as a Cherokee through your former husband? A Yes, sir.
- Q When were you married to J. S. Franks? A In 1866.
- Q Have you any evidence of that marriage to him? A No, I can't produce that right now.
- Q Where were you married? A I was married in North Georgia.
- Q You lived with him continuously up until the time of his death?
- A Yes, sir.
- Q When did he die? A He died the 18th of March a year ago.
- Q How long have you actually lived in the Cherokee Nation? A About seven years that I have lived, since I came there.
- Q In the Cherokee Nation? A Yes, sir, since we came to the Cherokee Nation and remained there until the 18th of March, a year ago, the 18th of March two years ago, my husband's death occurred on the 18th of March a year ago, and I left there and went back to Rush Springs for my health.
- Q You have lived in the Cherokee Nation then about six years?
- A Yes, sir.
- Q Did you ever live in the Cherokee Nation before that?
- A No, sir.
- Q Does your name appear upon any of the tribal rolls of the Cherokee Nation? A My husband's name do, sir.
- The rolls of the Cherokee Nation in the possession of the Commission, and neither the applicant, nor her former husband, J. S. Franks, identified thereon.
- Q Did your husband ever apply to this Commission for enrollment as a Cherokee? A Yes, sir.
- Q When was that? A At Vinita.
- Q In 1896? A I think so.
- Q Was your name embodied in that application? A Bledsoe was the man that was attending to it, he went there and presented the papers to the Dawes, and they looked at them and said there was good evidence, and said we would make out a copy and sent to Chief Mayes and send the rest to them.
- Q Do you know whether your name was in that application? A I can't say, I can't really say.

The records of the Dawes Commission examined, and in 1896 Citizenship Docket B, page 250, case No. 4335 appears the following: "J. S. Franks vs. Cherokee Nation; filed September 10, 1896; answer filed; application denied at Vinita, Indian Territory,

November 5, 1898; no appeal. J. P. Bladsoe, Cherokee,
I.T., attorney.
Q Do you apply for anyone else besides yourself & my children.
A How old are your children; how old is the youngest one? A He
is 25 years old.
Q He will have to apply for himself; the children over 21 years
of age must apply for themselves. A Well, my children are all older
than that, he is the youngest.

Commission: Fannie E. Wagoner applied for the enrollment
of herself as a Cherokee citizen by intermarriage. She avers
that she is at present the wife of G. W. Wagoner, a white
man. Prior to her marriage to the said Wagoner she was the
wife of J. S. Franks, whom she claims was a Cherokee citizen
by blood. She has lived in the Cherokee Nation for about six
years, but is at present a resident of the Chickasaw Nation.
She is not identified upon any of the tribal rolls of the
Cherokee Nation in the possession of the Commission. It ap-
pears from the records of the Commission that her husband,
J. S. Franks, was an applicant for enrollment as a citizen of
the Cherokee Nation in accordance with the act of congress
approved June 10, 1898; that his application was denied and
no appeal was taken. The applicant does not present any
satisfactory proof as to her marriage to the said J. S.
Franks, which she averred occurred in 1886, in the State of
Georgia. In view of the above facts, it would appear that
this case comes within the provision of the Act of congress
approved May 31, 1900, and under said provisions this Com-
mission is without authority to receive, consider or make any
record of this application, for the reason that the applicant
is not identified upon any of the rolls of the Cherokee
Nation now in the possession of the Commission. This appli-
cation will be forwarded to the Secretary of the Interior for
his final review, and the applicant will be notified at her
present postoffice address of the action of the Department as
in regard to this application.

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 September, 1901.

M. A. Green
M. A.

Commissioner.

347

CHEROKEE

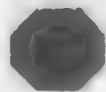
Fannie E. Wagoner

RE.
ACT OF 1841
MEMORANDUM

C. 17. 348

Emily Weaver, et al.

CORRECTION



The preceding document(s) has been refilmed
to assure legibility and its image appears
immediately hereafter.

Cher Memo 348

Cher Memo 348

C.M. 348

Emily Weaver, et al.

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MEMORANDUM

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort, Gibson, I. T. September, 11, 1901.

In the matter of the application of Emily Weaver for the enrollment of herself and child as citizens of the Cherokee Nation by blood, she being duly sworn and examined by the Commission, testified as follows:

- Q What is your name? A. Emily Weaver.
- Q You are about 60 years old are you? A. Yes sir about.
- Q What is your post office address? A. Westville.
- Q That is in the Indian Territory is it? A. Yes sir.
- Q In what district do you reside? A. Seaboard.
- Q You claim to be a Cherokee by blood do you? A. Yes sir.
- Q How long have you lived in the Cherokee Nation? A. Born and raised here.
- Q Have you always made your home here? A. Yes sir.
- Q Never lived in any other place? A. No sir.
- Q Did you ever apply for enrollment in other tribe or nation? A. No sir.
- Q Do you apply now for anyone besides yourself? A. I have got two children at home.
- Q How old are they? A. The youngest one is going on 13 or 14, and there is one is going on about -- she was born the first year peace was made.
- Q She is over 21 then? A. Yes sir.
- Q Well she must apply for herself? A. Well.
- Q Give me the name of the youngest child? A. Lottie Robbins.
- Q And you say she is about 13 years old? A. Yes sir.
- Q Is this child alive and living with you at this time? A. Yes sir.
- Q What is the name of your father? A. Louis Crittenden.
- Q Was he a Cherokee by blood? A. Yes sir.
- Q What is the name of your mother? A. Nellie Gale.
- Q Was she a Cherokee by blood? A. Not a Cherokee.
- Q Was she a Cherokee freedman? A. Yes sir.
- Q Have you ever been recognized as a citizen of the Cherokee Nation? A. Yes sir I have.
- Q When? A. Five members of the Cherokee Council, I had my papers, they is lost now though.
- Q Was you admitted at that time? A. Yes sir, they claim no one.
- Q Did they give you a certificate of admission? A. Yes sir I had it but it got lost.
- Q Have you ever drawn any money from the Cherokee Nation? A. No sir.
- Q What is the name of your present husband? A. Joe Weaver.
- Q Is he living? A. Yes sir.
- Q Cherokee or a white man? A. Cherokee.
- Q Is he a recognized citizen of the Cherokee Nation? A. I reckon he is; he is not living with me now.
- Q When were you married to him? A. Never was married to him, just lived with him five years.
- Q Did you ever live with any other man besides Weaver? A. Yes sir with George Robbins, lived with him until he died.
- Q Were you married to him? A. No sir.
- Q Ever been married to any man? A. No sir.
- Q Did you ever live with any other man besides Weaver and Robbins? A. No sir.
- Q Just with these two men? A. Yes sir.
- Q Was Robbins a white man? A. No sir a Cherokee.
- Q Is he the father of Lottie? A. Yes sir.
- Q Did you ever draw any money from the Cherokee Nation? A. No sir.
- Q Did you ever go by any other name besides Weaver, Robbins or Crittenden, your maiden name? A. No sir, they just called me Emily Crittenden when I was a girl and then when I lived with Weaver they called me

Emily Weaver.

Q Were you an applicant before this Commission, five years ago, in 1896 for enrollment as a citizen of the Cherokee Nation? A. Yes sir but I didn't get it - they told me a little after that I was a citizen here.

Q Who told you? A. Ned Ferguson and then was the Council then.

Q Under what name did you apply, as Emily Weaver or Robbins? A. Emily Weaver is the way I applied for it.

Q Did you receive any notice from the Commission that they had admitted or denied you? A. No sir, I can't read or write and so I let them men have the papers and they told me I was a citizen; we paid them about \$50.00 for our right and never got it.

Q Did you ever apply for anyone besides yourself? A. Yes sir for my children too.

Q You didn't apply under your maiden name of Grittendon? A. No sir just applied for the name of Emily Weaver.

(By W.V. Hastings, Cherokee Representative)

Q You never did have you certificate of admission in your hands, they always promised to get it for you and you never did receive it? A. No sir I never did get it. I had my affidavits and witnesses, they said they would get it, and they always promised to do something for me and never did.

Q Never did get you a certificate of admission? A. No sir.

All the rolls of the Cherokee Nation in the possession of this Commission examined and the name of the applicants not found thereon.

By the Commission: Emily Weaver applies for the enrollment of herself and her child Lillie Robbins as citizens by blood of the Cherokee Nation; she swears that she has lived in the Cherokee Nation all her life; she also swears that she has never been married, but that she lived for a time with one George Robbins and with one Joe Weaver; her name cannot be found on any of the rolls of the Cherokee Nation in the possession of the Commission. It would therefore appear that her application comes within the provisions of the act of Congress approved May 30, 1900, which act provides that this Commission shall be without authority to receive, consider or make any record of in any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, duly and lawfully enrolled or admitted as such. Consequently the application of Emily Weaver which she makes on behalf of herself as a citizen of the Cherokee Nation by blood is rejected. As to her child, Lillie Robbins, it appears that her rights are derived only through her mother, the applicant, therefore her application which she makes for her child Lillie Robbins is also rejected. This judgment as well as the evidence herein, will be forwarded to the Secretary of the Interior for his review and the applicant will be notified by mail at her post office address at a later date of the final action of the Secretary.

§ § § § § § § §

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 and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this 11th of September, 1901

Commissioner.

M 312

DEPARTMENT OF THE ARMY
COMMISSIONED SECOND LIEUTENANT
U. S. ARMY
1904

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AMP.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, Indian Territory, January 23rd, 1903.

In the matter of the application of Emily Weaver for the enrollment of herself and his daughter, Lottie Robbins, as citizens by blood of the Cherokee Nation.

Supplemental to Mem. #348.

Applicant appears in person.
Cherokee Nation by W. W. Hastings.

The Applicant, being duly sworn, testified as follows:-
Examination by the Commission.

- Q. State your name? A. My name is Emily Crittenden.
Q. How old are you? A. Why, I can't tell that, how old I is. I am about 60.
Q. Where do you live; what is your post office? A. I live in Coalinga district, on Tynor creek.
Q. Where do you get your mail? A. Westville.
Q. You say your name is Emily Crittenden? A. Yes, sir.
Q. What was your father's name? A. My father's name was Lewis Crittenden.
Q. Is he on the 1880 roll? A. Yes, sir; they said they found his name on the roll.
Q. As Crittenden? A. Lewis Crittenden.
Q. Were you ever known by any other name? A. Yes, sir; some of them put my name Emily Weaver.
Q. What was your husband's name? A. Joe Weaver.
Q. Were you married to him? A. No, sir.
Q. Was Joe Weaver a Cherokee? A. Yes, sir.
Q. When did you live together? A. It has been about 13 years. It has been longer than that; he left me before peace was made.
Q. What year did you live together, do you remember?
A. I don't know.
Q. Have you any children? A. Yes, sir.
Q. Two children born while you were living with Joe Weaver?
A. Yes, sir; and then two Robbins children. I lived with him until he died.
Q. You lived with a man by the name of Josh Robbins?
A. Yes, sir.
Q. Where were you living with him? A. Living in the Nation; Coalinga district.
Q. How long did you live with him? A. 3 or 4 years. I have got two children by him; Charles and Lottie.
Q. Is Josh Robbins alive? A. No, sir; he is dead.
Q. When did he die? A. About 2 years, I guess.
Q. It has been two years since he died? A. Yes, sir.
Q. Did you live with him before you lived with Weaver?
A. No, sir; afterwards, after Weaver.
Q. Lived with Weaver first? A. Yes, sir.
Q. Then you separated? A. Yes, sir; he left me.
Q. Then you took up with Josh Robbins? A. Yes, sir.
Q. Were you married? A. No, sir.
Q. These two children, Lottie and Charles, are by him?
A. Yes, sir.

Q. Was Robbins a Cherokee? A. Yes, sir.

Q. Was he on the eighty roll? A. Yes, sir; his name is on the eighty roll.

Q. You don't appear on any roll, do you? A. Yes, sir; I was put on the roll but I can't tell you where. I can't read or write.

Q. How long have you gone by the name of Crittenden? A. Since I was born.

Q. Did you go with the name of Weaver at one time? A. I did when I lived with him, but I always went by the name of Emily Crittenden.

Q. When you first applied for enrollment didn't you give the name of Weaver? A. Yes, sir; they told me that was right.

Q. But your name is Emily Crittenden? A. Yes, sir.

Q. That is your father's name? A. Yes, sir.

Q. Did you go by the name of Crittenden when you were living with Weaver? A. Yes, sir?

Q. Did you go by the name of Robbins when you were living with Robbins? A. No, sir.

Q. Are you known as Emily Crittenden in the neighborhood, or Emily Weaver? A. Yes, they all know me.

Q. Do they call you Emily Crittenden or Emily Weaver? A. Emily Crittenden; some call me Emily Weaver.

Q. Now, you say your father, Crittenden, was a Cherokee? A. Yes, sir.

Q. Full blood? A. No, he was a full blood. Aunt Lidia Crittenden was-----

Q. He was half Cherokee and half what? A. White.

Q. What was your mother? A. My mother was a Cherokee.

Q. Full blood Cherokee? A. She wasn't full blood; pretty nearly all Cherokee.

Q. What was the other part? A. She was about the color of that girl there.

Q. Have any negro blood? A. Yes, sir; she had a little of that.

Q. She did? A. Yes, sir; I will tell the truth.

Q. What was her name? A. Her name was Nellie Cole.

Q. Had she been a slave? A. She had been.

Q. A slave to who? A. Phillips, I believe.

Q. What was his first name? A. Phillips is all I know.

Q. Was he a Cherokee? A. No, he was a white man.

Q. Where did he live? A. He lived here in the Cherokee Nation.

Q. Your mother was his slave before the war? A. No, my mother died before I was ever grown.

Q. You say your mother was a slave to Phillips? A. Yes, sir.

Q. When were you born, what year? A. I couldn't tell you that.

Q. Do you remember the war? A. Yes, sir; I remember the war.

Q. Were you living with your mother then? A. No, living with Joe Weaver.

Q. I am asking you when you were a little girl; were you living with your mother then? A. Yes, sir.

Q. Where was your mother living then? A. She was living ~~xxxx~~ here in the Nation.

Q. Where did she go during the war? A. Went to Texas. She is dead now.

Q. Did you go there with her? A. No, sir.

Q. Where did you stay? A. I stayed with old aunt Lidia Crittenden.

Q. Where was that? A. It was in Geingsake.

Q. You say your mother died down in Texas? A. Yes, sir.

Q. She never came back during the war? A. No, sir.

Q. You have always lived in the Cherokee Nation, have you, since that time? A. Yes, sir.

Q. When was Charlotte-Downing born? Your daughter Charlotte? A. She was born--I can't tell you. (Indicating to daughter present) That there one was born after peace was made. She is two years older.

By applicant's daughter: 36 years old.

- Q. Is your daughter Charlotte married? A. Yes, sir.
 Q. What is her husband's name? A. John Newton.
 Q. Did she ever marry any one by the name of Downing?
 A. Yes, sir.
 Q. What was his name? A. Jim Downing.
 Q. Was he a Cherokee? A. Yes, sir; he was a Cherokee.
 Q. Did they have any children? A. No, sir; they never had any children.
 Q. He is dead, is he? A. Yes, sir; he is dead.
 Q. Then she married her present husband? A. Yes, sir.
 Q. John Newton? A. Yes, sir.
 Q. When did she marry him? A. I couldn't tell you. I can't tell you.

By Mr. Newton: 7th day of December, a year ago.

- Q. Does your daughter Charlotte appear on the roll of 1896 with you? A. Yes, sir. They sent for me to come here and put my children on the roll. That is why I came in.
 Q. Where were you living in 1896? A. I was living in Gatingsville.
 Q. Was your daughter Charlotte living with you then? A. Yes, sir.
 Q. Your daughter Charlotte? A. Yes, sir.
 Q. Was she married then? A. She was married but her old man died.
 Q. She was a widow then? A. Yes, sir.
 Q. How did your name get on the 1896 roll, do you know? Who enrolled you? A. Henry Crittenden.
 Q. Who is Henry Crittenden? A. He is George Crittenden's brother.
 Q. What relation is he to you? A. Not any to me.
 Q. He was one of the census takers, wasn't he? A. Yes, sir.
 Q. Who was the other one? A. I don't know who the other was.
 Q. Dick Alberty? A. I believe it was Dick Alberty.
 Q. This Crittenden wasn't any relation to you? A. He was a little kin to me but I don't claim it.
 Q. What relation was he? A. His daddy and my daddy was cousins.
 Q. You say Henry Crittenden and Dick Alberty enrolled you in 1896?
 A. Yes, sir.
 Q. What name did you give them? A. I gave my name Betty Crittenden.
 Q. Did you give your daughter's name? A. Yes, sir.
 Q. What name did you give her? A. She went by the name of Charlotte Downing, after she was married. We just called her Charlotte Robbins before she was married.
 Q. When you gave her name in 1896 you gave it Charlotte Downing?
 A. Yes, sir.
 Q. Who else was enrolled with you at that time? A. Lottie.
 Q. Lottie Robbins? A. Yes, sir. All my children was put on the rolls.
 Q. Well, I am asking you who they were. Who else? A. Charlotte Robbins.
 Q. Who else? A. Rachel Woodall.
 Q. Were you all put on that roll under the name of Crittenden?
 A. Yes, sir.
 Q. How did you come to do that? A. My daddy was a Crittenden and I put it down that way.
 Q. Your daughter wasn't a Crittenden? A. Well, I put her down as Charlotte Downing after she was married.
 Q. And you put your daughter Lottie down as Lottie Robbins?
 A. Yes, sir.
 Q. How did you give Rachel? A. Rachel Woodall.
 Q. Who else was there? A. Bant Crittenden and Bullet Weaver.
 Q. Is Lewis Weaver and Bullet Weaver the same person?
 A. Yes, sir.
 Q. That is your son? A. Yes, sir.
 Q. By Joe Weaver? A. Yes, sir.

Q. Now, you had another daughter, did you; Mary? A. Yes, sir; Mary Weaver.

Q. What is her name now? A. She goes by the name of Mary Crittenden.

Q. Was she married? A. Yes, sir.

Q. Who did she marry? A. She married Ben Crittenden.

Q. Is she on the 1896 roll? A. I don't know whether she is or not. He said she was.

Q. Who said? A. Ben said so.

Q. She was married in 1896? A. Yes, sir.

Q. Wasn't living with you? A. No, sir.

Q. Who is Tom Kirk? A. His daddy's name is Robert Kirk. He is a white man.

Q. Who is his mother? A. I am his mother.

Q. His daddy is Robert Kirk? A. Yes, sir; His daddy is dead.

Q. Was he a white man? A. Yes, sir.

Q. He wasn't a citizen of the Cherokee Nation? A. Yes, he married her.

Q. Who did he marry? A. Nose Crittenden's step daughter.

Q. What was her name? A. Becky Woods.

Q. Is she dead? A. She isn't dead, I don't reckon.

Q. Was that before you lived with him or afterwards? A. It was after he lived with me.

Q. He hadn't been married to any one when you commenced living with him? A. No, sir.

Q. How long did you live together? A. Lived together about a year.

Q. Tom Kirk is your son by him? A. Yes, sir.

Q. Where is Tom Kirk living now? A. He is living in Tahlequah district.

Q. Is he married? A. Yes, sir; he is married.

Q. What is his wife's name? A. Her name is Susie Kirk.

Q. Is she a Cherokee? A. She is a Cherokee.

Q. They have some children? A. Yes, they got six children.

Q. What do you know about your daughter Charlotte's marriage to Downing; do you know they were married? A. Why, certainly I know that they was married.

Q. Were you there when they were married? A. No, sir; I wasn't but her sister went right with her.

Q. Who was the preacher? A. The clerk.

Q. Clerk of what district; Goingsmake district? A. Yes, sir.

Q. You say he married your daughter Charlotte to this man Downing? A. Yes, sir; he married them.

Q. They lived together how long? A. He was put in jail and he died, in Fort Smith.

Q. Do you remember what year that was? A. No, sir; I don't.

Q. They lived together from the time they were married up to the time he was put in jail in Fort Smith? A. Yes, sir.

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

Q. What is her present husband, a white man? A. Yes, he is a white man, I reckon.

Q. They were married about a year ago? A. Yes, sir.

Q. You are claiming the right to be enrolled as a Cherokee by blood? A. Yes, sir; I got more Cherokee in my than anything else.

Q. Did you draw any money in 1894? A. No, sir; they beat me out of it. I never drew any.

Q. Who did your mother go with to Texas before the war? A. She went there with the children.

Q. With this Phillips? A. No, he never went there. He died here.

Q. Phillips wasn't a citizen of the Cherokee Nation? A. Yes, sir; he was a citizen.

Q. I thought you said he was a white man? A. Well, he was a white man.

Q. He was a white citizen, was he? A. Yes, sir.
Q. Did you live with your mother while she was a slave of this man Phillips? A. No, sir; Sidney Phillips raised me. I never lived with her.

Examination by Mr. Hastings.

Q. Where were you living when you were born? A. Living in the Cherokee Nation.
Q. I want to know where you were living. Were you living in Goingsnake? A. Yes, sir; I was living in Goingsnake--in Flint, that is where I was living.
Q. On whose place were you living when you were born? A. On old aunt--Jack Wright's mammy.
Q. Your mother was a slave at the time you were born?
A. Yes, sir.
Q. Who was she a slave of when you were born? A. She was living with Phillips.
Q. At that time? A. Yes, sir.
Q. How long did you continue to live with Phillips yourself, to what age? A. I don't know what age I was. I was about--I don't know exactly how old I was.
Q. Who did you live with? A. Sidney Phillips raised me. The old man died.
Q. And you belonged to his wife? A. No.
Q. She kept you? A. Yes, sir.
Q. Were you with her when the war came up? A. Yes, sir.
Q. You were with her when the war started? A. Yes, sir; I was living there with her.
Q. Your mother was living there to? A. No, sir; she was dead.
Q. Did she die before the war? A. Yes, sir.
Q. How long? A. I don't know how long.
Q. About how long? A. About 8 years I reckon, before the war came up.
Q. Where did your mother die? A. She died in Texas.
Q. As I understand you, you stayed with the same Phillips family that owned your mother? A. Yes, sir.
Q. But the old man Phillips died, you were with his widow?
A. Yes, sir.
Q. They had taken your mother to Texas and she died before the war? A. Yes, sir.
Q. You continued to live in the Cherokee Nation? A. Yes, sir; I was raised here.
Q. This Tom Kirk was born before the war, wasn't he? A. Yes, sir.
Q. This Lewis or Bullet Weaver was born before the war?
A. Yes, sir.
Q. Mary was born--wasn't she born before the war? Ben Crittenden's wife? A. Yes, sir.
Q. Then all three of these children were born before you left there?
A. Bullet and Rant and Mary.
Q. Bullet and Tom? A. Yes, sir.
Q. All three of them? A. Yes, sir.
Q. You had these children by two men, Tom Kirk and Joe Weaver?
A. Yes, sir.
Q. You were never married to any of them? A. No, sir; I wasn't married to any of them.
Q. When was Charlotte--was she born before the war or during the war? A. Charlotte was born after the peace was made; her and her sister.
Q. You never took her father's name? A. No, sir.
Q. Never was married? A. No, sir.
Q. Never pretended to be? A. No, sir; I never was married. I lived with him at aunt Lidia Crittenden's.
Q. Didn't live as husband and wife? A. Yes, sir.
Q. How long? A. About 3 years--about 4 years; growing on four years, when he died.

- Q. Were you living with him when he died? A. Yes, sir.
- Q. Name the first child that was ever born to you?
- A. His name was Rant Crittenden.
- Q. Was he born before the war? A. Yes, sir.
- Q. Who was his father? A. Mese Crittenden.
- Q. What was the next child born to you? A. Bullet.
- Q. That was Bullet or Lewis Weaver? A. Yes, sir.
- Q. The next one that was born to you? A. Mary.
- Q. Mary Crittenden? A. Yes, sir.
- Q. The next one that was born to you? A. Rachel.
- Q. Rachel Woodall? A. No, sir; Tom was next.
- Q. Tom Kirk? A. Yes, sir.
- Q. When was Rachel born? A. I don't know. She was born the first year peace was made.
- Q. Did you live with Rachel's father? A. Yes, sir.
- Q. As his wife? A. Yes, sir. He went off in time of war.
- Q. Who was her father? A. Her daddy was a Woodall.
- Q. I want to know his first name; whether it was John, Jack or Bill? A. Just George Woodall.
- Q. Did you have any other children by George Woodall? A. No, sir.
- Q. What was the next child you had born to you? A. Tom, I believe.
- Q. Tom who? A. Tom Kirk, I believe was next to Rachel.
- Q. Who did you say his father was? A. I told you his father was Kirk.
- Q. I wan't to know whether it was Bill or Jack or what?
- A. It was Robert Kirk.
- Q. Were you ever married to Robert Kirk? A. No, sir.
- Q. How long did you live with Ribert, did you live with him as husband and wife? A. I lived with him about a year.
- Q. The next child after Tom; was that Charlotte? A. Charlotte and Lottie.
- Q. How long after the war was Charlotte born? A. About 2 years.
- Q. You say you lived with the father of Charlotte and Lottie until he died? A. Yes, sir.
- Q. His name was Josh Robbins? A. Yes, sir.
- Q. You lived with him? A. Yes, sir; there at aunt Lidia's.
- Q. Did you have a separate house? A. No, sir; all living together.
- Q. Did he have any other woman? A. No, sir.
- Q. Have any children by any other wife? A. No, sir.
- Q. Ever claim? A. Never claimed any. Never had any children by any other woman.
- Q. How old was he when he died? A. 21 or 22.
- Q. They never paid you any money in 1894? A. No, sir.
- Q. You have been applying to the council for citizenship several years? A. Yes, sir. They put me off and the next council put me off and the next---
- Q. They never admitted you? A. They said they would.
- Q. They never did? A. No, sir.
- Q. When you applied to be enrolled you found you weren't admitted?
- A. Yes, sir. They said they would put me on.
- Q. That was these citizenship attorneys that wanted your case?
- A. Yes, sir.

Examination by the Commission.

- Q. Did your daughter Charlotte and her husband part?
- A. He just went off and left her and never come back. He was teaching school out here.
- Q. He never come back? A. They lived together about a year. He just went off. He told her he would be back and he never did come back. The next time she heard of him he was in jail.
- Q. What was Downing's name? A. Jim Downing is all I know.
- Q. I thought you said they were living together until he went to Fort Smith? A. Well, they did. He just went off and left her.

He never did come back. I can prove that. He got to whiskey peddling.

Q. She never gave him any cause to leave her? A. No, sir; she never gave him any cause to leave her.

Q. Do you know how many years they lived together? A. She didn't live with him but about a year, I reckon.

Q. He just went off and left her? A. Yes, sir.

Examination by Mr. Hastings.

Q. Had she any children before this? A. No, sir.

Q. Never married before this? A. No, sir.

Q. Never lived with any one before this as husband and wife? A. No, sir.

Q. Did Jim Downing ever live with any one else? A. She never knowed of him living with anybody until after he left here- a Cherokee woman.

Q. Had he been living with anybody before that? A. Not that we knowed about. We found out after he went off and left Charlotte.

Q. I don't want to confuse you. Didn't you find out after he left Charlotte that he had been living with another woman as his wife? A. Yes, sir. After he left Charlotte we found he had been living with another woman as his wife.

Q. Had he been living with this other woman before he married Charlotte? A. I can't tell you. I heard of it afterwards; they said he was living with her.

Q. Did they say that this man Downing had been living with this other woman before he married Charlotte? A. Yes, sir.

BY THE COURT:

Q. Was Jim Downing dead before Charlotte married this man Newton. A. Yes, sir.

Examination of the Cherokee Tribal Rolls and also of the records of this Commission, shows that Emily Weaver is identified on the Cherokee Census roll of 1896, at page 736, #499, Goingsnake District, under the name of Emily Crittenden, a native Cherokee;

That Mary Crittenden, Cherokee D-51, a daughter of said Emily Weaver, is identified on the Cherokee Census Roll of 1896, at page 736, #511, Goingsnake District, as a native Cherokee;

That Lewis Weaver, Cherokee Freedman Doubtful #1, is identified on the authenticated tribal roll of 1880, at page 497, #2155, Goingsnake District, as adopted colored;

That Thomas Kirk, Cherokee D-963, a son of said Emily Weaver, and who is claiming the right to enrollment by virtue of intermarriage with a Cherokee citizen, is identified on the Cherokee Census Roll of 1896, at page 1202, #1956, Tahlequah District, as a Cherokee by blood;

That Rachel Woodall, Cherokee D-2443, a daughter of said Emily Weaver, is identified on the authenticated tribal roll of 1880, Tahlequah District, at page 821, #2566, as a native Cherokee, and

That Lottie Robbins (now Lottie Alberty), Cherokee D-2901, a daughter of said Emily Weaver, is identified on the Cherokee Census Roll of 1896, at page 736, #1764, Goingsnake District, as a Cherokee by blood.

IT IS ORDERED, that copies of this testimony be filed with and made a part of the record in the following cases:

Charlotte Downing, D-1220; Feggie Whitacre, et al, R-618; Lottie Alberty, D-2901, and Thomas Kirk, et al, Cherokee D-963.

The tribal rolls of the Cherokee Nation have been examined for the name of Josh Robbins, the alleged husband of Emily Weaver and the father of Lottie Alberty and Charlette Downing, and his name can not be found thereon. The only Joshua Robbins to be found on the rolls is an old man on the 1830, 1833, 1836 and 1850 rolls of Tahlequah District, and he is identified on all of said rolls with the same family of children, by a white wife, all of which children now living, have been enrolled by this Commission.

It is considered, from the testimony herein, that said person is not the Joshua Robbins referred to by this applicant.

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

Jesse O. Carr

Subscribed and sworn to before me this 10th day of February, 1905.

Samuel Foreman
Notary Public.

FILED
JUN 1905
COMMISSION TO FIVE TRIBES.

George W. ...

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 9, 1906.

SUPPLEMENTAL PROCEEDINGS HAD IN the matter of the application for the enrollment of EMILY WEAVER et al, as Cherokee citizens, consolidating the applications of

EMILY WEAVER?

Emily Weaver,-----M-348.
Thomas Kirk,-----C D-1220.
Charlotte Downing,-----C D-1220.
Peggie Whitmire et al,-----C R-618.

APPEARANCES:

For applicants, E. H. Couch, Westville, I. T.
For the Cherokee Nation, James S. Davenport.

EMILY WEAVER, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Emily Weaver.
Q What is your age, do you know how old you are? A No sir I don't know my age, but I guess I am about 50.
Q You don't know your age? A No sir.
Q Where do you live? A I live in Goingsnake District.
Q What is your post office address? A ~~XXXXXXXX~~ Proctor.
Q What is your mother's name? A Nellie Coleman.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A To Phillips.
Q Was Phillips a Cherokee Indian? A No sir, his wife was, you see I am thinking about his wife's estate her name was Sidney Phillips, she was a Crittenden when she was married.
Q What was your father's name? A His name was Lewis Crittenden.
Q Was he a Cherokee Indian? A Yes sir.
Q Where did he live? A In Goingsnake District and in Flint District.
Q In the Cherokee Nation? A Yes sir.
Q Were you a slave before the war? A Yes sir, he raised me, Phillips did.
Q Were they Cherokee citizens? A Yes sir.
Q Where were you born? A I was born in Flint District, in the Cherokee Nation.
Q How long did you live in the Cherokee Nation? A I lived in the nation until I was grown and they went out and when,-----
Q Do you know where you went when the war commenced? A Yes sir, we went to the Choctaw Nation.
Q How long did you stay over there? A I stayed there until peace was made, I don't know how long, we went at the commencement of the war we went down.
Q These people took you out now at the commencement of the war?
A Yes sir, and when they come back I wasn't able to come back.
Q Then when did you come back to the Cherokee Nation? A I come back a year after peace was made.
Q Next year after peace was made? A Yes sir.
Q You can remember the civil war, can you? A Yes sir.
Q And you can remember the year peace was made? A Yes sir.

- Q Do you know what year it was? A No sir, I can't remember what year it was.
- Q Whereabouts in the Choctaw nation did you live? A On Red River.
- Q Who did you come back to the Cherokee nation with? A With Will and Lizza Quinton.
- Q Where did they settle? A They settled on Thomas' place.
- Q Have you lived in the Cherokee Nation continuously since you came back? A Yes sir.
- Q Never lived anywhere else? A I have lived anywhere else, I was born and raised here and when I come back I lived here, when they took me out I was grown then.
- Q You had some children when they took you out of here? A No sir.
- Q Is Louis Weaver your son? A Yes sir.
- Q Mary Crittenden? A Yes sir.
- Q Are they on the rolls that you know of? A They said they were on the rolls.
- Q Is Tom Bird your son? A Yes sir.
- Q How many other children have you? A I have another boy, Rant, he is the oldest child I have got.
- Q Is Charlotte Weston your daughter? A Yes sir.
- Q Who is her father? A George Robbins.
- Q Who did she first marry? A She first married Ellis Whitmire, but they were not lawfully married, they lived together.
- Q Who did she marry next? A Downing, Tom Downing.
- Q She is the Charlotte Downing who is an applicant for entitlement in the Cherokee Nation? A Yes sir.
- Q Is Lettie Robbins your daughter? A Yes sir.

BY THE COMMISSION:

- Q Has Charlotte Downing a child by Ellis Whitmire? A Yes sir.
- Q Is that child living? A Yes sir.
- Q Was she another child? A She has got another one by Bob Bushyhead.
- Q Is Henry Bushyhead living? A Yes sir.
- Q Are these children living with Charlotte now? A Yes sir.
- Q Is Charlotte living? A Yes sir.

BY MR. DAVENPORT:

- Q Now Aunt Emily you say you were grown when the war broke out?
- A Yes sir.
- Q Where were you living when the war came on? A In the Choctaw nation.
- Q Your people had left the Cherokee nation and gone to the Choctaw Nation before the war began? A Yes sir.
- Q How do you remember the name of what place you were living when you went to the Choctaw Nation? A No sir, they were not in any town.
- Q How do you know you were in the Choctaw Nation? A They said we were right among the Choctaws.
- Q You might have been in the Chickasaw Nation, mightn't you?
- A No sir, it was the Choctaw.
- Q Where were you from Braggs Depot or any of these places down there? A I don't remember anything about any towns.
- Q Where did you go to get your spoils? A We went to a town there, I forget the name.
- Q Who went down there with you? A I was took down there by Phillips people.
- Q Who were they? A He was a white man and his family were Cherokee.
- Q Who was his family? A Sidney Phillips was a Crittenden before she was married.
- Q You don't know what year you went to the Choctaw Nation? A No sir.

- Q For do you know what year you returned from the Cherokee Nation?
 A We returned from there the next year after peace was made.
 Q How do you know it was the next year after peace? A Why we just stayed there and came back here, old Aunt Lida Quinton came back here and bought her place.
 Q Who was she? A She was a cousin of Sidney Crittendon, old Bill Crittendon's daughter.
 Q You have nothing by which to impress it upon your mind that you came back the next year after war, have you? A No sir, I haven't.
 Q You never made application before to be enrolled as a freedman did you? A Yes sir, they all told me I didn't have to make application, I would never need any, I was raised among the Cherokees and always remained here as a Cherokee.
 Q Do you know whether you are on any of the rolls of the Cherokee Nation? A I was put on the rolls, I don't know whether I am on or not.
 Q Did you at any time draw money when the Cherokees or freedmen were drawing? A No sir.
 Q Did you make application to the Kerr-Clifton Commission in 1897 to be enrolled as a freedman? A No sir, I always tried to get on the Cherokee rolls.
 Q You always claimed you were a Cherokee by blood? A Yes sir.
 Q And tried to be enrolled as such? A Yes sir.

LEWIS WEAVER, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Lewis Weaver.
 Q How old are you Lewis? A Going on 50.
 Q Where do you live? A I live in Seingsnake District.
 Q Are you on the rolls of the Cherokee Nation as Cherokee freedman?
 A Yes sir.
 Q You have taken your allotment as a Cherokee freedman? A Yes sir.
 Q What relation are you to Miliy Weaver? A She is my mother.
 Q Do you remember when the civil war commenced? A Yes sir, I was quite small.
 Q Do you remember where you were when the war commenced? A No sir, I don't remember that.
 Q Do you remember what time you came back to the Cherokee Nation after the civil war closed? A As well as I can recollect we came back with old Aunt Lida Quinton.
 Q You remember when the peace was made, do you? A Yes sir, I believe I do, I don't know the year, but I remember the time.
 Q How long after peace was made until you came back to the Cherokee Nation? A We started back the next year after peace was made I believe as well as I can remember.
 Q Where did you go to? A We came from the Cherokee Nation.
 Q Where did you go to from the Cherokee Nation? A We came in Seingsnake District.
 Q Was that the next year after peace was made? A I believe it was, I ain't certain.
 Q According to your best recollection was it? A I don't know, I believe it was, I couldn't positive say it was.
 Q Do you know who you came back with? A We came back with old Aunt Lida Quinton.
 Q Do you remember where you settled when you came back? A Yes sir.
 Q You came back at the same time of your mother? A Yes sir.
 Q You all came back together? A Yes sir.
 Q You have been admitted as a Cherokee freedman? A Yes sir.

- Q Did you ever try to be enrolled as a Cherokee by blood? A Not that I know of.
- Q You were born before the war and was a great big boy when the war broke out, wasn't you? A That is what I don't know.
- Q You say you are 80 now, you were about 7 or 8 years old when the war broke out? A I don't know my age.
- Q Where were you when you first remember anything about being a war, in Texas or Choctaw nation? A In the Choctaw Nation.
- Q Did you ever live in Texas during the war or after the war? A No sir.
- Q What point in the Choctaw Nation did you live? A Down on Red River.
- Q How far from Doakville, do you know anything about that? A Yes sir I remember that place.
- Q Now you can't say what year you left that country and come back to the Cherokee nation? A No sir.
- Q No nothing about it at all? A No sir, only that I came back with Aunt Lidda Quinton.
- Q Is she living or dead? A She is dead.
- Q Is there any other person living besides you and Aunt Emily? A None only Aunt Lidda Kelly.
- Q What point did you return to after the war? A Barron Fork.
- Q Near whose place? A Joe Starrs.
- Q Is he living? A No sir he is dead.
- Q Who is living over there that you came back to after the war that was living at that time? A I don't know any, I don't remember none.
- Q Weren't there any people living over there but Joe Starr when you came back? A I remember coming back to his place.
- Q How far from his place to some one elses? A I never seen any more places there where we lived there until we got out on the prairie.
- Q Who were living on the prairie? A Coon and Ned Foreman.
- Q Is any of them living? A Ned is.
- Q He knows when you came back? A I guess so.
- Q Have you had him as a witness in this case for your mother? A No sir.

BY THE COMMISSION:

- Q You said you came back with Lidda Quinton? A Yes sir.
- Q Was she any children living? A Aunt Nellie Kelly.
- Q Is that her name now? A Yes sir.
- Q Is she a freedman? A No sir.
- Q She a Cherokee by blood? A Yes sir.
- Q How old is Nellie Kelly? A I couldn't tell you that.
- Q Is she older than you? A Yes sir.

EMILY WEAVER RECALLED:

BY THE COMMISSION:

- Q What are the names of Nellie Kelly's children that came back with you? A Mrs. Fulton, Tom Kelly, and Wyley Kelly, and Rosanna and Nancy John.
- Q Are any of those living now? A Yes sir, Tom Kelly and Rosanna and Jeff Vann's wife.
- Q They are living in the Cherokee Nation? A Yes sir.
- Q How when you went down to the Choctaw Nation you were married, were you at that time? A No sir.
- Q Didn't you have any children? A Yes sir, I had my oldest one this boy Lewis and Rent and Mary, I just had three.
- Q Where was Thomas born? A In the Choctaw nation.

- Q That was sometime during the war while you were gone down there?
A Yes sir.
Q Do you remember when the Treaty of Fort Smith was? A No sir
I don't remember.
Q Don't remember a thing about that? A No sir.
Q You have always claimed haven't you that you were a Cherokee
by blood? A Yes sir.
Q As a matter of fact your mother was a slave? A Yes sir.
Q And your father and mother were never married? A No sir.
Q And you lived with your mother? A Yes sir.
Q Was your mother living when you went south to the Choctaw Nation?
A Yes she was but she wasn't with us.
Q What became of her? A She is dead.
Q I am talking now about the beginning of the war? A I don't
know where she was, she was in Texas somewhere, she departed with
me.
Q Sometime before the war? A Yes sir.
Q And you were kept on the farm? A Yes sir.
Q You say you belonged to Phillips? A Yes sir.
Q Is he living? A No sir, he is dead.
Q Any of his family living? A Yes sir, there is one girl living,
Whitmore's wife.
Q How old is she? A I don't know.
Q Was she born before the war? A Yes sir.
Q What is her husband's name? A Charley Whitmore.
Q And she is living today? A Yes sir.
Q Did you come back with Charley some time? A No sir I came back
with old Aunt Lida.
Q Is Lottie Rebbins your daughter? A Yes sir.
Q Is she living? A Yes sir.
Q She living with you? A Yes sir.
Q Did you have any children when you went from the Cherokee nation
to the Choctaw nation? A No sir I never had no children when
my folks took me down there.
Q Then how many children were born to you in the Choctaw Nation?
A When we went from where we lived before the war I had the three
oldest ones.
Q What was their names? A Aunt and Lewis and Mary, then Tom next.
Q These three oldest were born before the war? A No sir, long
time of the war these three oldest ones.
Q At the beginning of the war how many children did you have?
A Them three oldest ones at the beginning.
Q And after the war commenced and after you went down to the Choctaw
nation? A Tom was born.
Q Before you came back? A Yes sir.

This case will stand continued by mutual consent and agreement
to June 22, 1905.

George H. Lessley, being first duly sworn, states that as
stenographer to the Commission to the Five Civilized Tribes he re-
ported the proceedings had in the above entitled cause, and that the
above and foregoing is a true and correct transcript of his sten-
ographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 1st day of July, 1905.

Myron White
Notary Public.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JULY 29, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMILY WEAVER ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, R. H. Couch.

For the Cherokee nation, W. W. Hastings.

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

BY MR. COUCH:

- Q What is your name? A Thomas Kelley.
- Q Where do you live? A In Coowescoowee district.
- Q How old are you? A I am about 57 years old.
- Q Are you acquainted with Emily Weaver? A Yes sir.
- Q How long have you known her? A Since the war.
- Q Did you know her during the war? A Yes sir.
- Q Where was she during the war when you knew her? A In Polk County, Arkansas.
- Q Was she a slave? A Yes sir.
- Q To whom did she belong? A To old Lige Phillips.
- Q Were they Cherokee Indians? A Yes sir, his wife was.
- Q What time did she leave Polk County, Arkansas? A It was in the fall of '65.
- Q Of '65? A No sir, '65 just a year after the war closed, it closed in '65 we left there that fall.
- Q You are sure you left Polk County, Arkansas, in 1865? A Yes sir.
- Q Where did you start Mr. Kelley? A We started to the Cherokee Nation.
- Q What time did you get to the Cherokee nation? A It was in February of '66 I guess.
- Q Emily Weaver came with you? A Yes sir, her and her children.
- Q Where did you settle? A We settled in Goingsnake district on the Arkansas line.
- Q How many children did she have at that time? A Now let me see, I will count them up, I guess she had 6 children to the best of my memory.
- Q What are their names? A There was wese, Lewis, Tom, Charlotte, Rachel and Mary & guess as were the children.
- Q Are you sure she had that many children at that time? A Now let me study awhile about it I wont be sure, now she might not have had but five, & wont be positive.
- Q Were you well acquainted with her then? A Yes, raised up right by me with them all the time.
- Q What time of the year was it when you got into the Cherokee Nation? A We crossed the Arkansas River just above Fort Smith in February, I couldn't state the day exactly, I would not be positive about that.
- Q It was in February? A Yes sir.
- Q 1866? A Yes sir, cause we got clear up in Goingsnake district in time to plant a corn crop that year.
- Q Where did you make your crop that year? A On the old Woodall farm right near where Westville is now on valley Creek.

- Q Where did this old lady Gally Weaver live at that time? A On the old Beatty prairie with my grand-mother.
- Q Who was your grand-mother? A Lydia Quinton, one of the boys, Lewis, worked with us that year.
- Q You say you got here in time to make a crop, that you come back in time to plant corn? A Yes sir.
- Q Did you sow oats? A Yes sir.
- Q What time do you usually sow oats in that country? A In the spring.

BY MR. HASTINGS:

- Q Where were you born? A I was born in Sebastian County, Arkansas.
- Q Had you ever lived in the Cherokee Nation before the war? A No sir I was born in Arkansas, my father left here in an early day and went to Arkansas.
- Q What country? A Sebastian county.
- Q And then you went from there to Polk County? A Yes sir.
- Q Were you related in any way to Elijah Phillips? A His wife was related to my mother.
- Q What relation was Sidney Phillips to your mother? A I think they were cousins.
- Q When did you go to Polk County, Arkansas? A I couldn't state, we were there when the war come up.
- Q About how long before the war come up, ever since you can remember? A Yes sir.
- Q Were Elijah and Sidney Phillips there ever since you can remember? A No sir.
- Q Didn't they come there in 1854? A I couldn't answer that.
- Q Well it was 7 or 8 years before the war? A I couldn't answer that question.
- Q You know they were living there several years before the war? A Yes sir.
- Q Did they own a farm there? A I guess they did, they were on a farm.
- Q And were living there before the war came up? A Yes sir, to the best of my memory. I couldn't say positive, I remember when we all first to come to the Cherokee Nation, well I don't remember about the Phillips family the Crittendens were related to us.
- Q Do you know George Crittenden at Westville? A Yes sir.
- Q Does he know when your people came back? A I guess he does, he didn't come with us.
- Q Did any other family come with you? A There was I reckon grand-mother, the old lady Quinton, and my father and mother and our families in the outfit that come along.
- Q Where did you come from? A From Polk, County, Arkansas.
- Q Then you started from where you had been living before the war? A Yes sir.
- Q Did they sell their place down there? A Yes sir.
- Q Did Elijah and Sidney Phillips sell their place down there? A I guess they did.
- Q Did they ever go back there? A No sir I don't think they have.
- Q You came in wagons did you? A Yes sir.
- Q How on what place near Westville did Lydia Quinton move to after the war? A She stopped at Joe Starr's.
- Q How long did she live at Joe's? A Not long, then she come up on the Alberty prairie and bought a place.
- Q Where is that from where Westville now is? A Right south of Westville.
- Q How far? A Only a mile or so, she bought it from Sarah Peters.
- Q What owns that place today? A I don't know.

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- Q Who owned it the last time you saw it? A I think this Mose Phillips.
- Q In what year were you born? A I couldn't state to my age exactly. My family record got burned up when my house burnt, but I must be 56 or 57.
- Q In what year were you married? A I was married in '68 or '68.
- Q You don't remember? A It is '67 or '68, I think it was the fall of '67 - was married. No sir, was married in the fall of '66.
- Q Then you were married in the fall after you came up here? A I was married in Greenwood, Sebastian county, Arkansas, in the fall of '66 that I was married?
- Q In the fall of '66? A Yes sir.
- Q Then you were married the fall before you came? A Yes sir.
- Q Then you came here the next spring? A We were on our road then, we stopped in Sculleyville, my father and me, it was before these folks come. We come on to this country and went back and got grand-mother and brought her on in the fall of '65 and come on that fall.
- Q I thought you said you were married in the fall of 1866? A We were on ~~our~~ our road, we were then on the Arkansas River when I was married and come on here.
- Q Now had you been to the Cherokee nation before you married, or were you on your road here? A We were on our road here.
- Q That was your first trip? A No sir we had been here before.
- Q But Billy Weaver was not with you? A No sir.
- Q What time in the fall of 1866 were you married? A I couldn't state the date.
- Q Don't you know the month? A It must have been along about the first of October or September.
- Q You are not positive about it? A No sir.
- Q But you know it was in 1866? A Yes sir.
- Q And you know at that time that Billy Weaver had never been out here? A No sir.
- Q And you come then the next spring with her? A Yes sir, in February.
- Q You don't know what time in February it was? A I couldn't state the day exactly, I know we were on the road and crossed the river in the Territory.
- Q You landed here then in the spring of 1867? A Yes sir.
- Q That was in the spring after you married in the fall of 1866?
- A Yes sir.
- Q How long did you stop down there in Sebastian county when you were married? A We stayed I reckon about a couple of weeks.
- Q Was Billy Weaver with you down there when you married? A Yes sir.
- Q Did you get a license down there when you married? A Yes sir, I don't know for I don't believe just after the war whether there was such a thing as license down there or not.
- Q Can you read and write? A No sir I can't sign my name.
- Q Your memory is not very good these days? A It is just like I tell you, just when the war closed.
- Q Then you may be mistaken a year or two about it? A It might be such a thing, it is just like I tell you it is the best of my memory about these circumstances.
- Q You are going by the time the war closed? A Yes sir.
- Q You came here the next spring after you were married in the fall of 1866? A Yes sir.

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- Q You know she hadn't been here before that time? A No sir.
- Q Where was Jack Alberty living when you folks come up there? A I think Jack had come on to the Territory ahead of us but I don't know whether Jack had left and was living here when we started, we were all fixed and all the Cherokees to come back to the Territory.
- Q You don't remember how many children Billy had? A It was either 5 or 6 I couldn't state positively how many she did have.
- Q When was your oldest child born? A I couldn't state exactly without the record.
- Q Is your oldest child living? A Catherine is living.
- Q What is her present name? A Catherine Murphy, she is enrolled all right.
- Q Where was she born? A In Coocooscoowee District.
- Q What time in the year was she born? A I couldn't say that.
- Q Then your memory is not very good about dates? A It isn't, no sir, it is bad.
- Q You don't know what year then she was born? A No sir, I couldn't state.
- Q Then you might be mistaken even in the year when you came out here? A I might be, just as I told you I was just judging by when the war closed.
- Q You swore you were married in the fall of 1866? A Yes sir.
- Q Now then you didn't come here until the next spring, that would be the spring of 1867? A Yes sir.
- Q Then you were mistaken when you said you came here with Billy Weaver in the spring of 1866, it was in the spring of 1867 wasn't it? A Yes sir.
- Q You might even be mistaken about the year you were married, it might have been in the year of 1868? A Yes sir.
- Q Then it might have been as late as the spring of 1868 when you come? A I don't think it was that late, I can't fix it as that late.
- Q But it couldn't be earlier than the spring of 1867 now? A According to the date of my marriage.
- Q And you want to correct your former testimony to that effect? A I want it as near right as I can get it. It isn't anything to me only these people got me here and I want to tell it right as I can.
- Q You don't know how many years they lived in Polk County, Arkansas? A No sir.
- Q But you know Elijah Phillips and his wife Sidney owned a farm down there? A Yes sir.
- ON BEHALF OF THE COMMISSIONER:
- Q Who did you saw Billy Weaver belonged to? A Phillips.
- Q Which Phillips? A Lige Phillips.
- Q When was the first time you ever get acquainted with Billy Weaver? A Along before the war, I just couldn't say what time.
- Q You knew it was sometime then before the close of the war? A Yes sir.
- Q And during all the time you knew her she was living in Arkansas with Lige Phillips? A Yes sir until they come here.
- Q Was Lige Phillips a recognized Cherokee? A His wife was, he was a non-citizen.
- Q Cherokee citizen at that time? A Yes sir recognized as one when we come here.
- Q Did Lige Phillips have a place in the Cherokee nation before the war? A I couldn't say.
- Q Now the only property that you knew he had was in Arkansas? A Yes sir, I never had been to the Territory before the war.

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- Q Do you know Tom Kirk? A Yes sir.
- Q Where was he living? A With the old man's family, he was a son fo Baily Weaver.
- Q Did she have any more brothers and sisters than Thomas? A He aint her brother.
- Q Where was Thomas born do you know? A He was born in Arkansas I think. I know he was a boy when I first remember him.
- Q When was the first time you ever came to the Cherokee Nation and who was with you the first time you come? A The first time I come was me, father and my grand-mother.
- Q There was just three of you? A It seems to me ther ewas some others, there was quite a bunch of us Cherokeees came up here to locate and look around.
- Q How long did you stay at that time? A Just about a week.
- Q Then you went back to Arkansas? A Yes sir.
- Q How long did you stay then? A I couldn't say.
- Q About how long, your best judgment? A Probably a month.
- Q Then did you start back to the Cherokee Nation? A Yes sir.
- Q Wasit at that time Baily Weaver come with you? A She didn't start then at that time, we come on up to Sculleyville, county and my father went back and got my grand-mother and these slaves.
- Q On the third trip Baily Weaver was with you? A Yes sir.
- Q How were you married at that time? A I think I was.
- Q Are you sure about that? A I think me and my ~~mother~~ woman got married on the first trip we moved up to sculleyville County.
- Q On your first trip or on your first return? A No not the first trip, it was the second trip.
- Q The third trip you came back with Baily Weaver and these other colored people? A Yes sir.
- Q How long do you think you had been married before you came along with Baily Weaver? A I was married in the fall, I think to the best of my judgment, we started on in february following is the best I can remember.
- Q Do you remember the treaty of Fort Smith? A No sir, I don't.
- Q Have you ever heard about it? A Yes sir I have heard about it, was th t the treaty of '66?
- Q Did you hear of the treaty of Fort Smith spoken of at that time?
- A I don't remember whether I heard of it or not.
- Q Do you remember of hearing it spoken of in Arkansas or in the Cherokee nation? A It seems like to me it was after we came, I would not be positive about that. A I know I heard the treaty spoke of but I couldn't say just when it was.
- Q Now I want you to tell me where you heard this treaty spoken of, was it in Arkansas or in the Cherokee Nation? A Dog if I can remember now about that, I would not be positive whether it was after or before we come here.
- Q How soon after you came to the Cherokee Nation that your eldest child was born? A My oldest child wasn't born in the Cherokee Nation.
- Q Where was your child born? A My woman went back to her sister in Arkansas. We come up in the spring and my wife went back to her sister in the fall and the child was born along in the winter like.
- Q Is that child living? A Yes sir.
- Q What is the name of that child? A Catherine Murphy now.
- Q That was the fall after Baily Weaver came here to the Cherokee Nation? A Yes sir I guess it must have been.
- Q Baily Weaver came here the spring of the year and your child was born in the fall of the same year? A I think it was to the best of my knowledge.

BY MR. HASTINGS:

- Q Was your wife with you when you applied to be enrolled yourself at Vinita on September 21, 1900? A No sir, she was not with me.
- Q Had you talked to her about your marriage so that you refreshed your memory about it? A I guess I had.
- Q You stated at that time in answer to this question, "How long have you lived in the Cherokee Nation," A "Ever since 1868," is that correct? A Well now I don't know, it seems to me like we started in the fall after the war closed, that is my best memory about it. We come into the Choctaw nation and then the next spring.
- Q How the judgment of the Commission after you gave your testimony on September 21, 1900, recites the fact, "His wife was married to him in 1868," was that what you told the Commission at that time? A Yes sir, I guess it was.
- Q Wasn't your memory fresher then having talked it over with your wife when you married? A It looks reasonable.
- Q You haven't had occasion to talk this question over as to when you and your wife married recently? A No sir never thought anything about it.
- Q But you did have occasion to talk it over with her before you went to Vinita? A Yes sir had to then.
- Q Don't you think that this testimony that you gave under date of September 21, 1900, was more nearly correct by reason that you talked it over with your wife? A Yes sir.

MR. HASTINGS:

I desire to have introduced in this case the testimony of the witness, Thomas Kelley, taken before the commission at Vinita, I. T., on September 21, 1900, the same having been found in Cherokee straight case 3167, for the purpose of showing when the witness testified when he came back to the Cherokee Nation after the war and also for the purpose of showing when he was married to his wife, as the witness now states that his memory was fresher at that time having talked it over with his wife.

MR. COUCH:

No objection.

ON BEHALF OF THE COMMISSIONER:

The applicants offer in evidence the supplemental testimony of Thomas Kelley taken October 20, 1902, at Muskogee, in the case of Thomas J. Kelley for himself and his wife and children, Cherokee straight case No. 3167.

MR. HASTINGS:

No objection.

BY MR. COUCH:

- Q Mr. Kelley how old did you say you were? A I couldn't state my age correctly. I must be about 57 years old the best I could get at it.
- Q You say that you can't read nor write? A No sir, I don't know a letter.
- Q You remember very distinctly when the civil war closed? A Yes sir.
- Q About how old were you at that time? A I was a young man.
- Q How you say you were acquainted with Emily Weaver during the war?
- A Yes sir.
- Q How many children did she have? A I couldn't say.
- Q What was her eldest child's name? A We called him Bent Crittendon.

- Q Do you know who his father was? A Said to be old Wenz Crittenden.
- Q Who was her next oldest child? A I don't know whether it was Mary or Lewis, one of them two.
- Q You know them two down there? A Yes sir.
- Q How do you know who the next one was? A Seems to me like they called her Lettie.
- Q Lettie or Tom? A Yin, that is the one.
- Q How large was Tom? A Just big enough to stay on a horse and ride.
- Q Do you remember exactly the time you left Polk County, Arkansas?
- A I couldn't state.
- Q What time of the year was it? A It was in the fall of the year.
- Q Was that the same year peace was made? A That is the best of my judgment.
- Q Who left there with you? A Just my father and our family, brother-in-law of course, and one of my oldest brothers that was married.
- Q When you left there where did you go to? A Went to Sculleyville County, Choctaw Nation, and then we went back and got grand-mother and the slaves.
- Q How long did you stay over there in the Choctaw nation before you went back to Polk County? A We went there in the fall and the next fall we started back with the whole outfit to the Cherokee Nation.
- Q How you went over there in the fall of 1865 in the Choctaw nation?
- A Yes sir.
- Q How when did you go back after Billy Weaver? A The next fall.
- Q How did you happen to stop over there in the Choctaw nation?
- A Our stock got poor and we just stopped for the winter and then went back after grand-mother and these slaves.
- Q After you went back after them you came right on to the Cherokee Nation? A Yes sir.
- Q How which trip was it you married? A The last trip we made up here.
- Q It was after you came over in the Choctaw nation and went back to Polk county, Arkansas? A Yes sir.
- Q Now it was the next fall after you first left Polk County, Arkansas? A Yes sir I think it was.
- Q How did you make that trip from the Choctaw nation to the Cherokee nation? A We come right up to Fort Smith just before we got to Fort Smith we turned west and crossed the river up the river from Fort Smith just 12 miles from where we made the little camp, over into the Cherokee nation.
- Q That was the fall that you were married was it? A It was along in the spring after I was married in the fall.
- Q What kind of teams did you have? A We had ox teams mostly I believe, one or two mules.
- Q Did you bring any stock with you? A Yes sir, hogs, cattle, and a few sheep.
- Q What time of the year as well as you remember that you left the Choctaw Nation? A I think right about the first days of February.
- Q That must have been now in the year 1867? A It might have been right along there.
- Q Do you remember what kind of weather it was? A It was rainy, wet, bad weather, I know we were water bound a whole lot.
- Q Had the grass put out any? A No sir.
- Q Trees hadn't leaved out? A No sir, at the time we got here the grass had begun to spring up.
- Q Did you lay over on that trip any? A Yes sir.
- Q Where was that? A Well the laying over, down here just the other side of Fort Smith we had two teams stolen, we stayed there about a week. Then we got across the river on Lee's Creek we were water bound there a week or two. I couldn't say anything about the

- Q Were you driving your hogs? A Yes sir.
Q Did you have any sheep? A Yes sir I think grand-mother had a bunch of sheep.
Q You think you were detained on Lee's Creek two or three weeks?
A Must have been a week anyhow.
Q Did you stop over any other time before you got up to Coingsnake District? A Yes sir.
Q How long were you making that trip? A I couldn't state.
Q About how long? A It must have been three weeks or more.

BY MR. HASTINGS:

- Q You mean you were that long in making the entire trip? A Yes sir
Q How far is Westville from Fort Smith? A 60 or 65 miles.
Q Fort Smith is right on the border of the line between the Cherokee and Choctaw nations? A Yes sir.
Q Was that the Cherokee nation then, Westville the point to which you went, or the neighborhood to which you went, was some 60 or 65 miles north of the Cherokee southern boundary line, now how long did it take you to go that distance? A It must have been some 3 or 4 weeks.
Q That was on the whole trip now I mean in the Cherokee nation?
A I couldn't say positive.
Q You say when you got up there the grass was coming out and the leaves were putting out? A Beginning to put out.
Q Do you think that was as late as the first of April? A It was in March for we sowed a few oats and put out a corn crop.
Q That was sometime in March, it might have been as late as the first of April? A It might have been but I think it was in March.
Q Was Tom Kirk himself a slave in Arkansas? A He was born there.
Q Do you know whether he was regarded as a slave himself or not?
A I don't know whether he was born before the war or during the war.
Q Do you know whether Billy was a slave or not? A Yes sir.
Q Slave of Phillips? A Yes sir.
Q And owned a farm in Arkansas when the war came up? A Yes sir.

BY MR. COUCH:

- Q What kind of a farm did Phillips own down there? A A bottom farm.
Q Do you know whether he owned it or just rented it? A He didn't have it rented, the old man was in possession of that farm and sold it out, I know that to be a fact.

BY MR. HASTINGS:

- Q Who did he sell it to? A To a fellow by the name of Hughes.

ON BEHALF OF THE COMMISSIONER:

- Q Do you know what year he sold the farm? A No sir.
Q Did he sell it before he came to the nation? A Just a short time couldn't say.
Q You are positive of that? A Yes sir.
Q Is Phillips living? A No sir.
Q His wife living? A No sir.
Q Any of his children living do you know? A I think there are two of them living.

BY MR. HASTINGS:

- Q What are their names? A Charley Whitmore's wife and Frank Phillip is the other one.

ON BEHALF OF THE COMMISSIONER:

- Q Were either of those born before they came to the nation? A Yes sir.
- Q How old are they, about your age? A No sir, not quite as old as I am.
- Q And they came along with you and Gully Weaver? A No sir. I have been trying to study up when they come, whether it was before or after, I don't know. We all some I think about in the same year but we didn't come together, I don't know whether they were ahead of us or behind us.
- Q Did you own any property yourself in Arkansas? A No sir.
- Q Did your mother? A They never had any deeded land at all, they owned a place there, just settled up.
- Q Did they settle it? A Yes sir, my father sold it.
- Q The same year you came here? A I don't remember whether it was the same year or before.
- Q Was that deed recorded? A He had no deed at all.
- Q Didn't he deed it to the other man? A No sir, just give him a quit claim title.

WITNESSES EXCUSED.

ANTHONY CRITTENDEN, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Anthony Crittenden.
- Q What is your age? A I don't know my age.
- Q About how old are you? A I must be about 55 or 56.
- Q Where do you live? A In Canadian District.
- Q Cherokee Nation? A Yes sir.
- Q Are you acquainted with Emily Weaver? A Yes sir I ought to be.
- Q What relation are you to Emily Weaver? A She is my mother.
- Q How large was you when the war closed? A I don't know, I can recollect there being a war going on, that is all I can recollect about the war.
- Q You were a pretty good size boy were you? A Yes sir.
- Q Where did you live when the war closed? A I lived in Polk county, Arkansas.
- Q How long after the war closed until you left there? A It was in 1865 when I left there.
- Q How do you know it was 1865? A

ON BEHALF OF THE COMMISSIONER:

- Q Have you ever been known by the name of Bant? A Yes sir that is the nick name they give me.

BY MR. COUCH:

- Q How do you know that it was in 1865 that you left there? A Old Aunt Lydia told me it was in 1865.
- Q Who was that, Aunt Lydia Quinton? A Yes sir.
- Q When did you talk with her about the time you left, after you came back to the Cherokee Nation? A Yes sir I lived with her until I was grown.
- Q When you left Polk County where did you go to? A Went to the Choctaw Nation.
- Q How long did you remain in the Choctaw Nation? A We left there in 1866.
- Q What time of the year? A It was in the fall like, I don't remember what time in 1866.

- Q How long now did you stay over there in the Choctaw Nation? A I don't recollect how long we were there.
- Q About how long was it? A We started from the Choctaw Nation but didn't travel more than a day before we lost the horses.
- Q Had you crossed the Arkansas River when you lost the horses?
- A No sir.
- Q You stayed there awhile then before you crossed? A Yes sir we couldn't find them, we rigged up a team and come on.
- Q What time of the year was it? A It was in the winter as well as I can recollect.
- Q Was it cold? A Yes sir, pretty cold.
- Q Do you remember whether there was any snow on the ground after you left the Choctaw Nation or not? A No sir.
- Q Well how long were you making that trip now from the Choctaw Nation before you stopped in Goingsnake district in the Cherokee Nation? A It was in 1867 when we got to where we were going.
- Q How do you know it was 1867? A The old lady told me it was.
- Q She told you it was in 1867? A Yes sir.
- Q What time of the year in 1867 was it, in the winter? A I don't know what time it was, I ~~don't~~ think it was along in the spring.
- Q In the early spring was it? A Yes sir, we got here in time to put in oats.
- Q Had the trees put out when you got up there? A No sir the trees hadn't put out as well as I can recollect.
- Q Do you think it was as early as January when you started across the Arkansas River in 1867? A It must have been, we drove hogs, and you know how hogs travel.
- Q Were you detained on the road from any cause? A High water sometimes.
- Q Where was that high water? A On Lee's Creek.
- Q Is that in the Cherokee Nation? A Yes sir.
- Q How long were you detained there by high water? A Not more than two or three days at a time, maybe a day and maybe sometimes two days.
- Q Now according to your best judgment how long were you making that trip from the Choctaw Nation? A I couldn't hardly tell.
- Q Were you as much as a month and a half? A It might have been a month and half, I couldn't say for certain, it might have been a little longer, I couldn't say.
- Q Were you a slave? A Yes sir I guess I was.
- Q Who did you belong to? A Old man Phillips. Old man Lige Phillips
- Q What was his wife's name? A Sidney Phillips.
- Q They were Cherokee citizens? A She was a Cherokee, he was a white man.

BY MR. HASTINGS:

- Q Where were you born? A Now you are too hard for me, I don't--
- Q Where were you told you were born? A I never did hear them say where I was born.
- Q You never heard them say where you were born? A No sir.
- Q Were you born in Polk County, Arkansas? A I don't know whether I was or not.
- Q When you could first remember you were living there? A Yes sir.
- Q And you are now about 55 or 56? A Yes sir.
- Q Then you were born along in 1849 or '50? A Yes sir I might have been born in Polk County, I couldn't say where it was.
- Q Is it your understanding you were born there? A I guess I was, I couldn't say where I was born.
- Q Then your mother was living there with Elijah Phillips when you were born? A Yes sir.
- Q And she never came to the Cherokee Nation until after the war?
- A No sir.

- Q Did Elijah Phillips own a farm there? A Yes sir.
- Q And he was living on it when the war commenced and had been ever since you could remember? A Yes sir I guess he had, he was living on it when I could recollect.
- Q Now for the purpose of testing your memory, when were you married? A It has been about 20 years ago.
- Q Do you know what year? A No sir I couldn't, I aint got no education.
- Q Can you read and write? A No sir.
- Q You don't know the years then? A No sir.
- Q Then you really don't know what year you come up here? A No sir.
- Q You don't know what month? A No sir.
- Q You know it was in the spring of the year? A Yes sir.
- Q Now don't you know that Lee's Creek is just a small spring branch and runs down in any two days? A You cross it I don't know how many times.
- Q I aint asking about how many times you cross it, I am talking about its size? A It is just a small creek.
- Q It is just a spring branch? A I never was at the head of it.
- Q It is just a small stream? A It isn't a big stream.
- Q Is there a place along down there that you couldn't run and jump across it? A I can find places that I couldn't jump it.
- Q How wide is it down there? A I never measured it to see how wide it is.
- Q Aint you got any judgment about it, you are under oath? A I know that I can't jump it.
- Q If you can't jump it you can estimate it? A I don't know exactly how wide it is.
- Q Estimate it? A It must have been about 6 or 7 feet, maybe 8 or 9.
- Q Now that is the only creek that detained you? A Yes sir it was, but there were some fords that were deep.
- Q How far is it from the neighborhood of Westville which you came to, to the south boundary of the Cherokee nation, down to the Arkansas River, about 50 or 60 miles? A I don't know, I expect it is.
- Q How long did it take you to come that 50 or 60 miles, a week?
- A It might have been, it might have taken us a week and it might have taken us 10 days, hogs travel slow.
- Q Is that your best judgment? A Yes sir.
- Q Week or 10 days? A Yes sir.
- Q And you don't know exactly what month you landed up there, it might have been March? A I think it was in February when we come there.
- Q You don't know about that? A No sir.
- Q What year is this? A I don't know.
- Q What year was the strip pay, out? A I don't know that either.
- Q Do you know the year any one of your children were born? A No only from their age I have got them set down.
- Q How you claim your citizenship by virtue of your father being a Cherokee, didn't you? A Yes sir.
- Q You didn't claim your citizenship through your mother? A Maybe I didn't.
- Q You claimed as a Cherokee didn't you? A Yes sir I did.
- Q Who is your father? A Old Moss Crittenden.
- Q He was a Cherokee? A Yes sir.
- Q And you claimed through him? A I put it in that way.
- Q And you put in that your mother was a white woman? A No sir.
- Q What did you put in that your mother was? A I don't recollect putting her in at all.

ON BEHALF OF THE COMMISSIONER:

- Q Did you come to the Cherokee Nation along with your mother?
A Yes sir.
Q Did you come along with the witness that just testified, Thomas Kelley? A Yes sir, me, old man Kelley, and Tom came and old Aunt Lydia Quinton all came along together, we all come here together.
Q How old were you at the time you started to the Cherokee Nation?
A I don't think have no idea, I guess I must have been 12 or 15 years old.
Q Just between a boy and a man? A Yes sir.
Q How you don't remember ever living in the Cherokee Nation before that do you? A No sir.
Q The time you first came here so far as you know, was that time? A Yes sir.
Q Have you lived here ever since? A Yes sir, I lived 6 years on Grand River, and then I moved back to Goingsnake and lived there two years, and then I have been down here in Canadian District.

This case was here continued by consent and agreement until July 27, 1906, at one o'clock P. M.

George 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.

George H. Lessley

Subscribed and sworn to before me this 24th day of July, 1906.

Myron White

Notary Public.

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1805 - 1815

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JULY 27, 1908.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMILY WEAVER ET AL., as Cherokee Freedmen.

APPEARANCES:

For Applicants, R. H. Couch.
For Cherokee Nation, W. W. Hastings.

The following testimony was introduced on behalf of the Cherokee Nation.

JOHN W. ALBERTY, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A John W. Alberty.
Q What is your age? A 71.
Q What is your post office? A Westville.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in and around where Westville now is?
A 71 years.
Q You lived there then before the war? A Yes sir.
Q And after the war? A Yes sir.
Q Did you know Elijah Phillips before the war? A Yes sir.
Q Where was he living when the war came up? A In Polk County, Arkansas.
Q How long had he been living there? A He left for Polk County, Arkansas immediately after the Emigrant payment, it was in, I reckon about 1852.
Q Did he come there with his effects? A Yes sir.
Q Was he registered as a citizen of Arkansas when the war came up?
A Yes sir.
Q Did you know Nellie Coleman, a slave of his family before the war? A I didn't know a Nellie Coleman, I knowed a Phillis.
Q Did you know the mother of Emily Weaver? A Yes sir.
Q You knew this Phillis who was her mother? A Yes sir.
Q Where was she living when the war came up? A She was dead.
Q Where was Emily living? A In Polk County with Lige Phillips.
Q Had she been there ever since the removal of the Phillips family to Arkansas before the war? A Yes sir.
Q Where were you living immediately after the war? A No.
Q Yes sir? A I lived right on the place I am on now.
Q How far is that from Westville? A It is about 2 1/2 miles straight through, 3 miles the way the roads are.
Q Did you know Lydia Quinton? A Yes sir.
Q She was a Cherokee? A Yes sir.
Q Emily Weaver claims to have returned with her? A Yes sir.
Q Do you know when she returned to the Cherokee Nation after the war? A Yes sir, I think I do.
Q When did she come back? A She came here in February, 1862.
Q How do you know that? A I loaned her a wagon and team to move up there.
Q Was she any relation to you? A Yes sir.
Q What? A Second or third cousin.
Q Did you know her before the war? A Yes sir.
Q You grew up together? A No sir she was a older person than I was.

- Q I mean you were reared in the same neighborhood? A Yes sir.
- Q Did you know about her bringing Emily back with her? A Yes sir.
- Q Did she? A Yes sir.
- Q How far did they settle from you? A I guess about 2 or 3 miles, right on the road to Westville, a out 2 miles I guess.
- Q How when did you return there after the war? A I came there, we started from Texas the first day of September and landed up there the first week in October.
- Q What year? A 1866.
- Q And you continued to live right in the vicinity of where Westville now is? A Yes sir, I lived on the place I am on and then moved up right where Westville is and stayed there 7 years.
- Q You have lived then continuously in the neighborhood of Westville both before the war and then since the fall of 1866? A Yes sir, I was raised in about 4 miles of Westville and have been there ever since, except what time I was off during the war.
- Q And you are positive it was in February or March of 1868? A
- A Yes sir.
- Q You came back in the fall of 1866? A 1866.
- Q And you are certain it was not the next spring? A No sir.
- Q What makes you think that? A Because we had made a crop and Phillips came in the next fall, but the negro woman didn't come in until in the spring of 1868. Mrs. Quinton come when Lige Phillips did and stayed there looking around at the country trying to buy a place and I loaned her a wagon for her to move in and she never got back until February, 1868.
- Q Do you know a Tom Kelley who is a Cherokee? A Yes sir.
- Q Did he at that time live in Coingsnake district near Westville? A Yes sir.
- Q Do you know when he came back after the war? A It seems to me like he came back here in the fall of 1868, he didn't come back with Lydia Quinton. She came in the spring and they didn't come until the following fall. They lived right there around me.
- BY MR. COUCH:
- Q Did you know Emily Weaver before the Civil War? A Well I never saw her after she was a small girl when Lige Phillips moved off with her and I never saw her after that until the war came up, and we went to Lige Phillips' in the time of the war and she was there.
- Q You were in Polk County, Arkansas, during the war? A Yes sir.
- Q Were you ever there before the war? A No sir.
- Q You never saw Lige Phillips in Polk County, Arkansas, before the war? A No sir, I saw him back here several times after the war and before the war, I say he came back here on several occasions before the war.
- Q You said awhile ago he left the Cherokee nation and went to Polk County, Arkansas, how do you know he went to Polk County, Arkansas? A It is a great long story to go into the details of it. The family of negroes belonged to his son, there was a negro man in the outfit that went with Lige Phillips to Polk County, and he had a wife at Magreves and he came back and Jack Phillips took him and Lige Phillips came back and had a law suit there.
- Q Where was that? A Down in the Cherokee Nation there, they compromised the case.
- Q Now where were you at the time the war closed, Uncle Jack? A I was on Red River.
- Q On the Texas side? A No sir on the Ghostaw side.
- Q What time do you say you returned to the Cherokee Nation? A We got here in October, 1866.
- Q How long had you been here when you first saw Emily Weaver? A Well we had made one crop and she moved here, never come until the winter was over and in February after we had made one crop.

- Q That was when you first saw Emily Weaver in the Cherokee Nation after the war? A Yes sir.
- Q Do you know where she was at the close of the war? A Yes sir.
- Q Where was she? A On Red River with Lige Phillips.
- Q Was that in Arkansas? A No sir, it was in the Choctaw Nation, Lige Phillips left there in February, 1866, and moved back to Polk County and made a crop there.
- Q Do you know whether or not he took Emily Weaver with him in 1867?
- A From Red River, yes sir.
- Q You never saw her from the time the war closed until you saw her in the Cherokee Nation? A No sir, not until she came there with ~~XXXXXXXXXX~~ Lydia Quinton.
- Q Do you know what time Lydia Quinton left Polk County, Arkansas, or whether she was ever in Arkansas or not? A Yes sir, I know she lived there, I don't recollect how many days it took her on the road but she was about the last of February or first of March before she returned there to father's place.
- Q Are you sure she came from Polk County, Arkansas, at the time you say you loaned her the wagon? A Yes sir.
- Q Do you know whether she lived in the Choctaw nation after the close of the war? A No sir, I don't.
- Q She might have lived down there in the Choctaw nation? A Yes sir she might have.
- Q You don't know anything about when she left Polk County, Arkansas?
- A I guess she left there with Lydia Quinton.
- Q Lydia~~xxx~~ Quinton is the one I am speaking of? A She wasn't long in the Choctaw Nation because she come with Lige Phillips, they come in 1867 and she stayed until up in the winter and went back and then she come on the next spring in February or March.
- Q She first came up there with Lige Phillips? A Yes sir.
- Q That was in the fall of 1867? A Yes sir.
- Q Do you know whether Thomas Kelley came along with them or not?
- A No sir, him and his father and among them came up horse back and were around there but I don't think they come with Lige Phillips, they come a little after that in 1867 and then went back to Polk County after their effects and to sell their land.
- Q Did they own land in Polk county, Arkansas? A Yes sir.
- Q Have a deed to it? A Yes sir.
- Q Did you ever see a deed? A No sir but I have seen the land a many a time.
- Q But you don't know they had a deed? A I am satisfied they had a deed for they sold it.
- Q Did you know Josh Robbins? A Yes sir.
- Q Was he related in any way to Emily Weaver? A I don't know, I couldn't say that.
- Q Did they live together after the war? A What is more than I could tell, I couldn't say, that they lived together, he had a wife.
- Q Who was his wife? A She was a white woman, I don't know what her name was.
- Q Did she live there with the family? A Yes sir.
- Q Where did they live? A With old Aunt Lydia Quinton.
- Q You don't know anything about him living with Emily Weaver? A No sir.
- Q Do you know anything about him dying? A Yes sir.
- Q When was that? A That was in about 1870.
- Q Was he a Cherokee, Mr. Alberty? A Yes sir.

Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to this line of examination because it is irrelevant to show that those people are entitled as freedmen citizens of the Cherokee nation, and that is how they are claiming at this time.

Mr. Couch: We submit the applicant made application for citizenship in the Cherokee Nation as Cherokees by blood. The children of Emily Weaver claiming their rights to citizenship, being the children of Josh Robbins, a Cherokee citizen by blood.

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

- Q You say Josh Robbins died about 1870? A Yes sir, it must have been.
- Q Do you know whether Emily Weaver was a slave or not? A Yes sir.
- Q To whom did she belong? A She belonged to Jeff Phillips but she was taken from here by Lige Phillips, and when Jeff died Lige just kept her down there in Polk County. Willed to Jeff Phillips and Jack Phillips' mother by grand-father Wright.
- Q You don't know anything about whether Lydia Quinton moved away from Polk County, Arkansas, with this applicant, Emily Weaver, in the fall of 1865 or not, do you? A No sir, she didn't live there with her in 1865 I am satisfied, because they lived on Red River in February 1866.
- Q Then Emily Weaver was not in Polk county in 1865? A No sir.
- Q Do you know when Lige Phillips left Polk County with her? A He never left there with her, she came here with Lydia Quinton.
- Q You said awhile ago you saw Lige Phillips in Polk County, Arkansas, during the war, was Emily Weaver there then? A Yes sir.
- Q When did she live there? A He went down to Red River from there in 1863.
- Q How many children did Emily Weaver have? A I couldn't tell you that, she had several.
- Q From the time he left Polk County, Arkansas, in 1863, with this applicant, where did he live until the close of the war? A Right there on Red River in about a mile of where we did.
- Q You saw him continuously during that time? A Yes sir.
- Q And he left Red River about the time you left to come to the Territory? A No, he left just a month before me, father and Isaac came here to make a crop. A They came in March, 1866, and he left in February for Polk County, Arkansas. Took all of his family there.
- Q You were never in Polk County, Arkansas, after you saw him down there on Red River? A No sir, I was never back there.
- Q All you know about it is what they told you? A Yes sir, and what I seen after they come back here.
- Q Then you don't know anything about how long Lige Phillips stayed in Polk County after he left Red River in 1866, do you? A No sir, only of him coming here in this country.
- Q That was the first time you saw him after he left Red River? A Yes sir.
- Q Was Aunt Lydia Quinton on Red River with those parties? A She stayed there a little while, she didn't stay there all the time, she didn't move there I don't think but she was there several times at Lige Phillips.
- Q Do you know who all came with Lige Phillips at the time you say he brought Emily Weaver back to the Cherokee Nation? A Aunt Lydia Quinton brought her back.
- Q At the time Aunt Lydia Quinton brought her back? A I don't recollect who all there was, Joe Weaver, and old Levi Robbins, and her and Emily Weaver, and I reckon that was about all that was in that crowd, and Kelley was her son-in-law and she come in the spring and he didn't come until the fall.
- Q Emily Weaver came before Kelley came back? A Yes sir.

Kelley

- Q Then Gaily Weaver got back to the Cherokee nation before Tom Kelley died? A Yes sir.
- Q Did you know Jim Phillips that lived out there on the prairie near Westville? A Yes sir.
- Q When did he die? A I couldn't tell without I-----, he didn't die until along in about 1881 or 1882.
- Q Do you know when he was married? A Well now we would have to go to the court records to see that, but it is my opinion that he was married in the winter of 1867.
- Q Who did he marry? A He married Fatsie Paris.
- Q Do you know where they got married? A Yes sir, they went to,-- I was not where they got married, I know where they went to get married.
- Q Did not they get married at Aunt Lydia Quinton's house? A No sir.
- Q Are you sure they didn't? A Yes sir, I am, I was over there in the evening and they were all laughing about it and said they had gone to Lever Thornton's to get married, he was the Judge.

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

GEORGE CRITTENDEN, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A George Crittenden.
- Q What is your age? A 60.
- Q Are you a citizen of the Cherokee Nation? A Yes sir.
- Q What is your post office? A Westville.
- Q How long have you lived in the vicinity of where Westville now is? A Was born there, lived there all my life excepting about four years during the war.
- Q When did you return there after the war? A We returned there in 1867.
- Q What time in 1867? A In the fall.
- Q Did you know Gaily Weaver, the applicant? A Yes sir.
- Q You didn't know her mother? A No sir.
- Q Do you know Joe Weaver? A Yes sir.
- Q Did you know Lydia Quinton? A Yes sir.
- Q Is she any relation to you? A Said to be, yes sir.
- Q Do you know when she came back after the war when Gaily Weaver came back? A No sir, I know when old man Joe Weaver came back. He made a crop with me in 1868.
- Q Do you know whether Gaily Weaver came back with him or not? A No sir, I don't.
- Q Was that her husband? A She had a child by him.
- Q Had you ever seen Gaily Weaver before you saw Joe weaver? A No sir, I saw him he used to live there before the war and then I went to Fulk County and I saw him there in Fulk County at Phillips.
- Q Did you see Gaily Weaver down there? A Yes sir.
- Q Were they recognized as husband and wife? A I don't know how the records were but they were there together.
- Q Did you see Gaily Weaver down there? A Yes sir.
- Q Do you know how long she had been in Fulk County, Arkansas? A No sir I don't know, she was down there a good while, Jeff phillips used to come up to his brother yackee.
- Q Did the phillips have a farm there? A Yes sir.
- Q Do you know whether or not Lige Phillips died there or not? A No sir, I think he died up here.
- Q Was he living down there before the war? A Yes sir, by his son coming back there said his father was living.

- Q You never went there until during the war? A No sir.
- Q You mean to say you heard of their living down there by the visits backward and forward of his son? A Yes sir.
- Q You found the Phillips down there during the war and found Emily Weaver living with them? A Yes sir.
- Q You say that Joe Weaver used to live about your father's more or less before the war? A Yes sir, right across the Creek from where I live now.
- Q And you remember the year he came back? A Yes sir, because I got him to make a crop with me.
- Q Do you know where he came from in 1868? A He came from Falk County, whether he came with the Phillips I couldn't say.

BY MR. COUCH:

- Q Do you know Aunt Lydia Quinton? A Yes sir.
- Q Do you know when she came back to the Cherokee nation? A No sir.
- Q Was she there when you got there, was she? A No sir, she wasn't there when I got there.
- Q When did you come back to the Cherokee Nation after the war? A In 1867.
- Q What time of the year? A In the fall.
- Q When did you first see her after you got there? A It was along in 1868 sometime.
- Q Are you sure it wasn't 1869? A She came in 1867 and went back, it might have been 1869 when she came the second time.
- Q She came up to the Cherokee nation and went back somewhere, do you know where she went to? A To Falk County.
- Q Did she say so? A No sir, I heard people say so.
- Q How did she come when she made the first trip up there? A I don't know.
- Q Do you know how she went back? A No sir.
- Q Where did she settle when she came to the Cherokee nation up here? A The first time, I don't know whether she bought the place or not, she lived there where Lee Williams lives now.
- Q Did Emily Weaver live with her? A I don't remember whether Emily Weaver was there or not.
- Q Do you know whether Emily Weaver was with her the first time? A No sir.
- Q You don't know anything about when Emily Weaver came? A No sir.
- Q She may have come back in 1866 after the war, for all you know? A No sir, she never done it.

BY MR. HASTINGS:

- Q You never saw her until you saw Joe Weaver? A No sir.
- Q You saw her after you saw Joe? A Yes sir.
- Q And she and Joe had taken up down in Arkansas? A Yes sir.

BY MR. COUCH:

- Q Did she live with Joe after they came back? A No sir, he had a white woman.
- Q They didn't live together after Joe Weaver came back? A No sir.

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

WATT WHITMIRE, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Watt Whitmire.
- Q What is your post office? A Westville.

- 7-
- Q What is your age? A 53.
- Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
- Q How long have you lived in and about Westville? A We moved back after the war in the fall of 1866 and have been living there ever since.
- Q Had you been living there before the war? A South of Westville about 7 or 8 miles.
- Q In that vicinity? A Yes sir.
- Q Were you old enough to remember the Phillips before the war? A No sir.
- Q Did you go to Polk County, Arkansas, during the war? A No sir.
- Q You didn't know them during the war? A No sir.
- Q But you moved back there in 1866 after the war? A Yes sir.
- Q Do you know Emily Weaver the applicant? A Yes sir.
- Q You didn't know her before the war? A No sir.
- Q She didn't live in your vicinity? A Not as I know of, never heard of her.
- Q You know this identical person that is an applicant for citizenship? A Yes sir.
- Q Do you know where she come from after the war? A All I know is just what old man Crittenden told me.
- Q Old man Crittenden told you? A Mose Crittenden.
- Q When did you see her after the war? A The first time I recollect seeing her was in about 1868.
- Q How what time in 1868? A It was either in January or February, as near as I recollect, I aint positive, which month.
- Q Who did she come there with? A She was either with the Phillips family when I first saw her, with Elijah Phillip's family.
- Q Do you know whether they had recently come in or not? A Yes sir they had just come in because father called my attention to it, because he said your old Uncle Mose Crittenden has been gone from this country a good while and just get back.
- Q What was your understanding where they come from? A Polk County, Arkansas? A Yes sir.
- Q Do you know whether or not Lydia Quinton come at that time? A Yes sir, the Quinton family, the Kelley family, and the Phillips family.
- Q How far did they settle from you? A The Phillips family about two miles north of father's.
- Q I mean Emily Weaver? A It was between where father lived and Westville, I guess it must have been some 5 or 6 miles from father's.
- Q Were they living there in the fall of 1866 when you people came back? A No sir.
- Q Was Emily Weaver there during the war? A No sir the first I recollect of her was in 1868.
- Q Could she have been living in that neighborhood there without you seeing her? A I think not because we passed that road a good deal.
- Q Was Lydia Quinton related to you in any way? A Yes sir, she was a relation of my father's.

BY MR. COUCH:

- Q How old do you say you are? A 53.
- Q And you say you never knew Emily Weaver before the Civil War? A Yes sir.
- Q You first know her in Polk County, Arkansas? A No sir.
- Q You were not in Arkansas during the war? A No sir, I never knew her until after the return here in 1866.
- Q Where did you live during the war? A We first moved to Cane Hill and stayed there awhile and then we moved to the Choctaw Nation, and then to Red River.
- Q What time did you return to the Cherokee Nation? A In the fall of 1866.

- Q Were you and Uncle Jack Alberty in the same neighborhood down on Red River when the war closed? A I don't recollect, there was a good many of the Alberties but I don't recollect which ones it was, I recollect Will, John, Alberty, and whether Uncle Jack lived there I don't know.
- Q Did you know Lige Phillips down there? A No sir.
- Q Do you know whether he lived any where in that neighborhood or not? A No sir, I don't.
- Q Were you pretty well acquainted around in the neighborhood there on Red River? A Yes sir.
- Q You never heard of Lige Phillips living down there? A No sir.
- Q Never heard of Emily Weaver being down there? A No sir.
- Q You knew of Uncle Jack Alberty's father there? A Yes sir.
- Q Did he live there at that time? A I don't know where he lived, I don't recollect whether he lived in my neighborhood or not.
- Q Was he living at that time? A I guess so, he died since the war.
- Q You don't recollect whether he lived there or not? A No sir.
- Q You don't remember of seeing Uncle Jack Alberty there on Red River at all? A Yes sir, I saw him but I don't know where he lived.
- Q You never did see Lige Phillips there? A No sir, never knew him until since the war.
- Q When did you first see him after the war? A The first time ever I saw him was in 1868, he bought a place there.
- Q Do you know where he came from at that time? A Only what I was told.
- Q Do you know who brought all came with him when he came up there? A Old Uncle Mose Crittenden told me several time. His sister, Lydia Quinton, and Joel Kelley.
- Q You say they all came there together? A Yes sir that is what old Uncle Mose Crittenden told me?
- Q You recollect then of seeing Emily Weaver and these parties there in 1868? A Yes sir, the first I ever saw her was at Lige Phillips house.
- Q You don't know where she came from? A Only what I was told.
- Q She might have been there a year or two before that and you never know it? A She might have, I never saw her.
- Q Do you know whether she ever lived in the Choctaw Nation or not? A No sir.
- Q You never saw Aunt Lydia Quinton up there in the Cherokee nation until she came there with Kelley, Lige Phillips, and others? A No sir, that is the first I saw her.
- Q Do you know anything about how they came? A I recollect they were living in--moving in there in wagons.
- Q Do you remember what kind of teams they had? A No sir, but to the best of my recollection they had some ox teams because when Phillips bought this place he paid for it with a yoke of oxen.
- Q Do you know where Joe Starr lives? A Yes sir.
- Q Do you know where the old lady Lydia Quinton, and Emily Weaver or any of these parties that came back to the Cherokee nation ever stop there about the Joe Starr place or not? A No sir, I don't.
- Q They might have stopped there? A If they did, I never knew it.

BY MR. HASTINGS:

- Q If Lydia Quinton and these people were relatives of yours could they have lived in that neighborhood without your knowing it for a year or two? A No sir, I think not.
- Q Then you don't think they could have lived there for a year or two without you knowing it? A No sir, I think not.
- Q You say you saw John W. Alberty, commonly known as Jack Alberty, but you don't know what particular place he lived there on Red River? A No sir.

WITNESSES EXCUSED.

JOHN W. ALBERTY RECALLED

BY MR. HASTINGS:

Q You know this witness Watt Whitmire?

Mr. Couch: We object to the introduction of this witness because he has sat here in the room and heard all the testimony of the other witnesses.

Mr. Hastings: I desire to re-introduce the witness, John W. Alberty, for the purpose of showing that he was upon Red River, but lived at a distance of some 25 or 30 miles from the other witness, Watt Whitmire, and to show that there is no contradiction whatever in their testimony. I desire to say in this connection that the room was not asked for with these witnesses, although I admit that I, myself, following my usual custom just asked them to remain outside of the hearing of the testimony of the other witnesses.

Mr. Couch: We object to the introduction of John W. Alberty as a witness and for grounds of objection state that he was placed under the rule at the beginning of the case by the Attorney for the Cherokee Nation and acquiesced in by ourselves. That after he was placed on the stand and had testified he remained in the room in the hearing of the other witnesses that testified. Counsel for the Cherokee Nation seeks to introduce him as a witness again for the purpose of clearing away any conflict that may be in the testimony formerly given by him and other witnesses for the Cherokee Nation.

On behalf of the Commissioner: The objection will be noted, and the testimony taken.

BY MR. HASTINGS:

Q How far did you live from Watt Whitmire? A I reckon it was 35 miles, we lived down at the mouth of the Kiamish, he lived up at the mouth of the Island Bayou.

Q You both did live on Red River? A Yes sir.

Q But about 30 miles apart? A Yes sir.

BY MR. COUCH:

Q You stayed here in the house and heard Watt Whitmire testify?

A Yes sir.

Q You heard it all? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

The Attorneys for the applicant and the Cherokee Nation submit the testimony offered in this case, and the same will now be closed.

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 1st day of August, 1905.

Bruce Jones
Notary Public.

DEPARTMENT OF THE INTERIOR.

In the matter of the application for the enrollment of EMILY WEAVER, ET AL., as citizens of the Cherokee Nation, consolidating the applications of:

Emily Weaver, et al.,	Cherokee Memorandum 348
Thomas Kirk	Cherokee D 963
Charlotte Newton	Cherokee D 1220
Peggie Whitmire	Cherokee R 618.

Motion to reconsider, Review and Reverse.

Comes now the Cherokee Nation and respectfully moves the Secretary of the Interior to reconsider, review and reverse his decision in the above consolidated case rendered on February 18, 1907, of which notice was served upon the representatives of the Cherokee Nation through the Commissioner to the Five Civilized Tribes on March 8, 1907, and reverse the said action of the Department of February 18, 1907, reversing the action of the Commissioner to the Five Civilized Tribes adverse to the applicants and ask that the decision of the Commissioner to the Five Civilized Tribes be affirmed and the names of said applicants be stricken from the rolls of the Cherokee Nation, for the following reasons:

1. The Secretary of the Interior erred in said decision in ordering Emily Weaver and Thomas Kirk enrolled as freedmen citizens of the Cherokee Nation.
2. The Secretary of the Interior erred in enrolling all of the other applicants as Cherokees by blood.
3. The Secretary of the Interior erred in approving the opinion of the Assistant Attorney General of date February 15, 1907, which held that Emily Weaver was a slave of a citizen of the Cherokee Nation and residing in the Cherokee Nation at the commencement of the war of the Rebellion when the testimony in the case showed that she was a resident of Pope county, Arkansas, where she had resided for some ten years or more prior to the commencement of the war of the rebellion.
4. The Secretary of the Interior erred in approving the opinion of

the Assistant Attorney General to the effect that the principal applicant Emily Weaver returned to the Cherokee nation prior to February 11, 1867, when the testimony shows and when it was admitted by I. P. Hodges, the agent for the applicant, to the effect that the principal applicant did not return to the Cherokee Nation until 1868.

5. The Secretary of the Interior erred in approving the decision of the Assistant Attorney general holding that any of the children of Emily Weaver should be enrolled as Cherokees by blood; they should all have taken the status of their mother, and none was entitled to be enrolled as citizens of the Cherokee Nation.

6. That the decision of the Assistant Attorney General in said case wherein it is held:

"In my opinion Emily Weaver held as she was in restraint and servitude never established or acquired a domicile beyond the limits of the Cherokee Nation,"

is in conflict with section 3 of the Act of April 26, 1906, which requires that applicants claiming rights as Cherokee freedmen shall not be enrolled unless they were "actual personal bona fide residents of the Cherokee nation August eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee nation on or before February eleventh, eighteen hundred and sixty-seven," when it is admitted in this case that the applicants did not return to the Cherokee Nation until 1868.

7. The Secretary of the Interior erred in holding that the erroneous enrollment of Lewis Weaver upon the 1868 roll entitled the other applicants to be enrolled as citizens of the Cherokee Nation.

ARGUMENT.

The records show that all of the above applicants were rejected by the Commissioner to the five Civilized Tribes on the 29th day of September, 1906, and the decision is an exhaustive review of the testimony filed in the case.

The Cherokee Nation felt content to rest the case upon the testimony introduced as to the return of the applicants, inasmuch as it was deemed

that the testimony introduced on behalf of the Cherokee Nation conclusively showed that the applicants did not return within the time prescribed by the treaty of 1866. Had the Cherokee Nation thought that any doubt would be entertained as to the return of these applicants any number of witnesses could have been brought before the Commissioner to the Five Civilized Tribes who would have corroborated those introduced. The testimony of J. W. Alberty, who was an old and reputable citizen, whose home was near Westville, I. T., and who was a relative of the owners of Emily Weaver, is positive as to the date of the return of Emily Weaver, and that that was in 1868, and he testified that he loaned them a wagon with which to remove their effects to the Cherokee Nation, and he is corroborated by the statements of George Crittenden and Watt Whitmire, whereas the witnesses introduced on behalf of the applicant do not, except the witness Tom Felley, fix the date of the return of the applicants, and Tom Felley finally admits that he might have been mistaken as to the date of the return, and he does not fix it earlier than the spring of 1867, and says that it is barely possible that it was in the spring of 1868. Now on September 21, 1900, when Thomas Kelley was before the Commission in his own behalf he testified in answer to these questions "Q. How long have you lived in the Cherokee Nation? A. Ever since 1868."

And the judgment at that time recites: "His wife was married to him in 1868." Now this is at variance with his testimony given at that time, but it clearly and conclusively corroborates J. W. Alberty and the other witnesses introduced on behalf of the Cherokee Nation. There can be no doubt but what any number of witnesses could be introduced to show that these people did not return until 1868, and in fact the supplemental petition for review dated April 15, 1906, signed by I. P. Bledsoe, representing Emily Weaver, states that they came back in the spring of 1868 and does not claim that she was entitled then as a freedman citizen, but as a Cherokee by blood and claims in this last petition that they were admitted on December 15, 1869, which was never shown, and in his petition representing the applicants uses the following language, referring to the

applicants:

"Our return to the Cherokee Nation with the balance of our crew in the spring of 1868, and our continued residence therein up to and including our readmission to citizenship by the National Council of the Cherokee Nation on December 15, 1869, and up to the present time, is proven by the statements of two old reliable Cherokees by blood, etc."

And in support of his amended motion filed on April 19, 1906, he files an affidavit of Charles Whitmire in which affidavit as to the date of the return of Emily Weaver he states:

"I have known Emily Weaver since 1868."

And after stating that she and her mother were slaves of Sidney Phillips, continues:

"And returned to the Cherokee Nation in the spring of 1868 bringing this woman Emily Weaver."

Now we proved this by J. W. Alberty and if Thomas Kelley was correct in 1900, when he made his own application, that he returned in 1868, then his testimony would be to that effect. The Cherokee Nation proved it by Watt Whitmire, and also by George Crittenden, and finally the applicant in her own petition admits it in April, 1906, that she did not return until the spring of 1868, and in support of her own petition she has filed the affidavit of Charles Whitmire to the effect that she did not return until 1868. Certainly upon this testimony and these admissions, the Cherokee Nation had a right to believe that the Department could not find anything else than that the said Emily Weaver did not return within the time prescribed by the treaty of 1866, or did not return on or before February 11, 1867.

There is, however, a second ground that we desire to urge that perhaps was not vigorously pressed before for the reason that we thought it was not necessary, although it was developed in the testimony, and that is that Emily Weaver was not a slave of a citizen of the Cherokee Nation at the commencement of the war of the rebellion. The testimony of J. W. Alberty conclusively shows that Elijah (Lige) Phillips and family left the Cherokee Nation for Pope County, Arkansas, immediately after the Emigrant payment in 1852. The testimony of Thomas Kelley is to that effect, the testimony of Anthony Crittenden is that he was born in Pope County,

Arkansas, and in fact there is no testimony to contradict it. But it is stated by the witnesses that they were Cherokees upon their return. That is true, but they were not citizens of the Cherokee Nation upon the return. They were not citizens of the Cherokee Nation at the commencement of the war of the rebellion, and attached to this protest is a certificate signed by the Commissioner to the Five Civilized Tribes showing that Elijah Phillips and family were readmitted to citizenship in the Cherokee Nation by the National Council on November 26, 1868. Now if Elijah Phillips had been a recognized citizen at the beginning of the war those who returned within that short period were not required to have been readmitted, but the said Elijah Phillips, having left the Cherokee Nation in about the year 1852, or some nine years prior to the war, and having gone to Pope County, Arkansas, and having sold his farm and effects in the Cherokee Nation, as the testimony conclusively shows, he clearly forfeited his citizenship under Section 2, Article 1 of the Cherokee Constitution, which provides:

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

Now the testimony of J. W. Alberty is that he had left the Cherokee Nation, had gone to Pope county, Arkansas, that he had bought a farm there; that he owned no improvements or property in the Cherokee Nation at the beginning of the war, and had not owned any since 1852. After some difficulty in the cross-examination of Anthony Crittenden he gave his age as 35 or 36 in 1906, which would have made him been born in 1849 or 1850, and he was asked the following questions:

"Q. Then you were born along in 1849 or 1850? A. Yes sir, I might have been born in Pope County, I couldn't say where it was."

"Q. Is it your understanding you were born there? A. I guess I was, I couldn't say where I was born."

"Q. Then your mother was living there with Elijah Phillips when you were born? A. Yes sir."

"Q. And she never came to the Cherokee Nation until after the war? A. No sir."

"Q. Did Elijah Phillips own a farm there? A. Yes sir."

"Q. And she was living on it when the war commenced, and had been ever since you could remember? A. Yes sir, I guess he had, he was living on it when I could recollect."

Now this testimony completely corroborates the testimony of J. W. Alberty and the testimony of the other witnesses to the effect that Elijah Phillips and family moved to Pope county, Arkansas, with their

effects and became citizens of Pope county years before the war, and if, that be true they were not citizens of the Cherokee nation at the commencement of the war of the rebellion and Billy Weaver, being a slave of a citizen of the State of Arkansas, residing in Pope county, Arkansas, at the commencement of the war of the rebellion, is not entitled to be enrolled under the 9th Article of the treaty of 1866.

This same question was determined by the department in the Sallie Mayfield case, F. D. 92, and she was rejected by the commission to the Five civilized Tribes on April 20, 1904, and this rejection was affirmed on June 21, 1904, by the Secretary of the Interior, and that judgment of the commission in the Sallie Mayfield case, rejecting her, of date April 20, 1904, recites:

"The evidence herein shows that the Sallie Mayfield and Thomas Mayfield, as mentioned above, are mother and son and they were both at one time the slaves of one Sallie Mayfield who was a Cherokee citizen, but who, prior to the commencement of the rebellion, removed to the State of Texas, taking these two applicants with her and established a residence in said State."

The same is true in the case of Billy Weaver. She belonged to Elijah Phillips and his wife, Nancy Phillips, who were at one time Cherokee citizens, but like Sallie Mayfield, left the Cherokee Nation prior to the war and went to Pope county, Arkansas, whereas Sallie Mayfield went to the State of Texas; one was a citizen and resident of the State of Arkansas, the other a citizen and resident of the State of Texas, and neither a citizen of the Cherokee Nation at the commencement of the war of the rebellion. Again, in the case of Hannah West, F. D. 43, rejected by the commission to the five civilized Tribes May 13, 1906, and affirmed by the Department on September 18, 1906, the decision finds:

"The evidence in this case shows that at the commencement of the rebellion the applicant Hannah West was the slave of one Sallie Mayfield and that the said Sallie Mayfield was a citizen of the State of Texas."

Upon that ground alone Hannah West was denied and her rejection affirmed by the Department.

This question was not sufficiently urged upon the attention of the Department before, but we desire now to strongly urge it and we desire also to call the attention of the Department to the admissions made by the Agent, J. P. Vlachos, representing her, in his petition filed on April

18, 1866, wherein he admits that she did not return until the spring of 1868, and to the affidavit of Charles Whitmore filed on her behalf, wherein he finds that she did not return until 1868, and again we desire to call the attention of the Department to the fact that Elijah Phillips and family were not admitted until November 26, 1868, which is corroborative of the fact that he did not return until 1868, because if he had he would have been admitted earlier, and we desire to call the attention of the Department to the certified copy of the act admitting certain persons, not the applicants, however, filed on behalf of the applicants, and among others, were Lydia Quinton and Joseph D. Kelley and Moses Crittenden all of whom were admitted by an Act of the Cherokee National Council approved December 15, 1869, all of which is corroborative of the fact that they did not return and is conclusive, that they had forfeited their citizenship by their continuous residence in the State of Arkansas prior to the commencement of the Rebellion.

We feel confident of course that the Department will see that no injustice is done the Cherokee nation, and we submit this motion believing that it conclusively shows:

First, that the owner of Emily Weaver was not a resident or citizen of the Cherokee Nation at the commencement of the war of the rebellion, and,

Second, that none of the applicants herein returned to the Cherokee Nation prior to the spring of 1868---too late to acquire any rights under the treaty of 1866.

The Assistant Attorney General committed a very grave error in our judgment in holding in his opinion:

"In my opinion Emily Weaver, held as she was in restraint and servitude, never established or acquired a domicile beyond the limits of the Cherokee Nation."

This is exactly what the Department attempted to hold in the Charles Percman case; this is what the Department attempted to hold in the Burrell Daniels case; this is what the Department attempted to hold in the Edward Cheate case, until the representative of the Cherokee nation insisted when the act of April 26, 1906, was being prepared for submission to Congress, upon a distinct legislative definition of this

question and Section Three of the Act of April 24, 1806, requires an actual physical bona fide return within the time prescribed by the treaty namely, on or before February 11, 1867. In other words, there could not be a constructive return; in other words, the applicant must have been physically within the limits of the Cherokee Nation on or before February 11, 1867. This act is entirely ignored in this decision.

That these people did not return until 1868 is admitted by the applicants themselves and by their representative, and we submit that the children of Emily Weaver should take the status of their mother, and if she is not entitled to be enrolled as a Cherokee freedman they are not entitled.

As above observed, the record shows that she went to Pope county, Arkansas, some ten years before the war; her owner sold out all of his property in the Cherokee Nation; he purchased a farm down in Pope county, Arkansas, and where they continued to live until 1868, when they returned to the Cherokee Nation. These applicants are not entitled either upon the ground of ownership or that of return, and we submit that under the treaty and under the law and in justice to the Cherokee people that the action of the Department should be rescinded, the decision of the Commissioner to the Five Civilized Tribes adverse to the applicants should be affirmed, and that their names should be stricken from the rolls of the Cherokee nation.

5-3-07

Respectfully submitted,
W. W. Hastings
Attorney for the Cherokee nation.

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

In the matter of the application for the enrollment of Emily Weaver, et al., as citizens of the Cherokee Nation, consolidating the applications of:

Emily Weaver, et al.,	Memoranda	348
Thomas Kirk,	Cherokee D	963
Charlotte Newton,	Cherokee D	1220
Peggie Whitmire, et al.	Cherokee R	618.

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D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee citizens were made to the Commission to the Five Civilized Tribes by Emily Weaver for herself and minor child, Lottie Robbins; by Susanna Kirk for, among others, her husband, Thomas Kirk, the others included in said application having been heretofore disposed of, their rights to enrollment as Cherokee citizens will not be considered in this decision; and by Charlotte Downing for herself and illegitimate minor children, Peggie Whitmire and Henry Bushyhead. Subsequent to filing her application herein the applicant, Charlotte Downing, was, on December 7, 1901, married to one John Newton, and she will now be listed for enrollment as Charlotte Newton. Copies of the testimony taken on July 19, 1900, at Westville, Indian Territory, in re application for the enrollment of Lewis Weaver, et al., as Cherokee Freedmen, case No. 1227, and on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in re application of Thomas Kelly, et al., for enrollment as Cherokee citizens, case No. 3167, are filed herewith and made a part of the record herein.

THE RECORD FURTHER SHOWS: That, under date of October 8, 1901, the Commission to the Five Civilized Tribes rendered its

decision in certain Cherokee memorandum cases, among others that of Emily Weaver, et al., Memoranda case No. 348, refusing, under the act of May 31, 1900 (31 Stat., 221), to assume jurisdiction of the application for the enrollment of Emily Weaver and her minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation, and that said decision was, on January 3, 1902 (Departmental Letter I.T.D. 5696-21), affirmed by the Department. And that subsequent thereto the said Emily Weaver and Lottie Robbins were identified on the Cherokee Census roll of 1896, and upon request of the Commission, the record in this case (Memoranda 348) was, on August 2, 1902 (Departmental letter I.T.D. 4641-1902), remanded by the Department "in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary."

THE RECORD FURTHER SHOWS: That all the applicants herein, in their original applications for enrollment applied as Cherokees by blood. In Departmental letter of November 20, 1903 (I.T.D. 3484-02), it was held that the said Emily Weaver, though of one-half Cherokee blood, could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. This is considered authority for classifying as a Cherokee freedman, not only Emily Weaver, but also the applicant, Thomas Kirk, son of the said Emily Weaver, who, the evidence shows, was born about the year 1860. Said Departmental letter further rules that an illegitimate child of Emily Weaver supposed to have been born subsequent to the close of the rebellion and prior to the making of the 1890 roll, although of three-fourths Cherokee blood, identified on the Cherokee Census roll of 1896 as a Cherokee by blood, and whose alleged father is identified on the Authenticated Cherokee tribal roll of 1880 as a native Cherokee, was "not entitled to enrollment as a Cherokee by blood" and "took the status of her mother." This is considered authority for classifying as Cherokee freedmen the applicants, Charlotte Newton and Lottie Robbins.

It is not intended in this decision to consider or adjudicate any rights to Cherokee citizenship the applicants Thomas Kirk and Charlotte Newton, formerly Downing, may have acquired by virtue of their marriage to duly recognized citizens by blood of the Cherokee nation, but only such rights to enrollment as the applicants herein possess as Cherokee freedmen, or Cherokees by blood.

Under the evidence in this case, and after an examination of the records in Cherokee Freedmen cases Nos. 1227 and 1259, and Cherokee cases Nos. 381 and 386, and the Cherokee tribal rolls of 1880 and 1896, it is respectfully submitted that the attached diagram, relative to material facts in this consolidated case, is approximately correct.

THE EVIDENCE IN THIS CASE SHOWS:

- (1) That the applicants, Billy Weaver and Thomas Kirk, are father and son and were the slaves of a Cherokee citizen at the commencement of the Rebellion; that during said rebellion they were living outside the limits of the Cherokee Nation, but later returned thereto and established a residence therein, and have since continuously resided in said Nation, and are identified on the Cherokee Census roll of 1886 as Cherokees by blood.
- (2) That the applicants Charlotte Newton and Lettie Robbins are illegitimate children of the said Billy Weaver and one Josh Robbins, deceased, who was a Cherokee by blood, were born subsequent to the close of the rebellion and prior to the year 1880, have continuously lived in the Cherokee Nation since birth, and are identified on the Cherokee Census roll of 1886 as Cherokees by blood; that the minor applicants, Peggie Whitmire and Henry Bushyhead, are illegitimate children of the applicant Charlotte Newton, were born since 1880, have continuously lived in the Cherokee Nation since birth, and the former is identified on the Cherokee Census roll of 1886 as a Cherokee by blood, and the latter by a birth affidavit filed herewith and made a part of the record herein. (It is asserted that the minor applicants Peggie Whitmire and Henry Bushyhead, are children of Ellis Whitmire, deceased, and Bob Bushyhead, who, it is alleged, are Cherokees by blood).
- (3) That none of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1880, and possess no rights to enrollment as Cherokee freedmen or as Cherokees by blood, other than as above indicated.

In view of the foregoing it is considered that in order to properly adjudicate said applicants' rights to enrollment as Cherokee citizens, on September 1, 1902, the only questions to be determined are:

Did Billy Weaver and Thomas Kirk return to the Cherokee Nation, after the rebellion, and establish a residence therein within the time specified in the Whitmire decree? and

Are the minor applicants, Peggie Whitmire and Henry Bushyhead, the children of fathers who were fully recognized citizens of the Cherokee Nation?

EMILY WEAVER, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified, in part, as follows: I am about 30 years old, my post-office is Westville, I was born and raised in the Cherokee Nation, have always made my home here, and have never lived in any other place. I was an applicant for enrollment as a Cherokee citizen in 1896, but was denied. (The records of this office fail to show that this person was an applicant before the same Commission, for citizenship in 1896).

CHARLOTTE NEWTON, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified as follows: I am about 30 years old. My post-office is Westville, Indian Territory, and I am the daughter of Emily Weaver and Josh Robbins, deceased, who was a Cherokee by blood. I have two children, Peggie Whitmire and Henry Bushyhead, aged six and three years. Ellis Whitmire and Bob Bushyhead, a Cherokee by blood, are the fathers of my two children. I was not married to either of these men, and never lived with Ellis Whitmire, but did live with Bob Bushyhead about two months "when he went away and left me."

CHARLOTTE NEWTON, applicant, appeared before the Commission on October 18, 1902, at Tahlequah, Indian Territory, and further testified as follows: I have two illegitimate children, Peggie Whitmire and Henry Bushyhead. Ellis Whitmire, who died about five years ago, and Bob Bushyhead, both Cherokees by blood, are the fathers of my children. I never lived with Ellis Whitmire, but did live with Bob Bushyhead three or four months.

CHARLOTTE NEWTON, applicant, appeared before the Commission on November 15, 1904, at Muskogee, Indian Territory, but added nothing material to her former testimony.

EMILY WEAVER, in behalf of Charlotte Newton, same date and place, testified, in part, as follows: I was on Red River, towards Texas, during the war. After the rebellion I returned to the Cherokee Nation with Aunt Liddy Quinton, and for sometime thereafter lived with her. I don't know what year this is, don't know any years at all, and never did know any.

LEWIS WEAVER, in behalf of the applicant, Charlotte Newton, same date and place, testified as follows: I was born in '51, '2 or '3, I don't know which, I know I am about 32 or 33 years old, and I live near Westville, Sevier-Quake District, Cherokee Nation. I am a son of Emily Weaver. My mother had four children born to her before the war: "Aunt (Anthony), Tom and Mary and me" and four born since the war: Rachel, Charlotte (Newton), and Lottie Robbins and Sam Ping, who is dead. Sam was younger than Charlotte and Lottie. I don't know how long my mother lived with the father of Sam Ping. So far as I know my mother was never married to any of the fathers of her children.

ISRAEL CRITTENDEN, in behalf of applicants, same date and place, testified as follows: I am about 50 or 60 odd years old, and I live near Westville, Indian Territory. I have known Charlotte Newton about all her life. Also know her mother, Emily Weaver, who is my half-sister, same father. I became acquainted with Emily Weaver during the war. I know Josh Robbins, became acquainted with him in Polk County, Arkansas, during the war. I returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with my aunt, Liddy Quinton, about two miles south from where Westville is now situated, in Going-Snake District, Cherokee Nation.

ANTHONY (RANT) CRITTENDEN, in behalf of applicants, appeared before the Commission on November 16, 1904, at Muskogee, Indian Territory, and testified as follows: I am 56 years old and live near Hereford, Canadian District, Cherokee Nation. My mother, Emily Weaver, and Josh Robbins began living together in going-Snake District, Cherokee Nation, about two years after the war closed, and lived together till Josh Robbins' death, several years later. Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

(The records of this office fail to show that application for enrollment as a Cherokee citizen has been made for this witness, and he cannot be identified on any Cherokee roll in the possession of this office).

SUSANNA KIRK, in behalf of the applicant, Thomas Kirk, appeared before the Commission on December 13, 1900, at Tahlequah, Indian Territory, and testified as follows: I am 35 years old, am a Cherokee by blood, and live in Tahlequah District. My husband's name is Tom Kirk. We were married in 1862. He is about 40 years old, and is a son of Emily Crittenden (Weaver), and has lived in the Cherokee Nation all his life.

THOMAS KIRK, appeared before the Commission on February 21, 1905, at Muskogee, Indian Territory, and testified as follows: My mother's name is Emily Weaver and my father was named Robert Kirk, so my mother told me, I never saw him.

EMILY WEAVER, applicant, appeared before the Commission on June 9, 1905, at Muskogee, Indian Territory, and testified as follows: I don't know my age, I guess I am about 50. My post-office is Proctor, and I live in Going-Snake District. I returned to the Cherokee Nation the year after peace was made, but I can't remember what year that was. I returned with Will and Liddy Quinton, Mrs. Fulton, Tom Kelly and Wyley Kelly and Rebecca and Nancy John.

LEWIS WEAVER, in behalf of applicants, same date and place, testified as follows: I am going on 50 years old, and I

live in Going-Snake District. Emily Weaver is my mother. After the war closed we (my mother and I) returned to the Cherokee Nation "with old Aunt Liddy Quinton". "We started back the next year after peace was made, that is, I believe it was, but I am not certain."

THOMAS KELLY, in behalf of applicants, appeared before the Commission on July 20, 1905, at Muskogee, Indian Territory, and testified as follows: I am about 57 years old and live in Cooweescoowee District. I became acquainted with Emily Weaver in Polk County, Arkansas, and have known her since before the war. The fall after the war closed we, Emily Weaver, her children, myself and others, started for the Cherokee Nation and arrived in Going-Snake District in February, '66. I was born in Sebastian County, Arkansas, moved from there to Polk County, Arkansas, and never lived in the Cherokee Nation prior to my removal here after the war. Elijah and Sidney Phillips (Cherokee owners of Emily Weaver) had been living in Polk County, Arkansas, for several years before the war came up. "I was married in '67 or '68, I think it was in the fall of '67 ---no, it was the fall of '66". I was married in Greenwood, Sebastian County, Arkansas, in the fall and came to the Cherokee Nation the next spring. We were on our road to the Cherokee Nation when I married. We had been to the Cherokee Nation before, but Emily Weaver was not with us. She came with us in the spring of '67. I can neither read nor write. My memory is not good and it might be such a thing that I am mistaken a year or two as to these dates. I know George Crittenden, who lives at Westville. I guess he knows when we came to the Cherokee Nation. Jack Alberty came to the Cherokee Nation ahead of us. I think Emily had five or six children when we came to the Cherokee Nation as above indicated. I was mistaken when I said Emily Weaver came to the Cherokee Nation in the spring of '66, it was in the spring of '67. I may be mistaken as to the year I was married, it may have been as late as the year 1868, but I don't think it was that late when we came to the Cherokee Nation. I know Tom Kirk. He was born in Arkansas, and was just big enough to ride a horse when we came to the Cherokee Nation after the war. The first time I came to the Cherokee Nation after the rebellion my father and grandmother were with me, I stayed about a week and went back to Arkansas, where I remained probably a month and we then started to the Cherokee Nation the second time, and came to Skullyville (Choctaw Nation) and made a crop there. My father went back from there and got my grandmother and these slaves. It was our third trip that Emily came with us. "I think me and my woman got married on the first trip". "We moved up to Skullyville County my second trip to the Cherokee Nation, and it was on our third trip to the Cherokee Nation that Emily Weaver came with us." I was married in the fall and about the first of the next February following we started on our third trip to the Cherokee Nation. We had two teams stolen after we left Skullyville for the Cherokee Nation and "had to lay over down here just the other side of Fort

Smith. We stayed there about a week. Then we got across the river to Lees Creek and were water bound there a week or two. I don't know how long we were on the road this trip, but think it was in March when we arrived at our destination for we sowed a few oats and put out a corn crop upon our arrival.

In connection with the foregoing, attention is called to this witness's testimony given before the Commission on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in his own behalf, Cherokee case No. 3167, Also to a letter written by said witness to Emily Weaver, under date of July 2, 1905, a copy of which is attached to the record herein.

ANTHONY (RANT) CRITTEHDEN, in behalf of applicants, same date and place, testified as follows: I am about 55 or 56 years old and live in Canadian District. I am acquainted with Emily Weaver, she is my mother. I lived in Polk County, Arkansas, when the war closed, and left there and went to the Choctaw Nation in 1865. We left the Choctaw Nation in 1866, I don't remember what time in the year, and had traveled about one day when we lost our horses. We had not crossed the Arkansas river at the time our horses were lost. It was either in the fall or winter that we made this trip "and it was in 1867 that we got to where we were going." I think it was along in the spring that we arrived at our destination. We might have been a month and a half making this trip. We were detained several days at Lees Creek, Cherokee Nation, by high water. The party making this trip was composed of my mother, Emily weaver, Thomas Kelly, Aunt Lydia Quinton, old man Kelly, and myself. I don't remember of having lived in the Cherokee Nation before the rebellion.

JOHN W. ALBERTY, in behalf of the Cherokee Nation, appeared before the Commission on July 27, 1905, at Muskogee, Indian Territory, and testified as follows: I am 71 years old, am a Cherokee by blood, and my post office is Westville. I have lived in and around the vicinity of Westville for seventy-one years. I knew Elijah Phillips. "He left (the Cherokee Nation) for Polk County, Arkansas, immediately after the Emigrant Payment, it was in, I reckon, about 1852". He moved to Arkansas with his effects and was living there when the war came up. I knew a slave named Nellie who belonged to this Phillips family, who was the mother of Emily Weaver, and who died prior to the commencement of the rebellion. Emily belonged to the Phillips family, was taken to Arkansas with them and was living there when the war came up. After the close of the rebellion I was living on the same place

that I am occupying now, which is about two and a half miles south of Westville. I knew Lydia Quinton, knew her before the war. She was a Cherokee by blood and was a cousin of mine. She returned to the Cherokee Nation after the rebellion in February, 1868. I remember this by reason of the fact that "I loaned her a wagon and team to move up there". I knew that she brought Emily Weaver to the Cherokee Nation with her on the trip made in February, 1868. After the rebellion I left Texas on the first day of September, 1866, and landed in the Cherokee Nation the first week in October of the same year, and have since continuously lived in the vicinity of Westville. I made a crop near Westville the next year after my arrival, and the following fall Lige Phillips and Mrs. Quinton came to the Cherokee Nation to select a location. I loaned Mrs. Quinton a wagon to move with and the next February she returned, bringing with her some slaves, among others, Emily Weaver, Joe Weaver and old Levi Robbins also came with her on this trip. I know Fox Kelly, a Cherokee, but don't believe he came to the Cherokee Nation after the rebellion with Lydia Quinton. It seems to me he came in the fall of '68. Lige Phillips, Lydia Quinton and Emily Weaver were living on Red River, Choctaw Nation, when the war closed, and Lige Phillips, taking with him Emily Weaver, moved from there back to Polk County, Arkansas, in February, 1866, and made a crop there that year.

GEORGE WINTERBURN, in behalf of Cherokee Nation, same date and place, testified as follows: I am 60 years old, and, with the exception of four years during the war, have lived in the vicinity of where Westville now is, all my life. I returned to the Cherokee Nation after the rebellion in the fall of 1867. I know Emily Weaver and Joe Weaver, also knew Lydia Quinton, but don't know when Emily Weaver and Lydia Quinton returned to the Cherokee Nation. I knew when Joe Weaver returned, it was in the spring of 1868, and we made a crop together that year. Joe Weaver was the father of one of Emily Weaver's children. I saw Joe and Emily Weaver during the war. They were then at Lige Phillips' place in Polk County, Arkansas. Aunt Lydia Quinton was not living near Westville when I returned to the Cherokee Nation in 1867, and the first time I saw her was sometime in 1868.

NAT WENDLING, in behalf of Cherokee Nation, same date and place, testified as follows: I am 53 years old, am a Cherokee by blood, and my post office is Westville. I lived in the vicinity of Westville before the war, and after the rebellion returned therein the fall of 1866, where I have since continuously lived. I know Emily Weaver, the applicant. The first time I remember seeing her was in January or February, 1868. She had just come in from Polk County, Arkansas, and was with a company composed of the Phillips family, the Kelly family, the Quinton family, and my uncle, Isaac Crittenden. I remember this because my father said

"Your old uncle Moss Crittenden has been gone from this country a good while and just got back". During the war we moved first to Cane Hill, Arkansas, then to the Choctaw Nation, on Red River, and were living there when the war closed. There were a good many Alberty's living in our neighborhood on Red River, but I never knew of Lige Phillips or Emily Weaver living down there. I saw Uncle Jack Alberty on Red River during the rebellion but don't know where he lived at that time. The first time I ever saw Lige Phillips or Emily Weaver was in the year 1868, when Lige Phillips bought a farm near Westville. Emily at that time was at his house.

JOHN W. ALBERTY (Uncle Jack), recalled, testified as follows: I knew Watt Whitacre during the rebellion. I lived about thirty-five miles from him, in the Choctaw Nation, on Red River, I lived at the mouth of the Kiamichi river, and he lived up at the mouth of Island Bayou.

C A S E C L O S E D.

FINDINGS OF FACT AND CONCLUSIONS: It is considered that, following the ruling of the Department in the case of Benjamin Crittenden, et al., (I.P.D. 3464-02) supra., the applicants, Emily Weaver, Thomas Kirk, Charlotte Newton and Lottie Robbins, possess no rights to Cherokee citizenship as Cherokees by blood.

IT IS FURTHER CONSIDERED: That the evidence in this case shows that the applicants, Emily Weaver and Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the rebellion; that prior thereto and during said rebellion, they lived outside of the limits of the Cherokee Nation, and did not thereafter, remove to 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 Whitacre, trustee, etc., vs. The Cherokee nation et al., for the return of Cherokee freedmen to said Nation; and that all the other applicants herein were born since the close of the rebellion and possess no rights to enrollment as Cherokee freedmen other than as descendants of the said Emily Weaver.

IT IS FURTHER CONSIDERED: That after ample opportunity having been afforded, the evidence in this case fails to show that the applicants, Peggie Whitacre and Henry Bushhead are the children of the said Ellis Whitacre, deceased, who, it is alleged, was

a Cherokee by blood, and the said Bob Bushyhead, who it is alleged, is a citizen by blood of the Cherokee nation, consequently, the application for their enrollment comes within the ruling of the Department in the cases of Eliza Bryant, et al (I.T.D. 344-04) William Rector (I.T.D. 1408-04) 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. 5056-04). In connection with this last finding, attention is called to the case of Sallie Brooks, et al., Cherokee Freedman Rejected case No. 54, where, under a somewhat similar, but stronger, record relative to illegitimate descendants of recognized Cherokee citizens, it was held by the Commission that "Aside from the fact that the gross immorality the mother and alleged fathers of said minor applicants acknowledge themselves guilty of, is, in itself, sufficient to discredit their testimony, and render it of little value, it is considered by the Commission that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent--one which could not be safely followed".

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), Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Feggie Whitwire and Henry Bushyhead, are not entitled to enrollment as Cherokee Freedmen, nor as Cherokees by blood, and their applications for enrollment as such are accordingly denied.

(Signed) Tans Bixby
COMMISSIONER.

Dated at Muskogee, Indian Territory,
this Sep 29 1905

DEPARTMENT OF AGRICULTURE
COMMISSION TO INVESTIGATE TYRIZED TIRES.

FILED

OCT 18 1901

[Handwritten signature]

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

In the matter of the application for the enrollment of EMILY
WEAVER, ET AL., as freedmen citizens of the Cherokee Nation, con-
solidating the applications of

Emily Weaver, et al., Memorandum 348,
Thomas Kirk, Cherokee D 913,
Charlotte Newton, Cherokee D 1220,
Peegie Whitmire, et al., Cherokee K 616.

Brief and Argument on Behalf of the Cherokee Nation.

In compliance with the notification received from the Commis-
sioner to the Five Civilized Tribes November 23, 1905, we will
endeavor to disclose the facts in this case as we see them and to as-
sert, as best we can, our reasons why we believe the applicants
have failed to show themselves to be entitled to enrollment.

The principal applicant Emily Weaver formerly made application
for the enrollment of herself and minor children as citizens by blood
of the Cherokee Nation. The record of the Commissioner's office
shows that Emily Weaver, et al., Memorandum case No. 348, was by the
Commission dismissed for want of jurisdiction to hear and determine
the rights of Emily Weaver to enrollment as a citizen by blood of the
Cherokee nation. The record further shows that all the other appli-
cants in their applications for enrollment applied as Cherokees by
blood, and the Departmental letter of November 20, 1903 (I. O. O.
122-1-22), held that the said Emily Weaver, though one-half Cherokee
blood, could not be classified as a Cherokee by blood, but must be
classified as a Cherokee freedman. Upon this holding of the Depart-
ment the Commission to the Five Civilized Tribes deemed it advisable
and proper under the holding of the Department and the facts to
classify not only Emily Weaver as a Cherokee freedman, but also the
applicant Thomas Kirk, son of said Emily Weaver, who the testimony
shows was born about 1860. The Department also held at the time
that the illegitimate child of Emily Weaver, which the testimony in-
dicates was born subsequent to the closing of the rebellion and prior
to the making of the 1860 roll, although of Indian blood, identified
on the Cherokee census roll of 1860 as a Cherokee by blood and whose
alleged father is identified on the authenticated tribal roll of
1860 as a native Cherokee, was not entitled to enrollment as a Chero-
kee by blood, but that it took the status of the mother. This ruling
of the Department was also considered by the Commission as authority
to classify the other applicants Charlotte Newton and Lottie Robbins
as Cherokee freedmen.

The letter from the Indian Office dated November 7, 1905, refers
to the holding of the Commissioner to the Five Civilized Tribes and
says:

"The Commissioner to the Five Civilized Tribes found that
Emily Weaver and her son Thomas Kirk were slaves of Cherokee
citizens at the commencement of the war; that during the war
they were living outside of the limits of the Cherokee nation,
but returned thereto and established a residence thereinaud
have continuously resided in the Cherokee Nation."

This is not a correct quotation from the finding of the Commis-
sioner. The Departmental letter omits from the holding of the Com-
missioner these words, "prior thereto and." The correct quotation
from the decision of the Commissioner to the Five Civilized Tribes

is as follows:

"The evidence in this case shows that the applicants Emily Weaver and Thomas Kirk were the slaves of a Cherokee citizen at the commencement of the Rebellion; that prior thereto and during said Rebellion they lived outside of the limits of the Cherokee Nation and did not thereafter remove to 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 *Wesley Freeman, trustee, etc., versus The Cherokee Nation, et al.*, for the return of Cherokee freedmen to said Nation, and that all the other applicants herein were born since the close of the Rebellion and possess no right to enrollment as Cherokee freedmen or their descendants of the said Emily Weaver."

There is a correct quotation from the decision of the Commission and the evidence as we are able to read it and understand it clearly shows that the principal applicants, Emily Weaver and Thomas Kirk, did not return to the Cherokee Nation and establish their residence therein as was provided in the Treaty of 1866; that is, they did not return to and establish their residence in the Cherokee Nation on or before February 11, 1867. A brief reference to what the witnesses testified we think will be sufficient to convince this Department of the truth of a careful examination and consideration of the testimony already given. It will be convinced by an overwhelming preponderance of the evidence that the principal applicants, Emily Weaver and Thomas Kirk, did not return to and establish their residence in the Cherokee Nation within the time prescribed by the Treaty of 1866. It will be noted from the decision of the Commissioner that this case has been on several different occasions and the applicant and her witnesses have ample opportunity to produce such testimony as they had means to show a return to the Cherokee Nation and a qualification under the provisions of the treaty of 1866 between the United States and the Cherokee people. The Department's letter of August 11, 1895, refers to the testimony of Thomas Kelly, and states in full in the letter in which it is claimed that Thomas Kelly wrote this letter as Emily Weaver; also refers to the indefinite recollection of Thomas Kelly and perhaps to some extent a reference to the testimony which he proper and can be shown that his testimony was given and recalled as a witness stated that they returned in 1867 or 1868, but after one of the examinations his testimony as to date ranged and the way from 1866 to 1868, but it will be shown by a careful examination of Thomas Kelly's testimony that he not only in his testimony, but in the letter which the Acting Commissioner of Indian Affairs refers to as having been written to Emily Weaver that we quote, among other things, "Some of our horses and gear was stolen from the wagon, then we went on, & got to Longsnake District in March of 1867. Then we was on our way before Jan. 1, '67, but owing to our horses being stolen it was in Oct. before we got there."

Thomas Kelly, a witness, Thomas Kelly, can read or write it is clear that he was in his mind the time that he brought Emily Weaver back to the Cherokee Nation, and this letter referred to by the Acting Commissioner of Indian Affairs clearly shows that he by no means returned to the Cherokee Nation until March, 1867. There is no one word in the testimony of either of the witnesses who claim that Emily Weaver or her son, Thomas Kirk, were slaves of a Cherokee citizen residing within the Cherokee Nation at the commencement of the Rebellion, nor is there any testimony which tends to show that they were residing in the Cherokee Nation at the commencement of the Rebellion. Emily Weaver, it is conceded, was a slave of Sidney Phillips and was a Cherokee by blood and whose husband's name was Elijah Phillips. Thomas Kelly in his testimony, as well as many of the other witnesses, states that Elijah and Sidney Phillips had been living in Polk County, Arkansas for several years before the commencement of the Rebellion. This being a fact undisputed then it is clear that unless in order for Emily Weaver and the parties

claiming under her as freedmen claimants to be enrolled they will have to show by a preponderance of the testimony at least that they returned to the Cherokee Nation within the time provided by the treaty of 1866, which was on or before February 11, 1867. We do not think that the Department should compel the Cherokee Nation to prove affirmatively that Emily Weaver did not return to her Cherokee Nation on or before February 11, 1867, but we believe that the burden is upon her as being plaintiff to show by a preponderance of the evidence that she did return to the Cherokee Nation on or before February 11, 1867. At least we know that this is the principle of law which has existed from the time there was first a law written or unwritten that the party holding the affirmative, or party plaintiff, must make out his case, or at least make a prima facie case before the defendant should be required to introduce any testimony at all.

But in this case, the Cherokee Nation defendant, has not contented herself with waiting until the plaintiff had made out a prima facie case, she has gone further and introduced testimony showing conclusively that the principal applicant did not return to the Cherokee Nation within the time provided in the Treaty. All of the witnesses on behalf of the applicant testified that they got to the Cherokee Nation in the Spring of 1867. Anthony Crittenden, on behalf of the applicant, says that he lived in Polk County, Arkansas, when the war closed and left there and went to the Choctaw Nation in 1865. "It was either in the fall or winter that we made the trip and it was in 1867 that we got to where we were going. I think it was along in the Spring that we arrived at our destination. The party making this trip was composed of my mother, Emily Weaver, Thomas Kelly, Aunt Lydia Quinton, old man Kelly and myself."

All agree that at the close of the war and for some time thereafter the principal applicant in this case and her family were living in Polk County, Arkansas, and that they did not reach their destination in the Cherokee Nation until the Spring of 1867. Thomas Kelly, as heretofore referred to, made March, 1867, Anthony Crittenden says, "I think it was along in the Spring of 1867." All the testimony agrees that Emily Weaver returned to the Cherokee Nation with Lydia Quinton. There is very little difference in the testimony of Sabana Pitt, Anthony Crittenden, Texas Weaver and Thomas Kelly, all agreeing that they returned to the Cherokee Nation in the Spring of 1867. Emily Weaver, the principal applicant, says she returned to the Cherokee Nation the year after peace was made, but can not remember what year that was, she says she returned with Will and Lydia Quinton, Mrs. Dalton, Tom Kelly and others, seeing conclusively that this party came to the Cherokee Nation together. The Cherokee Nation called as witnesses John W. Almy in behalf of the Nation, who was 71 years old and is a Cherokee by blood, who testified that he knew Lydia-Elizabeth Phillips and says that Elizabeth Phillips left the Cherokee Nation for Polk County, Arkansas, immediately after the Cherokee Surrender. "It was in, I reckon, about 1862 he moved to Arkansas with his effects and was living there when the war came up," that he knew a slave girl to the name Phillips moved to Arkansas by the name of Nellie, who was the mother of Emily Weaver, the principal applicant in this case; that Nellie died prior to the commencement of the Rebellion, that Emily was taken by Phillips to Polk County, Arkansas, and was living there when the war came up. He further testifies that he knew Lydia Quinton before the war; that Lydia Quinton was a Cherokee by blood and a cousin of his, and that she returned to the Cherokee Nation after the Rebellion, in February, 1867. He gives as his reason for knowing that she returned in 1867 that he loaned her a wagon and team to move up there. He further says that he knows that Lydia Quinton brought Emily Weaver with her when she moved to the Cherokee Nation in 1868. He says that he did not leave Texas after the rebellion until the first part of September, 1866. He also says, among other things, that after he loaned them the wagon and team, Emily Weaver returned to the Cherokee Nation with Mrs. Quinton; also Levi Phillips. He also says that Levi Phillips took Emily Weaver at the close of the war from the Choctaw Nation and moved from there back to Polk County, Arkansas

George Crittenden also testifies on behalf of the Cherokee Nation and says that he is 60 years old; that he returned to the Cherokee Nation after the rebellion in the fall of 1867; he says he knew Emily Weaver and Lydia Quinton, but that he did not know when they returned to the Cherokee Nation, but he does know that Joe Weaver returned and that it was in the spring of 1868, and gives as his reason for knowing when Joe returned, that was, that he and Joe made a crop together that year. He says that Aunt Lydia Quinton was not living when near Westville when he returned to the Cherokee nation in 1867, and that the first time he saw her was in 1868, thus showing if Lydia Quinton and Emily Weaver came back to the Cherokee Nation together, that they did not come before the winter of 1867 or the spring of 1868.

Watt Whitmire was also called as a witness for the Cherokee Nation and, among other things, he testified that he was 33 years old, his postoffice was Westville; and he lived in the vicinity of Westville before the war, and after the Rebellion returned there in the fall of 1866, where he has since continuously resided. He says that he knew Emily Weaver and that the first time he remembered seeing her was in January or February, 1868. "She had just come in from Polk County, Arkansas, and was with the company composed of the Phillips family, the Kelly family, the Quinton family and my uncle, Moss Crittenden. I remember this, because my father said, 'your uncle Moss Crittenden has been gone from this country a good while and has just got back.' The first time I ever saw Lige Lige Phillips or Emily Weaver was in the year 1866, when Lige Phillips bought a farm near Westville. Emily at that time was at his house." He further says that he did not remember seeing John F. Alberty in the Choctaw Nation during the war, but Mr. Alberty, when re-called, testified that he lived about 35 miles from Watt Whitmire in the Choctaw Nation on Red River, Alberty living at the mouth of Kiamichi River and Whitmire living at the mouth of Island Bayou.

If more accurate testimony could be given as to a fact which occurred some 38 or 39 years ago, than these witnesses have given and better reasons could be given for their knowledge of the same, we confess that we cannot in our minds conjecture the case were it could be done. No one on behalf of the applicant, save the principal applicant, Emily Weaver, has attempted to swear that Emily Weaver returned to the Cherokee Nation before March, 1867. The point in this case which is material and incumbent upon the applicant to show is to our minds the point that she was the slave of a Cherokee citizen at the commencement of the Rebellion and that she returned to the Cherokee Nation on or before February 11, 1867, within six months from the date of the ratification of the Treaty of 1866. There is no controversy but what the wife of Lige Phillips was a Cherokee by blood, but all of the proof goes to show that Phillips left the Cherokee Nation and went to Arkansas with his effects on or about 1852 or '3, at least shortly after the Emigrant Compact, which was made in 1852, and that he resided continuously in the State of Arkansas from that date up to and including the breaking out of the Rebellion. The applicant in this case has not attempted to show that Lige Phillips did not have all of his effects with him in Arkansas and that he did not exercise all the rights of a United States citizen and wasn't exercising those rights as a citizen of the United States and of the State of Arkansas at the breaking out of the rebellion. If he was, then we contend that she was not a slave of a Cherokee citizen within the meaning of the Treaty of 1866, and we further contend that the burden of proof is upon her to show otherwise.

It has been discussed in these cases at great length what is necessary to constitute citizenship and how that citizenship may be forfeited, and for a discussion of that question we respectfully refer you to the general brief which has been filed on behalf of the attorneys for the Cherokee Nation in these freedmen cases, and we

will not further discuss that question in this brief, but what we shall further say upon this question will be upon the line of the return of the principal applicant within the time provided by the Treaty. It seems to us that if argument was necessary after a careful examination of this question, the testimony of the applicant, herself, would be sufficient to show that she either did not know when she returned to the Cherokee Nation after the close of the Rebellion, or that if she did know she was seeking to avoid a correct statement of the facts and trying to place herself within the provisions of the treaty. It is contended by the representatives of the Cherokee Nation that not only have the principal applicants failed to show by a preponderance of the testimony that they are entitled to be enrolled as Cherokee freedmen, but that it has been conclusively shown that they did not comply with the treaty, and we respectfully submit that the principal applicant and her son and all those of her descendants was, under the ruling of the Department of date May 31, 1909, were denied jurisdiction as citizens by blood of the Cherokee Nation, which decision was on January 3, 1902, affirmed by the Department, but subsequent to this ruling it was discovered that Emily Weaver and Lottie Robbins were identified on the Cherokee Census roll of 1896 and the case was remanded for a new decision. In Departmental letter of November 20, 1903 (I.T.D. 3484-1902) it was held that Emily Weaver could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. This being the ruling of the Department, we insist that where illegitimate children are born to a woman, or where children are born out of lawful wedlock, that the children take the status of their mother and not of their father, and in view of the fact that the Department has classified Emily Weaver as a Cherokee freedman, all of those claiming through her as her children, we insist should be classified as freedmen, unless from the testimony it is shown that she was lawfully married to a Cherokee and had children born to her while she and the Cherokee were living in lawful wedlock, or within a reasonable time thereafter, according to the laws of nature for children to be born and be of legitimate parentage. Departmental letter of November 7, 1905, refers to a Departmental letter of November 20, 1903 (I.T.D. 3484-1902), and omits what the Department at that time said in regard to Mary Crittenden's case, daughter of Emily Weaver, which is as follows:

"By this act of enfranchisement Emily Weaver and her daughter, Mary Crittenden, became citizens of the Nation. Mary was therefore not entitled to enrollment as a Cherokee by blood though known to be of three-fourths Cherokee descent. She was, however, and is shown to be entitled to enrollment as a Cherokee citizen upon the freedmen's roll. She was placed upon the 1896 census roll compiled by the Cherokee authorities. Being of three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen under the provisions of Article 9 of the Treaty of July 19, 1866 (14 Stat., 794, 801), and actually enrolled by the Cherokee authorities, it cannot be said that her recognition and enrollment was either "by fraud or without authority of law." The roll of 1896 is evidence of her right, and the facts fail to negative the prima facie case thereby made for her by her enrollment and recognition by the Cherokee authorities as a citizen."

After the quotation of the Departmental letter above the Acting Commissioner of Indian Affairs attempts at length to argue the proposition as to whether or not Emily Weaver and Thomas Kirk did return to the Cherokee Nation before February 11, 1867, and says that Emily Weaver and Thomas Kirk might easily have been in the Cherokee Nation and in Going Snake District without the witnesses having had

knowledge of such fact. This statement of the Acting commissioner of Indian Affairs stands of itself contradicted, because neither the principal applicant, nor any one for her contradicts John W. Alberty as to when Lydia Quinton returned to the Cherokee nation, because Alberty says he loaned her a wagon and team to move up to the Cherokee nation with. The principal applicant, herself, and each of her witnesses, say that this applicant returned to the Cherokee nation with Lydia Quinton. We ask in the name of reason, in the name of fairness and of justice how was it possible for Emily Weaver and Thomas Kirk to have been in the Cherokee nation and in Going Snake District without the witnesses having had knowledge of such fact. The witnesses who testified were old men and were testifying only as citizens of the Cherokee Nation and to that extent interested, but on the other hand the witnesses for the applicant were nearly all related to her, nearly all of whom were on the doubtful roll and applicants for citizenship in the Cherokee Nation and were testifying from the standpoint of an interested party and all of them, save and except the principal applicant, Emily Weaver, corroborate the witnesses for the Cherokee nation. Then we take it that from no standpoint or reason can it be shown clearly that the principal applicant, Emily Weaver, or her son, Thomas Kirk, was in the Cherokee nation on or before February 11, 1867. Departmental letter of November 7, 1905, states that,

"This office is of the opinion that the preponderance of the testimony shows that Emily Weaver and Thomas Kirk returned to the Cherokee Nation within the time limit fixed by the Treaty of 1866. Furthermore, in the Mary Crittenden case the Department has practically settled the status of Emily Weaver."

We have examined the ruling of the Department in the Mary Crittenden case of November 20, 1903 (I.T.D. 3483-1902), and we are unable to see from that ruling where it has in any way settled or determined the question as to the status of Emily Weaver. It is true that in passing upon the Mary Crittenden case the Department, among other things, said that Mary Crittenden, being three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen of the Cherokee Nation under Article 9 of the Treaty of July 19, 1866 (14 Stat., 799, 801), and actually enrolled by the Cherokee authorities it can not be said that her recognition and enrollment was either by fraud or without authority of law." We do not think that the Department intended by this language to adjudicate the rights of Emily Weaver and say that Emily Weaver, the mother of Mary Crittenden because of the fact that her name appeared upon the 1896 roll made by the Cherokees was precluded from having questioned her right to be enrolled. By reference to the Amendment to the Indian Appropriation Bill and the various legislation giving to the Commission to the Five civilized Tribes jurisdiction to hear and determine these cases, it will be seen that that legislation provides:

"In making the rolls of the Citizens of the Cherokee Nation the 1890 authenticated roll of the Cherokee Nation is the only roll intended to be confirmed by the legislation; that all other questions or rolls are subject to investigation."

The Secretary of the Interior under date of November 23, 1899, instructed the Commission to take the 1890 roll as a basis for the enrollment of all citizens applying to be enrolled in the Cherokee Nation, but the act of May 31, 1900, supports our contention, which is as follows:

"Said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory, who is not a recognized citizen thereof and duly and lawfully enrolled as such and its refusal of such application shall be

final when approved by the Secretary of the Interior."

Taking these instructions it will be seen that it does not conflict with the act of June 28, 1898, which provided that the Commission shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims of date February 3, 1896. All of the legislation has been along the line that the 1880 authenticated roll was the only roll to be taken by the Commission in making the freedmen roll as being the roll which was confirmed and the Nation has not been by any law or instruction of the Department precluded from questioning the right of any freedman applicant to enrollment whose name appeared upon any other than the 1880 roll. The 1886 roll of the Cherokee Nation is no more an authenticated roll than the Fern Clifton roll, none of which have been confirmed by any legislation, none of which are binding upon the Cherokee Nation and should not be used as evidence against it.

Now as to the other applicants in this case, Peggie Whitmire, an illegitimate child of Charlotte Newton; we think that the finding of the Commission on these parties is correct and should be sustained. We do not believe that the Department should insist that a party who was part Cherokee by blood and part freedman and who was not entitled to be enrolled as a Cherokee by blood, should be enrolled as a freedman citizen, unless the party from whom he derived his freedman citizenship had shown himself qualified under the provisions of the Treaty of 1866, and in this case, as we have argued at length, Peggie Whitmire and Henry Busbyhead are descendants from Emily Weaver, and, therefore, have not shown that she returned and qualified under the treaty. Neither is there sufficient testimony to show that Peggie Whitmire is the child of the said Ellis Whitmire, deceased, and that Henry Busbyhead is the child of Bob Busbyhead, deceased, both of whom were Cherokees by blood. Consequently, we contend that the application for the enrollment of ~~the~~ Busbyhead and Peggie Whitmire should be denied as freedmen citizens of the Cherokee Nation, it not being competent if it was shown that they were Cherokees by blood that the legitimacy or the connection with the reputed father or the mother of these children was such that it is classified conclusive that they were the fathers of the children.

Upon this question the Department has had before it several cases which we think sustain the decision of the Commission. Among others is the case of Moses Ross (J.T.D. 6056-1904), and also the case of Willie Brooks, et al., Cherokee freedmen rejected case No. 54. These cases the Department have passed upon and have held that,

"aside from the fact that the gross immorality of the mother and alleged fathers of said minor applicants acknowledge themselves to be guilty of, is, in itself, sufficient to discredit their testimony and render it of little value."

This, we think, is true and especially so when you come to dealing with people of such immoral standing in the communities that they will go before any court or any place and swear to the illegitimate children, or, in other words, anything that may be within their power in order to place them upon the rolls. We respectfully submit that Emily Weaver and Thomas Kirk have failed to show themselves entitled under the provisions of the treaty of 1866, and that Peggie Whitmire and Henry Busbyhead have been held by the Department to not be entitled to enrollment as Cherokees by blood, and, therefore, if not entitled to be enrolled as freedmen citizens they must stand upon the right of Emily Weaver, the principal applicant, and if she is not shown herself to be entitled, then the other applicants must

necessarily fail, for we contend that the other applicants must take the citizenship status of their mother and not of the patative father.

We, therefore, contend that the decision of the Commissioner to the Five Civilized Tribes in the cases herein consolidated is correct and should be affirmed.

Respectfully submitted;

Attorneys for the Cherokee nation.

By _____

COMMISSIONERS:
TAMM BIKNY,
THOMAS B. NEEDLER,
C. R. BRACKENRIDGE.

W. O. HEALL,
Secretary

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

CHEROKEE NATION, 342,
et al.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 22, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the applications for the enrollment of Emily Weaver, et al. as citizens of the Cherokee Nation, you are advised that before the Commission can render a final decision in these cases it will be necessary that further testimony be introduced tending to show whether or not the applicants were either slaves of Cherokee citizens or free colored persons residing in the Cherokee country at the commencement of the war of the rebellion, and whether or not they established their residence in the Cherokee Nation in compliance with article nine of the treaty of 1866.

The applicants have, therefore, this day been directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 1, 1906, and introduce testimony as above indicated. 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.

MEMO IN REPLY TO THE FOLLOWING:
Cherokee Memo. 144.

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

Muskogee, Indian Territory, July 27, 1906.

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

Gentlemen:

There is herewith inclosed a copy of supplemental testimony of July 20, 1906, taken in the matter of the application for the enrollment, as Cherokee freedmen, of Emily Weaver, et al.

Respectfully,

Commissioner.

Incl. 8-13

FILED IN COPY TO THE FOLLOWING:
Cherokee N-349.

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

JH

Muskogee, Indian Territory, August 14, 1905.

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

Gentlemen:

There is inclosed herewith a copy of supplemental testimony of July 27, 1905, in the matter of the application for the enrollment of Emily Weaver, et al., as Cherokee freedmen.

Respectfully,

W. C. Beall
Acting Commissioner.

LS

Incl. S-19

Charles Egan,

et al.

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

Muskogee, Indian Territory, September 30, 1905.

Bell, Hastings & Ravenport,
 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 September 29, 1905, rejecting the applications for the enrollment of Emily Weaver, 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 this office is advised of the same.

Respectfully,



Commissioner.

Incl. S-129

-COPY-

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
67305-1905.

November 7, 1905.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of October 30, 1905, (I.T.D. 14006), I have the honor to return the record in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, which was transmitted with Office report of October 23, 1905, and returned for further consideration, as requested in Office letter of October 25. The Commissioner to the Five Civilized Tribes, under date of September 29, 1905, classified Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Peggie Whitmire, and Henry Backyhead, the applicants, as Cherokee freedmen, and rejected their applications for enrollment.

Emily Weaver's mother, Nellie Cole, was of African descent and had no Cherokee blood. Emily Weaver is the daughter of the said Nellie Cole and Lewis Crittenden, a Cherokee citizen. Lottie Robbins, Thomas Kirk, and Charlotte Newton, are children of Emily Weaver. Charlotte Newton and Lottie Robbins are her illegitimate children by Josh Robbins, deceased, a citizen by blood of the Cherokee Nation. Susanna Kirk is the wife of Thomas Kirk. Peggie

Whitmire and Henry Bushyhead are the illegitimate children of Charlotte Newton. It is claimed by Charlotte Newton that Ellis Whitmire, deceased, was the father of Peggie Whitmire, and that Bob Bushyhead is the father of Henry Bushyhead, and that Ellis Whitmire and Bob Bushyhead were Cherokees by blood.

The Commissioner to the Five Civilized Tribes found that Emily Weaver and her son, Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the war; that during the war they were living outside the limits of the Cherokee Nation, but returned thereto and established a residence therein, and have since continuously resided in the Cherokee Nation. He, however, rejected all of the applicants, and takes the position that they are not entitled to enrollment as Cherokees by blood or as Cherokee freedmen under the provisions of the Act of June 23, 1898, (30 Stats. 495).

Susanna Kirk, wife of Thomas Kirk, is not a party to the case, and Mr. Bixby did not consider or adjudicate any rights to Cherokee citizenship Thomas Kirk and Charlotte Newton, formerly Downing, may have acquired by virtue of their respective marriages to duly recognized citizens by blood of the Cherokee Nation, but confined his whole consideration of the case to such rights to enrollment as the applicants possessed as Cherokee freedmen or Cherokees by blood.

It appears to this Office that the first question to determine in this case is whether or not Emily Weaver and Thomas Kirk returned to and established a residence in the Cherokee Nation on

or before February 11, 1867, in accordance with the provisions of the treaty of 1866, and second, whether applicants Peggie Whitmire and Henry Bushyhead, the illegitimate children of fathers who were recognized as citizens of the Cherokee Nation, should be enrolled if it is found that Emily Weaver did return to the Nation in accordance with the provisions of the treaty mentioned.

Emily Weaver is enrolled on the Cherokee census roll of 1896 at No. 489, Thomas Kirk at No. 1956, Lottie Robbins at No. 1764, and Charlotte Kirk, now Newton, at No. 1872.

The testimony in the case as to the return of Emily Weaver and Thomas Kirk is very conflicting, and the Commissioner to the Five Civilized Tribes found that they did not remove to and establish a residence in the Cherokee Nation on or before February 11, 1867. Emily Weaver testified that she was born and raised in the Cherokee Nation; that it has always been her home; and that she has never lived at any other place. She subsequently testified, however, that she returned to the Cherokee Nation, the year after peace was declared, with Will and Lydia Quinton, Mrs. Fulton, Thomas Kelly, Wyley Kelly, and Rosanna and Nancy Johnson. Charlotte Newton was born after her mother's return to the Indian Territory, and she testified that Ellis Whitmire and Bob Bushyhead were the fathers of her illegitimate children, Peggie Whitmire and Henry Bushyhead; that she never lived with Ellis Whitmire, but did live with Bob Bushyhead two months. She subsequently said she

lived with Bob Bushyhead three or four months.

The testimony of Lewis Weaver does not contain any information as to the return of Emily Weaver and Thomas Kirk.

Israel Crittenden testified that he returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with his aunt Lydia Quinton.

Anthony (Bunt) Crittenden said that his mother, Emily Weaver and Josh Robbins began living together about two years after the war closed, and that Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

The testimony of Susanna Kirk, with reference to the return of her husband, Thomas Kirk, and his mother, Emily Weaver, is immaterial, as she knows nothing about their return, being only 35 years of age.

Lewis Weaver testified that after the close of the war, he and his mother returned to the Cherokee Nation with Lydia Quinton, and that they started back the first year after peace was declared.

Thomas Kelly testified that Elijah and Sidney Phillips were the owners of Emily Weaver; that they had been living in Polk County, Arkansas, for several years before the commencement of the Rebellion; that he was married in 1867 or 1868 or 1866; that his marriage occurred during his return to the Cherokee Nation, and that Emily Weaver did not return with him, but that she returned in the Spring of 1867. This witness cannot read or write, and his memory as to his marriage seem to be indefinite. He first said it was in 1867 or 1868, and then that it was in the

Fall of 1867, and again in the Fall of 1866. He also testified that Emily Weaver returned with him on his third trip to the Cherokee Nation.

Under date of July 2, 1905, Thomas Kelly addressed a letter to Emily Weaver, as follows:

"You started with us from Polk Co. Ark. for the Cherokee Nation in the fall of 1866, we got as far as Skullyville, Choctaw Nation & we was obliged to stop and make a crop in 1866, some of our horses & even was stolen you remember, then we went on, & got to Goingsmake District in Mch. of 1867. Yes, we was on our way before Jan. 1, '67, but owing to our stock being stolen it was in Mch. before we got there."

Anthony (Bant) Crittenden subsequently testified that he and his mother, Emily Weaver, and others, left the Choctaw Nation in 1866; that they had travelled one day when they lost their horses "and it was in 1867 that we got to where we were going." He said that they arrived at their destination in the Spring; that they were probably one and one half months making the trip, and that the party making the trip was composed of his mother, Emily Weaver, Thomas Kelly, Lydia Quinten "old man Kelly," and himself. All of the witnesses above mentioned were summonsed before the Commissioner on behalf of the applicants.

John W. Alberty says that Elijah Phillips was the owner of Nellie Cole, mother of Emily Weaver; that Nellie Cole died prior to the commencement of the Rebellion, and that Elijah Phillips left the Cherokee Nation for Polk Co., Arkansas, immediately after the emigrant payment "about 1852." He also said that Lydia Quinten was his cousin; that she returned to the Cherokee Nation

in 1868; that he loaned her a wagon and team with which to remove, and to the best of his knowledge in the Fall of 1866, Lydia Quinton and Emily Weaver were living on the Red River, in the Choctaw Nation.

George Crittenden says that he returned to the Cherokee Nation in 1867, but that he did not see Emily Weaver until some time during the year 1868.

Wat Whitmore testified that the first time he remembers seeing Emily Weaver in the Cherokee Nation was in January or February 1868. He further testified that during the war he removed to Cane Hill, Arkansas, then to the Red River, in the Choctaw Nation, where he was living at the close of the war, but that he never knew of Emily Weaver living in that vicinity.

Mary Crittenden is a daughter of Emily Weaver, and the Department on November 20, 1903, (I.T.D. 348421902), in determining the Mary Crittenden case, said, in speaking of the amendment to Section 5 of Article 3 of the Cherokee Constitution,--

"By this act of enfranchisement Emily Weaver and her daughter, Mary Crittenden became citizens of the Nation. Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent. She was, however, and is shown to be entitled to enrollment as a Cherokee citizen upon the freedmen's roll. She was placed upon the 1896 census roll compiled by the Cherokee authorities. Being of three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen under the provisions of Article 9 of the Treaty of July 19, 1866 (14 Stat., 799,801), and actually enrolled by the Cherokee authorities, it cannot be said that her recognition and enrollment was either "by fraud or without authority of law." The roll of 1896 is evidence of her right, and the facts fail to negative the prima facie case thereby made for her by her enrollment and recognition by the Cherokee authorities as a citizen."

From the testimony of Thomas Kelly, Anthony (Bunt) Crittenden, and Lewis Weaver, it would seem that Emily Weaver and Thomas Kirk did not return to the Cherokee nation on or before February 11, 1867.

The testimony of the other witnesses, both for and against Emily Weaver and Thomas Kirk is to the effect that they did return before February 11, 1867, or that such witnesses did not see them in the Cherokee nation until during the year 1868. Emily Weaver and Thomas Kirk might easily have been in the Cherokee Nation and in the Going Snake District without the witnesses having had knowledge of such fact.

This office is of the opinion that the preponderance of the testimony shows that Emily Weaver and Thomas Kirk returned to the Cherokee Nation within the time limit fixed by the Treaty of 1866. Furthermore, in the Mary Crittenden case the Department has practically settled the status of Emily Weaver.

Under the position taken by the Department in the Mary Crittenden case, it appears to this Office that Emily Weaver, Thomas Kirk, Lottie Robbins, and Charlotte Newton, are entitled to enrollment as Cherokee freedmen, but not as Cherokees by blood, and it is recommended that the decision of the Commissioner to the Five Civilized Tribes, so far as these applicants are concerned, be reversed, and that he be directed to enroll them as stated.

The Office also considers that it is clearly shown that Ellis Whitmire, deceased, a Cherokee citizen, was the father of

Peggie Whitmire, the illegitimate child of Charlotte Newton, and that Bob Bushyhead, a Cherokee citizen, is the father of Henry Bushyhead, also an illegitimate child of Charlotte Newton. The Commissioner to the Five Civilized Tribes invited attention to the Commission's holding in several cases, and especially in the case of Mary Counsel, et al., wherein the Commission said:

"Aside from the fact that the gross immorality of the mother and alleged fathers of said minor applicants acknowledge themselves to be guilty of, if, in itself, sufficient to discredit their testimony and render it of little value, and it is considered by the Commissioner that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent---one which could not be safely followed."

It appears to the Office that the position of the Department in the Nancy Ray case, November 22, 1902, (I.T.D. 5043-1902) is applicable to this case, and should be followed. Because of the immorality of the parents of these children, they should not be deprived of their citizenship in the Cherokee Nation, if entitled to such rights. In the Nancy Ray case the Department said:

"Had Congress intended to limit the right to those of legitimate descent, or descendants born in lawful wedlock, presumably it would have so provided. No reason can be assigned to exclude illegitimate descendants of male citizens and to admit such descendants of female citizens, except tribal law or usage. But tribal law or usage is not recognized by the act as authority for action of your Commission in respect to persons descended from persons born on the roll of 1880. In providing without limitation or reserve that descendants of such persons shall be enrolled, illegitimates, on either side, cannot be excluded without importing into the act words of limitation not enacted by Congress and in face of the fact that such words in a former act were ex industria excluded in framing the act in question."

It is believed by the Office that under the Department's holding in the Nancy Ray case, Peggie Whitmire and Henry Bushyhead are entitled to enrollment as citizens of the Cherokee Nation, but

(9)

that under the position taken by the Department in the Mary Grittenden case, they should be enrolled as Cherokee freedmen, instead of as Cherokees by blood, and the Office recommends accordingly.

In order that the Department may have the entire record relative to the return of Emily Weaver before it, the record in the Mary Grittenden case is enclosed.

Attention is invited to the statements in the Commissioner's report recommending the rejection of the applicants in the Emily Weaver case, and that if such action be taken, the Mary Grittenden case be re-opened and reviewed.

It is requested that this report be substituted for Office report of October 22, 1905, (Land 75612-1903--79367-1905), relating to this same subject.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

G. A. W.
LC..

DEPARTMENT OF THE INTERIOR,

P. P.

PER.

WASHINGTON.

I.T.B. 14224-1206.

November 10, 1906.

126

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

Sir:

There is inclosed herewith a copy of Indian Office letter of November 7, 1905 (Land 87205), in which it is recommended that your decision in the Cherokee freedman case of Emily Weaver, et al., be not concurred in. The case was submitted with your letter of September 29, 1905.

It is requested that you furnish the attorneys for the Cherokee Nation with a copy of the Indian Office letter, and advise them that twenty days will be allowed them within which to file any argument they may desire, evidence of service of a copy thereof upon the principal applicants to be furnished; also advise the principal applicants that they will be allowed ten days within which to reply to any argument made by said attorneys.

Respectfully,

(Signed) Thos. Ryan.

First Assistant Secretary.

Through the

Commissioner of Indian Affairs.

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

Muskogee, Indian Territory, November 25, 1905.

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

Dear Sirs:

You are hereby advised that this office is in receipt of Departmental letter of November 10, 1905, inclosing a copy of Indian Office letter of November 7, 1905, in which it is recommended that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, in the Cherokee freedman enrollment case of Emily Weaver, et al., be not concurred in.

This office is instructed to advise that you will be allowed twenty days within which to file such argument as you desire to make in this case, evidence of service of a copy thereof upon the principal applicants to be furnished. This office is also instructed to advise the principal applicants that they will be allowed ten days additional time within which to file a reply to any argument made by you.

You are, therefore, hereby notified that you will be allowed twenty days from date hereof within which to file such argument as you desire to make in this case and to furnish evidence of service of any argument or papers filed upon the principal applicants. The principal applicants have also this day been notified

Bell, Hastings & Davenport---2.

that they will be allowed ten days within which to reply to any requirement made by you.

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

Respectfully,



Acting Comptroller.

Incl. GL-22.
GHL

DEPARTMENT OF THE INTERIOR,

J. W. H.

I.T.D. Office of the Assistant Attorney-General,
8698-1901.
10996-1906. WASHINGTON.

February 15, 1907.

The secretary of the Interior.

Sir:

By reference of November 17, 1906, I am in receipt of the papers in the Cherokee enrolment cases of Emily weaver et al. and Mary Crittenden et al., with request for my opinion thereon.

The Mary Crittenden case was the subject of departmental decision of November 20, 1903. Therein it was found that Mary Crittenden is the daughter of the said Emily weaver; that the latter is a Cherokee freedmen, and that, accordingly, the former should also be so classified and enrolled.

The Commissioner to the Five Civilized Tribes now decides adversely to the enrolment of Emily weaver and her descendants as Cherokee freedmen. Although the Commissioner finds that Emily weaver and her son Thomas Kirk were the slaves of a Cherokee citizen at the commencement of the war, he concludes that they did not return to and "establish a residence" in the Cherokee Nation by February 11, 1867.

On November 7, 1905, in a communication of some length

and after a detailed analysis of the testimony, the Indian Office recommended that the applicants in the weaver case be all enrolled as freedmen, expressing at the same time the opinion that applicants Peggy Whitmire and Henry Bushyhead are also entitled to be enrolled as citizens by blood.

The testimony is to the effect that Polly weaver is at least a half-blood Cherokee, born in the Cherokee Nation about 1841. Her father was a Cherokee; her mother was a slave, having, it is claimed, some Indian blood. Prior to the war she was carried by a Cherokee family, with the consent of the Cherokee family to which she belonged, out of the nation. Before and during the war she was held in servitude, both in Arkansas and the Choctaw Nation, by the family in whose custody she had been placed. Apparently this family carried her from Arkansas into the Choctaw Nation in 1863 and there held her until the close of the war. In the fall of 1866, according to the testimony of the applicants, Polly weaver and her son started, with others, for the Cherokee country, arriving therein within the time fixed by the treaty of 1866.

In my opinion Polly weaver, held as she was in restraint and servitude, never established or acquired a domicile beyond the limits of the Cherokee Nation. That has always been her home and her return thereto had no greater significance than the return of

any absence to his home after a temporary absence. But even if it be true that in such cases the law places the same duty upon the applicants as it imposes in cases where, during the war, they voluntarily adopted other places than the Cherokee Nation as homes, still Emily Weaver and her descendants are entitled to enrolment. The Indian Office finds that the preponderance of evidence is to the effect that they returned to the Cherokee Nation in due time. I concur in this conclusion, which is corroborated by the fact that the national authorities themselves placed the name of Bullette or (Lewis) Weaver, son of Emily, upon the 1880 roll as an "adopted colored." They also enrolled her daughter, Rachel Woodall, on the 1880 roll of citizens by blood. Besides this, the Department found in said decision of November 20, 1903, which is evidently correct, that Emily's daughter, Mary Crittenden, was entitled to enrolment. It further appears that the names of all the applicants are borne upon the 1896 census roll of citizens by blood, except Henry Bushyhead, who was born after the making of said roll. While the applicant's showing appears thus, the rebuttal testimony is, in the main, negative in character.

Applicant Tom Kirk was born about 1860, to the said Emily Weaver, then a slave. Born in slavery, he should be enrolled and classified as a freedman. He also claims by intermarriage as husband of Susan Kirk, nee Tadpole, a fullblood Cherokee, enrolled

in 1880, to whom he was married under a Cherokee license in 1882, but no determination as to his right by reason thereof is considered necessary herein.

Applicants Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitire, and Henry Washhead are the children and grandchildren of the said Emily Weaver and are accordingly entitled to enrollment as Cherokee freedmen. They were, however, born in the Cherokee Nation to Fathers who were Cherokee by blood, subsequent to the time when Emily Weaver was emancipated. From her alone they are entitled to be classed as Cherokees of the mixed blood. They have always resided in the nation, and, as noted above, all save the youngest, who was born in 1898, were enrolled in 1896 as citizens by blood. I see no "lack of right" to such enrollment or evidence that it was made without "authority of law," and, being prima facie correct, it should stand. See departmental decisions in the James Shirley and Mary Crittenden cases, dated, respectively, June 12 and November 20, 1903.

Charlotte Newton also claims enrollment by reason of intermarriage with J. H. Downing, a Cherokee by blood, to whom she was married in 1886, under the Cherokee law, but it is unnecessary to discuss herein what rights, if any, were acquired thereby.

The fact that certain of the applicants are of illegitimate descent does not affect their right to enrollment as citizens

by blood. That illegitimate children are included in the term "descendants," as used in the enrollment acts, is well settled by the decisions of the department in the Nancy Jay and James Shirley cases and by the opinion of my predecessor in the Garbury cases, dated June 28, 1902.

Accordingly it is my opinion, concurring in the main with the views of the Indian Office, that Sally Weaver and James Kirk should be enrolled as Cherokee freedmen, and that the other applicants should be enrolled as citizens by blood of the Cherokee Nation; also that the decision of the department of November 20, 1903, in the Mary Crittenden case should not be disturbed.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved February 15, 1907.

E. A. Fitchcock,

Secretary.

C.R.V.

DEPARTMENT OF THE INTERIOR, LIB
WASHINGTON.

I.T.D.14654-1905.
3574-1907.

February 12, 1907.

I.R.S.

Direct.

Commissioner to the five civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with an approved opinion of the Assistant Attorney-general dated February 15, 1907, in the matter of the Cherokee enrollment cases of Gully Weaver et al. and Mary Crittenden et al., you are directed to enroll Gully Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitmire, and Henry Bushhead as citizens by blood of the Cherokee Nation. A copy of said opinion is inclosed.

A copy of Indian Office letter of November 7, 1905, was sent you November 10, 1905.

The papers in the case and a carbon copy of said opinion, also hereof, have been sent to the Indian Office for its file.

Respectfully,

Thos Ryan,

First Assistant Secretary.

1 inc. and 19 to Ind. Of.

A. F. Mc.
2, 1907.

66Ks. B. Th. 4:30p.m. 38collect. GOVT.

Washington, D. C. , Feb. 19, 1907.

Commissioner to Five Tribes,

Muskogee, I.T.

Commissioner reversed and ordered to enroll Emily Weaver and
Thomas Kirk as Cherokee freedmen and Charlotte Nwsten Leticia
Robbins Peggy Whitmire and Henry Bushyhead as cherokees by blood.

(3)
A. H. McGarr.

REFER IN REPLY TO THE FOLLOWING:

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

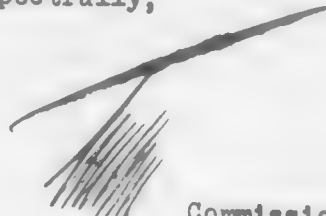
Muskogee, Indian Territory, February 20, 1907

W. W. Hastings,
Attorney for Cherokee Nation.

Dear Sir:

For your information there is enclosed a copy of a telegram dated February 19, 1907, from A. F. McGarr, an employe of this office now on duty in Washington, D. C., advising that the Commissioner's decision adverse to the applicants embraced in the consolidated Cherokee Freedman case of Emily Weaver et al., has been reversed by the Department.

Respectfully,



Commissioner

✓
Enclosure-B-25

Incl delivered in person

D.S. 20313-1907.

I.T.
47047-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

647

June 8, 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 review and reverse Departmental decision of February 18, 1907, in the matter of the application of Emily Weaver, et al, for enrollment as citizens of the Cherokee Nation. You are requested to advise the interested parties of the Department's action.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

647-GH.

273

REFER IN REPLY TO THE FOLLOWING:

Cherokee *X*
1853 et al.

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

Muskogee, Indian Territory, June 11, 1907.

V. V. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to review and reverse Departmental decision of February 18, 1907, in the matter of the application for the enrollment of Emily Weaver, 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-6.
S.V.

Cherokee N 244.

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

In the matter of the application for the enrollment of Emily Weaver,
et al., as citizens of the Cherokee Nation.

Reply to the Petition filed by I. P. Bledsoe,
Agent for Applicants.

In this case the representatives of the Cherokee Nation contend ~~that~~
there has been a sufficient number of petitions to reopen and trials
filed, and they do not deem it necessary to at length reply to the pe-
tition which has been filed by Mr. Bledsoe, but in view of the fact that
he has at length and so ably discussed the points involved, we deem it
necessary to for one moment reply to the petition, the point which we
deem necessary to be answered being the question which is sought to be
brought out now to show that the applicant was entitled to enrollment as
a Cherokee by blood.

This is entirely a departure from the previous contentions and one
we contend is not tenable and is not borne out by the record. It is
possible that if Mr. Bledsoe could have found testimony to have warranted
his contentions then the original application would have had some ground
upon which to stand, but in her testimony, as well as those connected with
her, it was attempted to be shown that she was a slave and left the Chero-
kee Nation during the war, and did not return until the Spring of 1866,
which, as held by the commissioner to the five civilized Tribes, was not
a compliance with the treaty of 1866, and therefore that she and those
claiming through her were not entitled to be enrolled as Cherokee Indians.
We therefore respectfully submit that the decision of the commissioner to
the five civilized tribes is correct and should be affirmed.

Respectfully submitted,

Attorneys for the Cherokee Nation.

Copy

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for enrollment of Emily Weaver et al, No. 348, and daughters, Lottie Robins and Charlotte Newton nee Robins, No. 1220, wife and children of Josh Robins, a Cherokee Indian.

Counter protest by I. P. Bledsee, their representative, vs Protest of Cherokee Attorney, W. W. Hastings.

These people were admitted by an act of the National Council of the Cherokee Nation in 1869, viz: Lydia Quinton, Moses Crittendon, Levi Robins, Josh Robins, and their families, (There is no question but what Emily Weaver and Charlotte Newton, nee Robins, were members of their families) as Cherokees, and have resided here ever since. The mother of Charlotte Newton and Lottie Robins were the legitimate offspring and grew out of the relation of husband and wife, as then existed between Josh Robins, a Cherokee Indian, and Emily Weaver, a Mixed Blood. When they were admitted to citizenship by the above act Charlotte was a baby in her mother's arms and they, Josh Robins and Emily Weaver (nee Robins) continued to live together (as Indian custom then) until his death and from said union Lottie Robins was afterwards born. These people have continuously resided here since 1868, and the above facts are well established by J. W. Alberty, Charles Whitmire and Dale Bright, old reliable Cherokee citizens by blood. These people should have been upon all the rolls of the Cherokee Nation but like many others, being only women, and not voters, were overlooked. I quote from your report of 1908: "The judgment of the citizenship Court in any of the suits or proceedings so submitted to its jurisdiction shall be final." The records of the Cherokee Nation as above quoted fully show that the above named parties were admitted legally unequivocally and without fraud and since that admission the evidence clearly shows that they have complied with the laws of the Cherokee Nation and lived here, built their homes, raised up their families here, and have their all here, as any other Cherokee, and as such should be and rightfully deserve enrollment.

Choteau, I. P.
July 26/07

Respectfully submitted,

I. P. Bledsee

Copy

Petition!

Choteau, Ind, Ind, Terry,
April 18th 1906.

To The Honorable Commissioners of Indian Affairs Washington D. C. Greeting!

Your humble petitioners, Emily Weaver and her two daughters ^{children} or, Charlotte Newton nee Robins and Lottie Robins, (The children of Josh Robins) by her attorney, J. P. Bludae of Choteau, Ind, Ind, Terry, beg and petition your honor that their cases be remanded back to the Honorable Dawes Commission for review and the introduction of new and material evidence recently discovered for and in their behalf, by and through their attorney J. P. Bludae, who was only recently employed in the case on April 16th 1906. viz: An act of The National Council of the Cherokee Nation I. S. admitting all of us to citizenship on December 15th 1869, an authenticated copy of which is hereby submitted also the statements of two old reliable Cherokee citizens by blood, showing our residence, standing and our return to the Cherokee Nation and our blood, family relations and our continuous residence therein since that time, (Spring of 1868). Your petitioners would state that she is entitled to enrollment as a Cherokee by blood, as her father, Lewis Cuitenden is an Indian (Cherokee) by blood and on the authenticated rolls of said Nation, and that she is also entitled to enrollment as

a Cherokee freedman under the laws and treaties governing same, having been the slave of Sidney Phillips, a Cherokee Indian, and the wife of Josh Robins, a Cherokee Indian by whom she had two children, (Charlotte and Lottie, whose father was Levi Robins and who with the whole bunch, Lydia Louinton, Levi Robins and all the members of their families were readmitted to citizenship in the Cherokee Nation, S.T. on December 15th 1867 by the National Council of said Nation and approved by the principal chief of said Nation, Lewis Downing, at Tahlequah, S.T. on Dec. 15th 1869 as is shown from a certified copy of the record thereof. Our name to the Cherokee Nation with the balance of our crowd in the spring of 1868 and our continuous residence therein up to, and including our readmission to citizenship by the National Council of the Cherokee Nation on December 15th 1867 and up to the present time, is proven by the statements of two old and reliable persons, long and resident citizens of the Nation and if our case be remanded back to the Law Commission, will be established and verified by ~~me~~ sufficient to clearly prove our rights to enrollment by the Dawes Commission as Cherokee citizens, a part of my family, ~~that one of the~~ - Citizens

a former husband, have been already enrolled
and filed as Cherokee citizens. For the above
reasons and facts, as therein set forth and many
others not yet cited, and that justice may be
done us as well as the Cherokee Nation we
pray and will ever pray that your honorable
body have our case reviewed.

Very Respectfully Submitted

Emily Weaver et al

Cases D 348 and 1220 by

J. O. Blodgett

Representative

Copy.

An Act Readmitting the persons therein named to Citizenship— Be it enacted by the National Council:

That Mary Ann Gray and children, Logan H. Duncan: Penelope C. Duncan, and Granville Craig: Martha Maars and children: David R. McDaniel and family, Lydia Duntou, Joseph Kelley, Moses Crittenden, Isaac Howel, William Beck, John Duntou, and Levi Robins and their families, who are Cherokee and they are hereby readmitted to citizenship in this Nation. Be it further enacted, That Hannah B. Hitchcock, widow of Dr. D. D. Hitchcock, and daughter of the late Rev. Samuel A. Worcester, be and she is hereby readmitted to citizenship in this Nation.

Geo. W. Johnson
Clerk of the Senate

Rich Scaper
President of the Senate

This act was concurred in by erasing the name of Hannah B. Hitchcock.

Stephen Foreman
Clerk of Council

Stam Whitwind
Speaker of Council

Concur in amendment.

Geo. W. Johnson
Clerk of the Senate
Approved.

Rich Scaper
President of the Senate

Lewis Downing
Principal Chief of C. Nation

Lahlequah. C. N. December 5th 1869.

Executive Department
Cherokee Nation
Lahlequah, S. T.

April 17th 1906.

This is to certify that the foregoing is a
correct and true copy as taken from
the Record of this office, the said
Record being in my custody.

C. J. Harms
asst. Executive Secy.
of the Cherokee Nation

Seal

Cof 4

Cale
April 17 - 1908.

Statement of Charles Whiteman and
Wright taken at Tahlequah, I.T. on

My name is Charles Whiteman, I am 57 years old, I am $\frac{1}{8}$ Cherokee Indian, I live near Proctor, I.T. in Going Snake District, I have lived there 14 years & I was born raised near there on Banner Fork, I have known Emily Weaver since 1870⁽⁶⁸⁾, she is about 70 years old and $\frac{1}{4}$ Cherokee Indian by blood, her father being Lewis Cattleman $\frac{1}{4}$ Cherokee Indian by blood & her mother Negro, and a slave of Sidney Phillips a Cherokee Indian, and returned to the Cherokee Nation in the Spring of 1868 bringing this woman, Emily Weaver, who was a member of their family, back with them then, also Josh Robins, $\frac{1}{4}$ Cherokee Indian, who was living with this Emily Weaver and had two children by her, Charlotte Robins and Lottis Robins, Josh Robins is a grand son of Lydia Dorninton & his father was named Levi Robins, these people have been born and raised and lived near me and are now living there, except as stated above, and have always been regarded & considered citizens of the Cherokee Nation and always treated as such.

Attest
J. P. Blidner
J. E. Grider

Charles Whiteman
Wright

I know the above to be true as I was
born raised near Thur, Dutch Mills
Coctor I. I am 1/8 Indian by blood
my Post Office is Tahlequah, I, now
I am 60 years old and janitor of the
cherokee records at this place.

attch
to Bludae
J. E. Giden

Cale Wright

875025

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

In the matter of the application for the enrollment of Emily Weaver,
et al., as citizens of the Cherokee Nation, consolidating the applications
of:

Emily Weaver, et al.,	Memorandum	348
Thomas Kirk,	Cherokee B	963
Charlotte Newton,	Cherokee B	1220
Peggie Whitacre, et al.	Cherokee R	618.

Protest of Cherokee Nation.

Comes now the representative of the Cherokee Nation and protests
against the enrollment of each and every one of the applicants in the
above consolidated case either as Cherokees by blood or as freedmen
citizens or as citizens by intermarriage of the Cherokee Nation, and
vigorously protests to the Honorable Secretary of the Interior against
the approval of any schedule containing the names of any of the appli-
cants embraced in the consolidated case.

The records show that all of the above applicants were rejected by
the Commissioner to the Five Civilized Tribes on the 29th day of September,
1908, and the decision is an exhaustive review of the testimony filed in
the case.

The Cherokee Nation felt content to rest the case upon the testimony
introduced as to the return of the applicants, inasmuch as it was deemed
that the testimony introduced on behalf of the Cherokee Nation conclusively
showed that the applicants did not return within the time prescribed
by the treaty of 1866. Had the Cherokee Nation thought that any doubt
would be entertained as to the return of these applicants any number of
witnesses could have been brought before the commissioner to the five
Civilized Tribes who would have corroborated those introduced. The
testimony of J. W. Alberty, who was an old and reputable citizen, whose
home was near Westville, I. T., and who was a relative of the owners of
Emily Weaver, is positive as to the date of the return of Emily Weaver,
and that that was in 1868, and he testified that he loaned them a wagon

with which to remove their effects to the Cherokee Nation, and he is corroborated by the statements of George Crittendon and Watt Whitwire, whereas the witnesses introduced on behalf of the applicant do not, except one the witness, Geor Tom Kelley, fix the date of the return of the applicants, and Tom Kelley finally admits that he might have been mistaken as to the date of the return, and he does not fix it earlier than the spring of 1867, and says that it is barely possible that it was in the spring of 1868. Now on September 21, 1900, when Thomas Kelley was before the Commission in his own behalf he testified in answer to these questions:

"Q. How long have you lived in the Cherokee Nation? A. Ever since 1868

And the judgment at that time recites: "His wife was married to him in 1868." Now this is at variance with his testimony given at that time, but it clearly and conclusively corroborates J. W. Albarty and the other witnesses introduced on behalf of the Cherokee Nation. There can be no doubt but what any number of witnesses could be introduced to show that these people did not return until 1868, and in fact the supplemental petition for review dated April 18, 1906, signed by I. P. Bledsoe, representing Emily Weaver, states that they came back in the spring of 1868 and does not claim that she was entitled then as a freedman citizen, but as a Cherokee by blood and claims in this last petition that they were admitted on December 15, 1869, which was never shown, and in his petition representing the applicants uses the following language, referring to the applicants:

"Our return to the Cherokee Nation with the balance of our crowd in the spring of 1868, and our continued residence therein up to and including our readmission to citizenship by the National Council of the Cherokee Nation on December 15, 1869, and up to the present time, is proven by the statements of two old reliable Cherokees by blood, etc."

And in support of his amended motion filed on April 18, 1906, he files an affidavit of Charles Whitwire in which affidavit as to the date of the return of Emily Weaver he states:

"I have known Emily Weaver since 1868."

And after stating that she and her mother were slaves of Sidney Phillips, continues:

"And returned to the Cherokee Nation in the spring of 1868 bringing

this woman Emily Weaver."

Now we proved this by J. W. Alberty and if Thomas Kelley was correct in 1900, when he made his own application, that he returned in 1868, then his testimony would be to that effect. The Cherokee Nation proved it by Watt Whitmire, and also by George Crittenden, and finally the applicant in her own petition admits it in April, 1906, that she did not return until the spring of 1868, and in support of her own petition she has filed the affidavit of Charles Whitmire to the effect that she did not return until 1868. Certainly upon this testimony and these admissions, the Cherokee Nation had a right to believe that the Department could not find anything else than that the said Emily Weaver did not return within the time prescribed by the treaty of 1866, or did not return on or before February 11, 1867.

There is, however, a second ground that we desire to urge that perhaps was not vigorously pressed before for the reason that we thought it was not necessary, although it was developed in the testimony, and that is that Emily Weaver was not a slave of a citizen of the Cherokee Nation at the commencement of the war of the rebellion. The testimony of J. W. Alberty conclusively shows that Elijah (Lige) Phillips and family left the Cherokee Nation for Pope County, Arkansas, immediately after the Emigrant payment in 1852. The testimony of Thomas Kelley is to that effect, the testimony of Anthony Crittenden is that he was born in Pope County, Arkansas, and in fact there is no testimony to contradict it. But it is stated by the witnesses that they were Cherokees upon their return. That is true, but they were not citizens of the Cherokee Nation upon the return. They were not citizens of the Cherokee Nation at the commencement of the war of the rebellion, and attached to this protest is a certificate signed by the Commissioner to the Five Civilized Tribes showing that Elijah Phillips and family were readmitted to citizenship in the Cherokee Nation by the National Council on November 26, 1866. Now if Elijah Phillips had been a recognized citizen at the beginning of the war those who returned within that short period were not required to have been readmitted, but the said Elijah Phillips, having left the

Cherokee Nation in about the year 1852, or some nine years prior to the war, and having gone to Pope County, Arkansas, and having sold his farm and effects in the Cherokee Nation, as the testimony conclusively shows, he clearly forfeited his citizenship under Section 2, Article 1 of the Cherokee Constitution, which provides:

"Whenever any citizen shall remove with his effect 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."

Now the testimony of J. W. Alberty is that he had left the Cherokee Nation, had gone to Pope County, Arkansas, that he had bought a farm there, that he owned no improvements or property in the Cherokee Nation at the beginning of the war, and had not owned any since 1852. After some difficulty in the cross-examination of Anthony Crittenden he gave his age as 35 or 36 in 1905, which would have made him been born in 1849 or 1850, and he was asked the following questions:

"Q. Then you were born along in 1849 or 1850? A. Yes sir, I might have been born in Pope County, I couldn't say where it was."

"Q. Is it your understanding you were born there? A. I guess I was, I couldn't say where I was born."

"Q. Then your mother was living there with Elijah Phillips when you were born? A. Yes sir."

"Q. And she never came to the Cherokee Nation until after the war? A. No sir."

"Q. Did Elijah Phillips own a farm there? A. Yes sir."

"Q. And she was living on it when the war commenced, and had been ever since you could remember? A. Yes sir, I guess he had, he was living on it when I could recollect."

Now this testimony completely corroborates the testimony of J. W. Alberty and the testimony of the other witnesses to the effect that Elijah Phillips and family moved to Pope County, Arkansas, with their effects and became citizens of Pope County years before the war, and if that be true they were not citizens of the Cherokee Nation at the commencement of the war of the rebellion and Emily Weaver, being a slave of a citizen of the State of Arkansas, residing in Pope County, Arkansas, at the commencement of the war of the rebellion, is not entitled to be enrolled under the 5th Article of the treaty of 1866.

This same question was determined by the Department in the Sallie Hayfield case, F. D. 51, and she was rejected by the Commission to the Five Civilized Tribes on April 20, 1904, and this rejection was affirmed on June 21, 1904, by the Secretary of the Interior, and that judgment of

the Commission in the Sallie Mayfield case, rejecting her, of date April 29, 1904, read as:

"The evidence hereto shows that the Sallie Mayfield and Thomas Mayfield, as mentioned above, are mother and son and they were both at one time the slaves of one Sallie Mayfield who was a Cherokee citizen, but who, prior to the commencement of the rebellion, removed to the State of Texas, taking these two applicants with her and established a residence in said State."

The same is true in the case of Polly Weaver. She belonged to Elijah Phillips and his wife, Slavery Phillips, who were at one time Cherokee citizens, but like Sallie Mayfield, left the Cherokee Nation prior to the war and went to Pope county, Arkansas, whereas Sallie Mayfield went to the State of Texas; one was a citizen and resident of the State of Arkansas, the other a citizen and resident of the State of Texas, and neither a citizen of the Cherokee Nation at the commencement of the war of the rebellion. Again, in the case of Hannah Vest, P. D. 45, rejected by the Commission to the Five Civilized Tribes May 13, 1905, and affirmed by the Department on September 15, 1905, the decision finds:

"The evidence in this case shows that at the commencement of the rebellion the applicant Hannah Vest was the slave of one Sallie Mayfield and that the said Sallie Mayfield was a citizen of the State of Texas."

Upon that ground alone Hannah Vest was denied and her rejection affirmed by the Department.

This question was not sufficiently urged upon the attention of the Department before, but we desire now to strongly urge it and we desire also to call the attention of the Department to the admissions made by the Agent, J. P. Medema, representing her, in his petition filed on April 14, 1866, wherein he admits that she did not return until the spring of 1868, and to the affidavits of Charles Whitacre filed on her behalf, wherein he finds that she did not return until 1868, and again we desire to call the attention of the Department to the fact that Elijah Phillips and family were not admitted until November 26, 1868, which is corroborative of the fact that he did not return until 1868, because if he had he would have been admitted earlier, and we desire to call the attention of the Department to the certified copy of the act admitting certain persons, not the applicants, however, filed on behalf of the applicants, and among others, were Lydia Quinton and Joseph B. Kelley and Moses

criticisms all of whom were admitted by an act of the Cherokee National Council approved December 15, 1865, all of which is corroborative of the fact that they did not return and is conclusive, that they had forfeited their citizenship by their continuous residence in the State of Arkansas prior to the commencement of the rebellion.

We feel confident of course that the Department will see that no injustice is done the Cherokee Nation, and we submit this protest believing that it conclusively shows:

First, that the owner of Holly River was not a resident or citizen of the Cherokee Nation at the commencement of the war of the rebellion, and,

Second, that none of the applicants herein returned to the Cherokee Nation prior to the spring of 1865--too late to acquire any rights under the treaty of 1865.

Respectfully submitted,

Ernest W. Hartwig
Attorney for the Cherokee Nation.

9/24/07

Copy.

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

JCR

Phillips Elijah &	Nov. 26 '68	Readmitted	Unconditional
Family	" 26' "	Readmitted	Unconditional.

I hereby certify that the above and foregoing is a true and correct copy of words and figures as found on Page 17 of a "Record of Persons admitted To Cherokee Citizenship By The National Council

" Supreme Court Since the Treaty of 1866.," said record being in the lawful custody of this office.

Tamm Bixby,

Commissioner.

Dated at Muskogee, Indian Territory,
this 2/20-1907-

POOR ORIGINAL -
BEST AVAILABLE COPY

Cher Memo 349

Cher Memo 349

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 12, 1901.

In the matter of the application of Flora L. Wood for the enrollment of herself and one child as Cherokees by blood.

Flora L. Wood, being duly sworn and examined by the Commission, testified as follows:

- Q What is your name? A Flora Lena Wood.
- Q How old are you? A About 39.
- Q What is your postoffice address? A Tulsa, I. T..
- Q What district are you living in? A I can't tell you.
- Q Live in the Creek Nation? A No, sir, live in the Cherokee Nation, it is on the north side, north part of the town.
- Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
- Q What degree of blood do you claim? A I was always told my grandmother was a quarteroon, and it seems to me I was told she was half.
- Q You don't know how much you claim for yourself? A No, sir, not for certain.
- Q What was the name of your father? A My father's name was Miles Russell.
- Q Is he living or dead? A Dead.
- Q Was he a Cherokee or a white man? A White man.
- Q What was the name of your mother? A Sarah Jane Fanning before she married.
- Q Is your mother living? A No sir she is dead.
- Q Was she a Cherokee by blood? A Yes, sir.
- Q Have you any children for whom you make application? A Just this one, never had but one.
- Q What is his name? A Richmond Harry Wood.
- Q How old is he? A He will be 4 years old the 26th of this month.
- Q Who is the father of this child? A Charley Wood.
- Q You are the mother of the child? A Yes, sir.
- Q When were you married to the father of this child? A '94.
- Q Were you ever married before you married him? A No sir.
- Q Are you living with him at the present time? A Yes, sir.
- Q He is a white man? A Yes, sir.
- Q Was he ever married before he married you? A Yes sir, he was a widower, his wife was dead, he had no family.
- Q Have you ever been recognized as a citizen of the Cherokee Nation? A I have never been on the roll or anything of that kind but I have lived in the Territory since '95.
- Q Have you ever applied for enrollment in any other tribe or nation? A No sir, oh no sir.
- Q When did you come to the Territory? A In '95.
- Q Where did you come from? A Eureka Springs, Arkansas.
- Q Did you ever live here before '95? A No, sir, never was in the Territory till '95.
- Q You have never drawn any money from the Cherokee Nation? A No sir.
- Q Were you an applicant before the Commission in 1896 for enrollment as a citizen of the Cherokee Nation? A No, sir, I didn't apply at the time, but that is what I came to the Territory for.
- Q Has your mother ever been recognized as a citizen of the Cherokee Nation? A I can't tell you that, I think it is my - - -
- The 1890 authenticated roll, the 1896 census roll, and the 1894 payroll of citizens of the Cherokee Nation examined, and the applicants not identified thereon.
- The record of applications for citizenship made under Act of June 10, 1896, examined, and no record is found of any application made by this applicant.

Commission: Flora L. Wood applies for the enrollment of herself and one child as Cherokees by blood. She avers that she never lived in the Cherokee Nation previous to 1896.

She is not identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission. Her application comes within the provision of the Act of Congress approved May 31, 1906 (The Indian Appropriation Bill), which act provides that this Commission shall not receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such. Consequently, the application which you make in your own behalf and in behalf of your son Ehemond K. Wood, for enrollment as citizens by blood of the Cherokee Nation, is refused. A copy of the record and the proceedings had in the matter of your application, together with the judgment of the Commission, will be forwarded to the Secretary of the Interior for his review and you will be notified at a later date what action the Department takes in regard to this application.

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 12th of September, 1901.

M. D. Green
Notary Public.

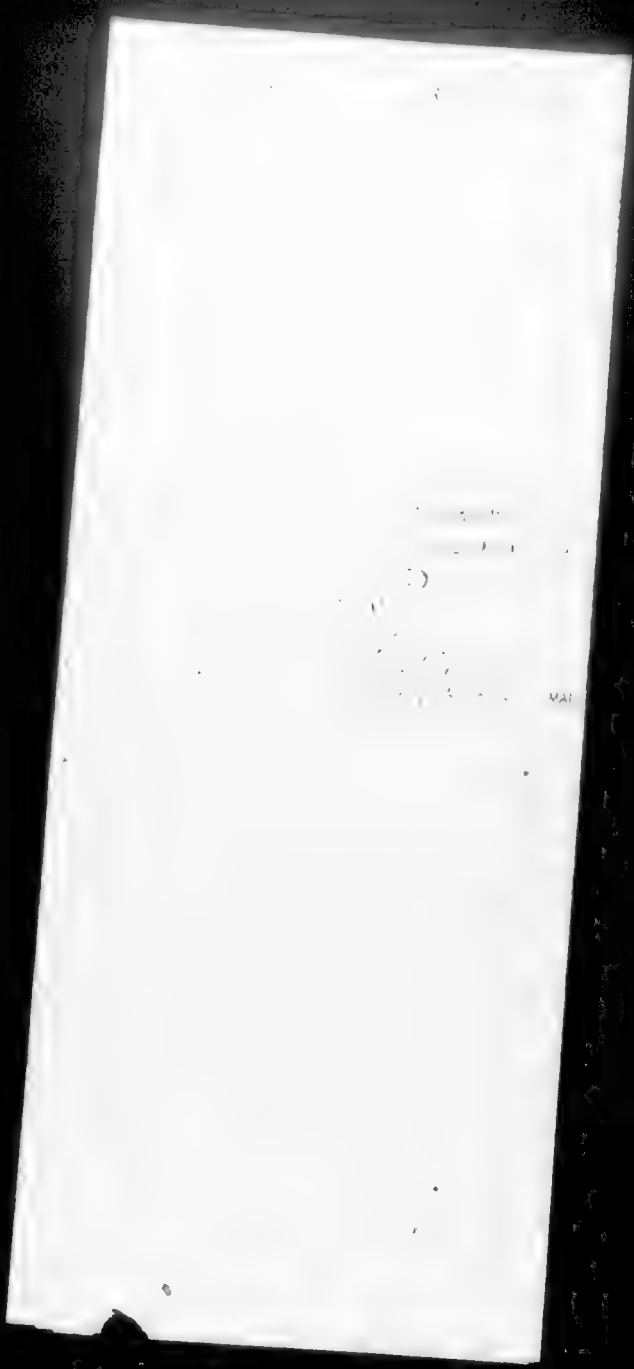
CHEROKEE.

Flora L Wood et al

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM

Cher Memo 350

Cher Memo 350



Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 18, 1901.

In the matter of the application of Rebecca Ann Hankins for the enrollment of herself and six children as Cherokees by blood.

Rebecca Ann Hankins, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Rebecca Ann Hankins.
Q How old are you? A 36.
Q What is your postoffice address? A Hartsberna.
Q Is that in the Indian Territory? A In the Choctaw Nation.
Q You apply for enrollment as a Cherokee by blood? A Yes, sir.
Q How much Cherokee blood do you claim? A About how much?
A Well, my grandfather was three quarters.
Q Do you apply to enroll anyone besides yourself? A My children, six children.
Q What is the name of the oldest one? A Daniel Jefferson.
Q How old is he? A He is 20.
Q What is the name of the next one? A William Lafayette.
Q How old is William L.? A He is 18.
Q What is the next child? A Mary Belle.
Q How old is she? A 16.
Q What is the name of the next one? A Nancy Josephine.
Q How old is Nancy Josephine? A She is 14.
Q The next child? A The next one is Johnnie, he is dead, and the next one living is Maudie.
Q What is her name, Maudie or Maudie? A Maudie.
Q How old is she? A She is 9 years old.
Q The next one? A William.
Q You have one William? A This here is another William, that other is a double name, William Lafayette.
Q And this one is just William? A Yes, sir.
Q How old is he? A He is 7.
Q Is that all? A Yes, sir.
Q Are these children all alive and living with you? A Yes, sir, all living with me.
Q Who was the father of the children? A Wesley Hankins, was the father, before he died.
Q Was he a white man? A Yes, sir.
Q What was the name of your father? A My father's name was Daniel Brown.
Q Is your father living or dead? A He is living, was about two months ago I heard from him.
Q Is he a Cherokee or a white man? A He is a white man.
Q What was the name of your mother? A Isabel Black before she was married.
Q Is she living? A She was when I got a letter about two months ago.
Q Does she claim to be a Cherokee by blood? A Yes, sir.
Q How long have you lived in Indian Territory? A About eight years.
Q Have you ever lived in the Cherokee Nation? A Yes, sir.
Q When? A It has been five years ago.
Q How long did you live there? A One year.
Q Is that the last you ever lived in the Cherokee Nation?
A Yes, sir.
Q That was about five years ago? A Yes, sir.
Q Never been back here since that time? A Nothing only just passing through.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A No, sir.
Q Does your name appear upon any of the rolls? A No, sir.

Q Was your mother ever recognized as a citizen? A No, sir.
Q Does her name appear upon any of the rolls? A No, sir, not as she knows; if she was ever put on the roll it was when she was so young she can't know anything about it.

Q Did she ever live in the Cherokee Nation? A No, sir.
Q Did you apply to this Commission for enrollment in 1896, as a citizen of the Cherokee Nation; five years ago, did you make application for enrollment at that time? A No, I came here to make application but I was too late, they were sending out the last papers and wouldn't take them.

Q Did you ever apply to the Cherokee National Council for admission to citizenship in the Cherokee Nation? A No, sir.
The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified thereon.

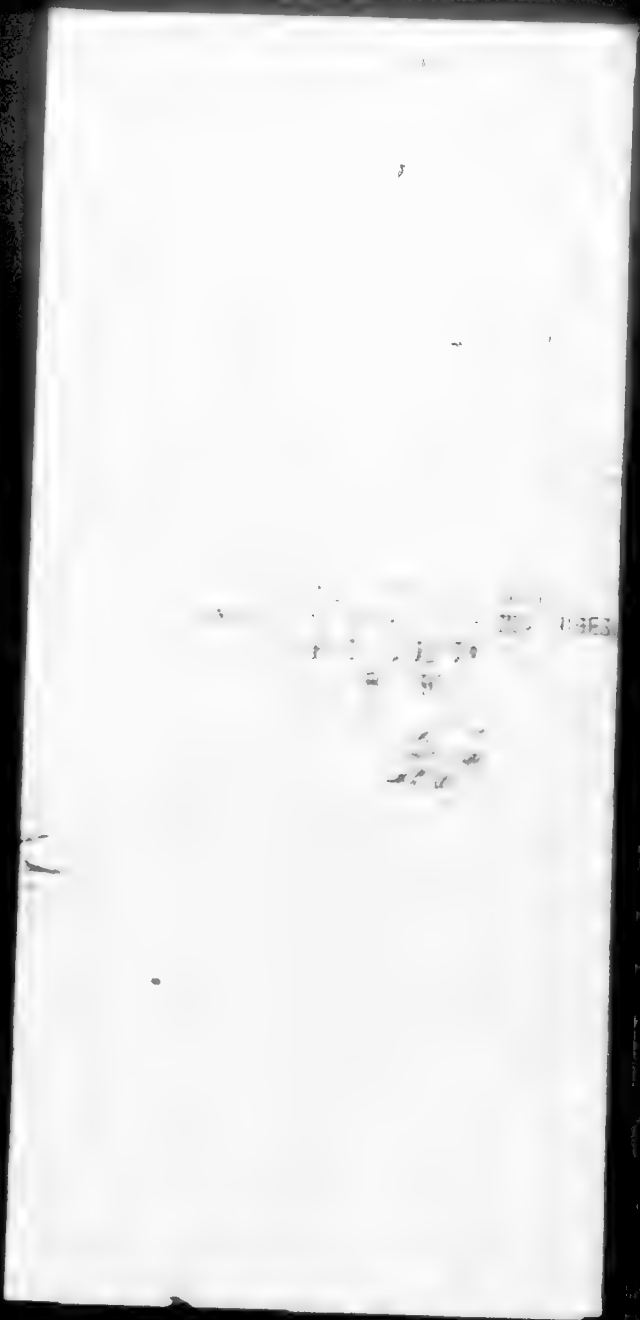
Q Who was your attorney in 1896; did you have an attorney at that time? A No, sir.
The 1896 citizenship records of the same Commission examined, and the applicant not identified as an applicant at that time.

Commission: Rebecca A. Hankins applies for the enrollment of herself and six minor children, for enrollment as citizens by blood of the Cherokee Nation. She avers that she is at present living at Hartsborne, in the Choctaw Nation, Indian Territory. About five years ago she lived in the Cherokee Nation for one year, which was the only time in her life that she has ever resided in said Nation. She has lived in the Indian Territory for eight years. She is not identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission; neither are her children identified upon said rolls. Neither does it appear from the records of the Commission that she was an applicant for citizenship under the Act of Congress approved June 10, 1896, in the Cherokee Nation. Her application appears to come within the provisions of the Act of Congress approved May 31, 1900, and under the provisions of said act this Commission is without authority to receive, consider, or make any record of the application of the said Rebecca Hankins and her six children for enrollment as citizens by blood of the Cherokee Nation, for the reason that they have never been recognized and duly and lawfully enrolled or admitted as such. The records of the proceedings had in the matter of her application will be forwarded to the Secretary of the Interior for final review, and when the decision of the Secretary is rendered, she will be notified in writing at her present postoffice address.

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 16th of September, 1901.

Bruce C. Jones
Notary Public.



Commissioner Needles: In the matter of the application of Rebecca Hankins for the enrollment of herself and six minor children as Cherokees by blood, the case being Cherokee Memorandum Case Number 350, the field judgment states that the children are not on any roll, but that fact, if brought out in the examination, is omitted in the certified copy of the testimony. I have this day had the rolls carefully searched for all of the children named in this application, and none of them are identified on any of the rolls in the possession of the Commission. It is not to be expected that they would be, inasmuch as their father was a white man, and their mother has clearly been shown never to have been a recognized citizen of the Cherokee Nation in any way whatever, nor to have been enrolled as such. It is shown in the testimony that she is not of record as having applied to the Dawes Commission under the Act of June 10, 1886, and also that she did not apply to the Cherokee Council. As is well known, there was no Cherokee Commission that she could apply to, the last of such commissions having expired on the second Monday in November, 1889, and therefore it was not necessary to advance inquiries in regard to jurisdiction of that character. She only came to the Cherokee Nation five years ago, and then remained but one year.

It is ordered that a copy of this statement be attached to the testimony in this case.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur E. ...

Subscribed and sworn to before me this 7th day of October, 1902.

[Signature]
Commissioner.

CHEROKEE

350

Rebecca A. Hawkins et al

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM

Cher Memo 351

Cher Memo 351



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 Elizabeth Couch for the enrollment of herself as a Cherokee by intermarriage and her two children as Cherokees by blood.

Nancy Elizabeth Couch, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Nancy Elizabeth Couch.
- Q How old are you? A I am 30 years old.
- Q What is your postoffice address? A Webbers Falls.
- Q What is your postoffice address? A Webbers Falls.
- Q Is that in the Cherokee Nation? A Yes, sir.
- Q Do you apply for enrollment as a Cherokee by blood? A No, sir, by intermarriage.
- Q Do you apply for anyone besides yourself? A Yes, sir, I have two children.
- Q What is the name of the eldest one? A Sarah Jane Couch.
- Q How old is she? A She is 7 years old.
- Q What is the name of the next one? A Geracie Ann Couch.
- Q How old is she? A She is 3 years old, will be 4 in October.
- Q Are these children both alive and living with you? A Yes, sir.
- Q You are their mother? A Yes, sir.
- Q Who is the father of the children? A Andy Couch.
- Q Is he living or dead? A I can't tell you, I heard once he was dead, I can't tell you whether he is living or dead.
- Q Did he claim to be a Cherokee by blood? A Yes, sir.
- Q When were you married to him? A You will know what year it was, it will be eight years next March.
- Q How long did you live with him? A I lived with him about four years.
- Q Then you separated? A Yes, sir.
- Q About 1898? A It has been four years ago this month since we separated.
- Q You married since you left him? A No, sir.
- Q By whom were you married? A Bellart was his name.
- Q Was he a minister of the Gospel? A Yes, sir, he was, he is dead, he died since the marriage was.
- Q Where were you married? A Married in the Choctaw Nation.
- Q What place in the Choctaw Nation? A I can't hardly tell; you know where Harcomer is; we were married right there.
- Q Married in the town of Harcomer? A No, sir, married right there in the settlement.
- Q Did he give you a marriage certificate? A No, sir; it got burned up, my house got burned up.
- Q Did you have a marriage license? A Yes, sir.
- Q Where did you get the license? A Got that at Mallester.
- Q You can get a certified copy of the record there. A Yes, sir.
- Q Have you ever been recognized by the Cherokee tribal authorities as a citizen of the Cherokee Nation? A Well, I can't --
- Q That is, has your name ever been placed upon any roll? A Well sir I can't tell, my husband went and enrolled, and he said that he had my name.
- Q Where was your husband born? A He was born in Arkansas.
- Q How long did he live in the Cherokee Nation? A Why he has lived in the Cherokee Nation about twelve years.
- Q Did he come from Arkansas about twelve years ago? A No, sir, he has been from Arkansas longer than that, he has been in the Choctaw Nation part of the time.
- Q How long did he live in the Choctaw Nation? A Must have been four or five years.

Q Is your name on any of the rolls of the Cherokee Nation? A They said it was on the 1896 roll, and he has been enrolled twice, as I have been instructed, he was on the '96 roll and then on before that.

Q Was he ever admitted to citizenship by an act of the Cherokee National Council? A No, I don't know whether he was or not; I will tell you how it was, they were proving up there, and I never did know whether they finally got it settled or not; they had land and owned land but they never drew their money.

Q Where did you leave him? A In the Cherokee Nation.

Q Why? A I never left him, he left us.

Q Were you living at your own home at that time? A Yes, sir.

Q Did you stay at home? A Yes, sir.

Q And he left you? A Yes, sir, we were living with my father and I stayed with my father.

Q Did he say why he left you? A He went off and stayed away and then came back and I never lived with him any more.

Q He never did tell you why he left you? A No, sir.

Q Did your husband ever have any other name besides Andrew Couch?

A Andrew Marion Couch.

Q How old a man would he be if he was living to-day? A He would be about 26 years old.

Q Younger than you? A Yes, sir.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified on any of said rolls.

Q Were you living with your husband in 1896, five years ago?

A Yes, sir.

Q Did he apply to this Commission for citizenship in the Cherokee Nation at that time? A Yes, sir, that is what they said, they went and that is what they told me they were going for.

Q What action did the Commission take in regard to his application did they admit him or deny him? A They said they were admitted.

Q Was your name embodied in that application? A They said that it was; Of course I just got their word for it, I can't say that it was and can't say that it wasn't.

The 1896 citizenship records examined, and following record found on Pocket A, page 213, case No. 1357- "Andrew Couch vs. Cherokee Nation; filed September 8, 1896, at Vinita, Indian Territory; application denied at Vinita, Indian Territory, October 24, 1896;" no appeal taken.

Commission: Nancy E. Couch applies for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her two children, Sarah J. and Gracie A. Couch as citizens by blood of the Cherokee Nation. She avers that she was married in the year 1894 to one Andrew M. Couch, whom she claims was a Cherokee by blood. She produces no satisfactory proof as to her marriage to the said Couch. Neither she nor either of her children are identified upon any of the tribal rolls of the Cherokee Nation in the possession of this Commission. It appears from an examination of the records of the Commission made in accordance with the act of Congress approved June 18, 1896, that Andrew M. Couch, the husband of the applicant, was an applicant before this Commission for enrollment as a citizen of the Cherokee Nation at that time; that his application was denied and no appeal taken. The decision of the Commission rendered at that time is final, and the application which Nancy E. Couch makes for the enrollment of herself and two children, Sarah J. and Gracie A., is therefore rejected. It also appears that this application comes within the provisions of the Act of Congress approved May 31, 1890, which act provides that this Commission is without authority to

receive, consider, or make any record of any applications for enrollment as citizens of the Cherokee Nation, unless the applicants have already been recognized and duly and lawfully enrolled or admitted as such. A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review, and the applicant will be notified at a later date of the decision of the Secretary in regard to the same.

Additional examination:

Q Do you know what your father's husband's father's name was? A Yes, sir, his name was Andrew Couch, the same name, their names was both the same and my husband was old Andy Couch's boy, and old Andy Couch's was that lady's husband.

Q Was he living in 1868? A No, sir, he wasn't.

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

Bruce O. Jones

Sworn to and subscribed before me this the 18th of September, 1901.

Mr. Green
Notary Public.

RECORDED
INDEXED

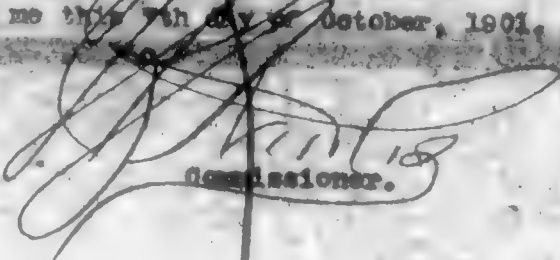
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... 8 1901

Commissioner's Office. On review of the Memorandum Case of
Benny E. Couch and others, Number 381, in which she applies for
the enrollment of herself and two children as Cherokee citizens,
it is found that the facts alleged and the evidence both fail to
show that the husband of this woman, the father of these children,
and through whom she claims they claim, was not identified on any roll.
I have this day had the rolls of the Cherokee Nation in the pos-
session of the Commission carefully searched, and the husband,
Andrew X. Smith, is not there. The rolls of the Cherokee Nation
include the Roll of 1828, the Cherokee State Taxant
Roll of 1834, and the Cherokee Census Roll of 1835. It is obvious
from the testimony that these applicants made no application
except through the Dawes Commission, for admission to citizenship,
which alone is cited in the present application and the denial
of their application under the provisions of the Act of May 31,
1900, is considered fully sustained.

The undersigned, being duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes, he took in full
the preceding statement and order, and that the foregoing is a
full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of October, 1901.


Commissioner.

IN THE MATTER OF THE APPLICATION OF

Nancy E. Couch et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher memo 352

Cher Memo 352

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 18, 1901.

In the matter of the application of Hannah Jane Gouch for the enrollment of herself as a Cherokee by intermarriage and her three children as Cherokees by blood.

Hannah Jane Gouch, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Hannah Jane Gouch.
- Q How old are you? A 48.
- Q What is your postoffice address? A Webbers Falls.
- Q Is that in the Cherokee Nation? A Yes, sir.
- Q What district? A Why I don't know, I have heard it too.
- Q Had you apply for enrollment as a Cherokee by blood? A Just by intermarriage, no, sir.
- Q Do you apply for anyone besides yourself? A Yes, sir, three children.
- Q What is the name of your oldest child? A Henry Madison Gouch.
- Q How old is he? A He is about 18.
- Q What is the name of the next child? A James Jimmie.
- Q How old is he? A 16.
- Q What is the name of the next one? A Mary Ann Gouch.
- Q How old is she? A 11.
- Q Is that all? A Yes, sir, that is all.
- Q Are these children alive and living with you at this time? A Yes, sir, living with me at home.
- Q Who is the father of the children? A Andrew Marion Gouch.
- Q Is he living or dead? A He is dead.
- Q When did he die? A He has been dead eight years.
- Q Did he claim to be a Cherokee by blood? A Yes, sir.
- Q When were you married to him? A Well, it has been about 25 years ago.
- Q Did you live with him continuously up until the time of his death? A Yes, sir.
- Q Were you ever married before you married him? A No, sir.
- Q Was he ever married before? A Yes, sir, he was married before.
- Q Was his first wife dead when he married you? A Yes, sir.
- Q Have you any evidence of your marriage to him? A Yes, sir, I have my certificate at home.
- Q Were you married by a minister of the Gospel? A Yes, sir.
- Q Where were you living at that time? A Arkansas.
- Q When did you come to the Cherokee Nation? A We came, we have been here about eight or nine years, I believe, here in this Nation.
- Q Your children were all born in Arkansas? A No, sir, wasn't but one.
- Q Where were they born? A In the Cherokee and Choctaw Nations.
- Q Which one was born in the Cherokee Nation? A No, nary one of them, those that are living was born in the Choctaw Nation.
- Q Have you ever been recognized as a citizen of the Cherokee Nation? A No, sir.
- Q Is your name on any of the rolls? A No, sir, not as I know of.
- Q Is the name of your husband upon any of the rolls? A Yes, sir.
- Q What is the roll? A It is the same here was.
- Q Well, upon what roll was her husband? A Why it was on the 1898 roll.
- Q Were you an applicant before this Commission in 1898 for admission to citizenship in the Cherokee Nation? A No, sir, I wasn't, my husband did.
- Q When did your husband die? A My husband's brother did.
- Q And your name was embodied in that application; that is, did he apply for you at that time? A I don't know whether he applied for me or not, just for my children.
- Q He applied for your children? A Yes, sir, just for my children.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified on any of said rolls.

- Q What was the name of your husband's brother? A Levi Couch.
Q Did he have any other name besides Levi? A No, sir, just Levi.
Q Is he living? A Yes, sir, he was living the last I heard of him, soon ago.
Q What was that? A It has been about five years ago.
Q Do you know a man named William L. H. Couch? A I believe that was his name.
Q That your brother-in-law was known also by the name of William L. H. Couch? A Yes, sir.

The 1896 citizenship records examined, and on page 117, Donald S. case No. 3671, appears following record: William L. H. Couch, Cherokee Nation; filed September 5, 1896; answer filed; application denied at Vinita, Indian Territory, October 24, 1896; no appeal taken; attorneys, Hubbard, Garland and Vatta, Muskogee, Ind. Ter.

Kannah J. Couch applies for the enrollment of herself as a citizen by intermarriage and for the enrollment of her three children, Henry H., James J., and Mary A. Couch, as citizens by blood of the Cherokee Nation. She avers that she was married some 27 years ago to one Andy W. Couch, whom she claims was a Cherokee by blood. She said Andy W. Couch is not identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission. Neither is the name of the applicant, Kannah J. Couch, or her three children, identified upon any of the tribal rolls. She states that the names of her children were embodied in an application made to this Commission in accordance with the Act of Congress approved June 16, 1896, by her brother-in-law, William L. H. Couch, and it appears from the records of the Commission that the said William L. H. Couch was denied citizenship in the Cherokee Nation by this Commission in 1896, and that no appeal was taken therefrom. The decision rendered therefore at that time was final, and consequently the application which the said Kannah J. Couch makes for the enrollment of herself as a citizen by intermarriage and for the enrollment of her three children as citizens by blood, is rejected. It appears also that this application comes within the provisions of the Act of Congress approved May 31, 1900, which act provides that this Commission shall be without authority to receive, consider, or make any record of any application for enrollment as a citizen of the Cherokee Nation unless the applicants have already been recognized and duly and lawfully enrolled or admitted as such. A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his final review, and the applicant will be notified at a later date of the action of the Department in regard to her application.

James L. 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 18th of September, 1901.

W. D. Green
Notary Public.

Commissioner Breckinridge: In the matter of the application of Hannah J. Couch for the enrollment of herself and three children as Cherokee citizens, as set forth in Memorandum Case III, it is found on review of said case that the said judgment states that the deceased husband of the applicant, the father of the children for whom she applies, was not listed on any roll. This seems to have been omitted from the testimony as recorded. I have this day had the Authenticated Cherokee Roll of 1880, and the Strip Payment Roll of 1884, and the Census Roll of 1898, carefully searched for the name of the applicant's deceased husband, and he is not identified on any of said rolls. Attention is called also to the fact that this woman and her children, as set forth in the testimony, are shown to have been parties in the application titled William L. R. Couch versus Cherokee Nation, in which it was sought to establish their right to Cherokee citizenship before the Commission under the provisions of the Act of June 10, 1898. As no appeal was taken from the adverse decision in that case, the names of the parties in detail entered in the suit do not appear upon our docket, and record; but it is deemed sufficient to show, as has been shown, that the decision in that case was adverse to the claim, and hence Andrew R. Couch, and his widow now claiming through him, also being a white woman, and the children of their marriage, are all inevitably excluded in the adverse decision, from which no appeal was taken.

It is ordered that a copy of this supplemental statement be attached to the testimony in this case as a part thereof.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he test in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur L. Cronanizer

Subscribed and sworn to before me this 7th day of October, 1901.

C. R. Breckinridge.

Commissioner.

652
IN THE MATTER OF THE APPLICATION OF

Hannah J. Couch et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 353

Cher Memo 353

UNIVERSITY MICROFILMS
SERIALS ACQUISITION
300 N ZEEB RD
ANN ARBOR MI 48106

Commissioner Breckinridge. In the matter of the application of Joanna Bennett for admission to citizenship of herself and three children, as set forth in Cherokee Memorandum Case 355, it is not made to appear that the rolls have been consulted with reference to the children. I have this day caused the rolls made since the birth of said children, namely, the Strip Payment Roll of 1894, and the Cherokee Census Roll of 1896, to be carefully searched, and none of the names of the children enumerated in said case are found therein. She states in her first testimony that her father was a white man, and claims that her mother was a Cherokee by blood, and was never recognized as a Cherokee nation. The applicant herself is now thirty-nine years of age. Her husband, the father of these children, was a white man. In all of the applicant's life she has spent less than two years in the Cherokee Nation. It is perfectly obvious, that she has never been admitted to citizenship in any manner whatsoever, and it is ordered that this supplemental statement be attached to the original record in this case.

The undersigned, being duly sworn, states that he subscribes to the Commission on the Five Civilized Tribes, and took in full the foregoing statement and notes, and that the preceding is a full and correct transcript of his stenographic notes thereof.

William H. Breckinridge

Subscribed and sworn to before me this 8th day of October, 1901.

C. A. Breckinridge

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Joanna Bennett et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 354

Cher Memo 354

ASSIGNMENT no. MEMORANDUM
SUMMARY 1 10/10/1950

Cherokee by blood.

REJECTED; MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., Sept. 21, 1901.

In the matter of the application of Sarah C. Gibson for the enrollment of herself and four children as Cherokee Indian citizens by blood; she being sworn and examined by the Commission testified as follows:

- Q What is your name? A Gibson.
Q Your full name? A Sarah C. Gibson.
Q How old are you? A 49.
Q What is your post-office address? A Canev, T. T.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q Do you apply for anyone besides yourself? A My children.
Q How many children have you? A Eight.
Q Are they all under 21 years of age? A No sir, they are not, there is four that is and four that is over.
Q Give me the name of the oldest one under 21 years of age and unmarried? A Julius Gibson.
Q How old is he? A 19.
Q What is the name of the next one? A Effie, 15.
Q Effie Gibson? A Yes sir.
Q What is the name of the next child? A Henry Birdwood Gibson.
Q How old is he? A 7.
Q Next child? A This one, (indicating child in lap), Joseph.
Q How old is he? A Five.
Q Are these four children alive and living with you at the present time? A Yes sir.
Q Who is the father, have they one father? A Yes sir.
Q What is his name? A Joseph Gibson.
Q Is he living or dead? A Dead.
Q Was he a Cherokee or a white man? A No sir, he was a white man.
Q What is the full name of your father? A Ellington Cuzzins.
Q Is your father living or dead? A He is dead.
Q Was he a Cherokee or a white man? A Yes sir, he was half Cherokee.
Q What is the name of your mother? A Margaret Cuzzins.
Q Is she living? A No sir, she is dead.
Q Your mother a white woman or a Cherokee? A Yes sir, she is a white woman.
Q You claim your right to enrollment through your father? A Yes sir.
Q How much Cherokee blood do you claim? A My father was half, and my mother white; I am a quarter.
Q Where did you come from? A North Carolina.
Q In what nation are you living at the present time? A I am living in the Choctaw Nation, I. T., at Canev.
Q When did you leave North Carolina? A I disremember just when it was.
Q About how many years ago was it? A It has been about 14 years ago I reckon, yes sir, about 14 years ago.
Q Where did you go when you left North Carolina? A We stopped over in the Chickasaw Nation.
Q How long did you live in the Chickasaw Nation? A About 7 or 8 years.
Q Then where did you go? A We came to the Cherokee Nation then.
Q That was about 6 years ago? A Yes sir.
Q What part of the nation did you come to? A Well here in this part of the country, six miles north of here I guess, towards Tahlequah.
Q North of Fort Gibson? A Yes sir.
Q How long did you remain here? A We stayed two years out there, and then we moved a little lower down in the Nation, near Hudson, and stayed there two years.

Sarah C. Gibson et al 2

Q Where did you go then? A Went back to the Chickasaw Nation; we had children down there.

Q Since that when you have been living in the Chickasaw Nation?

A No sir, I just stayed a short while in the Chickasaw Nation and then come back to the Cherokee Nation, where I am now living.

Q You have been living in the Cherokee Nation ever since?

A Yes sir.

Q You haven't been living in the Cherokee Nation for the past 6 years? A No sir, it's not been 6 years.

Q About 3? A Yes sir.

Q Have you ever been recognized as a citizen of the Cherokee Nation? A No sir.

Q Have you ever been enrolled as a citizen of the Cherokee Nation? A No sir, this that's my business now.

Q Have you ever applied for enrollment to the Tribal authorities?

A Yes sir, I was to the Secretary of the Cherokee Nation I reckon, there is my application. (Produces papers.)

Q Have you ever drawn any money as a citizen of the Cherokee Nation? A Yes sir.

Q Was your father a recognized citizen of the Cherokee Nation?

A No sir, I guess not; he was in North Carolina.

Q He never did live here? A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found thereon.

1896 census roll of citizens of the Cherokee Nation examined, and applicants not found thereon.

1894 pay roll of citizens of the Cherokee Nation examined and applicants not found thereon.

Q Were you ever known as Sarah T. Gibson? A Yes sir, Sarah C. Gibson.

Q Did you apply to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A Yes sir,

Q What was the action of the Commission, did they admit you or did they reject you? A I don't know sir, I never have heard; I went away; I lost my husband and I had no one to look after it since then, and I am just alone now, only my little boy.

Q Did you also apply for the enrollment of your children?

A Yes sir.

Dawes Commission Report "A", page 405, case No. 2,499, Sarah C. Gibson, versus the Cherokee Nation; filed September 10th, 1896; answer filed; application denied, at Vinita, Indian Territory, November 5th, 1896. No appeal taken. Address given as Ballisaw, I. T.

Q Were you at that time, 5 years ago, living at Ballisaw? A No sir, I wasn't there I guess I had moved then to the Chickasaw Nation.

Q Did you ever live at Ballisaw? A No sir, but then I went there.

Q You went there for the purpose of making this application? A Yes sir, I was living just a little below, and there was no other place to attend to it but at Ballisaw.

Commissioner Sarah C. Gibson applies for the enrollment of herself, and her four children, Julius, Effie, Henry B. and Joseph, as citizens by blood of the Cherokee Nation.

It appears from the testimony that she resided in the Cherokee Nation for about four years some three years ago. She avers that she came from the State of North Carolina 14 years ago, and for the past three years has been living at Caney, in the Cherokee Nation. Neither she nor her children can be identified upon any of the Tribal rolls of the Cherokee Nation now in the possession of the Commission. It appears

Sarah C. Gibson et al 3.

From the records of the Commission made in accordance with the Act of Congress approved June 10th, 1896, that the applicant, Sarah C. Gibson, was an applicant for admission to citizenship in the Cherokee Nation before this Commission at that time. Her application was filed on the 10th day of September, 1898, and denied on November 5th, 1898. The decision of the Commission rendered at that time is final. It also appears that this application comes within the provisions of the Act of Congress approved May 31st, 1900. This act provides that the Commission shall not receive, consider or make any report of the application of any person for enrollment as a member of any tribe in Indian Territory who has not been a naturalized citizen thereof and duly and lawfully enrolled or admitted as such. By reason of the fact that Sarah C. Gibson was not admitted to citizenship in the Cherokee Nation in accordance with the Act of June 10th, 1896, and for the further reason that the application comes within the provisions of the Act of Congress approved May 31st, 1900, the application of the applicant for enrollment as citizens by blood of the Cherokee Nation is rejected. A copy of the record of the proceedings had in this application will be forwarded to the Secretary of the Interior for his review, and the applicant will be notified in writing at her present post-office address at a later date of the action of the Department in regard to this application.

E. D. Green, being first duly sworn, states that he has examined the Commission to the Five Civilized Tribes he correct testimony and 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 September 21, 1900.

C. R. Redwine

Commissioner

IN THE MATTER OF THE APPLICATION OF

Sarah C. Gibson et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 355

Cher Memo 356

Nov. 1911

1911
F. J. R. P.

EXHIBIT: 1280:

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept. 25, 1901.

In the matter of the application of Solomon Manuel Baker for the enrollment of himself, wife and three children as Cherokee citizens being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Solomon Manuel Baker.
Q What is your age? A I am 36.
Q What is your post-office address? A It's Bennett.
Q What district do you live in? A I live in Canadian.
Q You apply to be enrolled listed for enrollment as a Cherokee citizen by blood? A Yes sir.
Q Have you ever been recognized by the Cherokee Nation? A No sir.
Q For whom do you apply besides yourself? A I have got my brother here.
Q Your brother can look out for himself can't he? A Well I have a family.
Q What is your family? A I have a wife and I have three children.
Q What is the name of your wife? A Rebecca.
Q Is she living? A Yes sir.
Q What is her age? A She is 46.
Q What are the names of your children? A Thomas Almon.
Q How old is he? A He is 19.
Q Next child? A His name is Russell Reed.
Q How old is Russell? A He is nearly 15.
Q Next one? A It is Ben Solomon.
Q How old is he? A He is 10.
Q Name if Benjamin is it? A Yes sir.
Q Anybody else? A That's all my children that's under me.
Q Are those children all living at this time? A Yes sir.
Q Have you or your wife ever been recognized by the Cherokee authorities as Cherokee citizens? A No sir.
Q Does your name or that of your wife or children appear upon any of the rolls of the Cherokee Nation? A No sir, they are not on the rolls.
Q Do as your name appear upon any of the Tribal rolls of the Cherokee Nation? A No sir.
Q How long have you lived in the Cherokee Nation? A Well I have been in the Cherokee Nation and the Choctaw Nation together now for 10 years.
Q Where did you come from to the Cherokee Nation? A I come from Texas here to the Cherokee Nation.
Q Did you ever apply to the Cherokee authorities for enrollment? A I sent up an application.
Q Did you ever apply to the Dawes Commission in 1896 under the act of June 10th? A Yes sir.
Q What disposition was made of your case then? A Well in fact I never did find out.

1890 authenticated roll of citizens of the Cherokee Nation, 1896 census roll of citizens of the Cherokee Nation and the 1894 pay roll of citizens of the Cherokee Nation all examined for applicants and their names not found thereon.

Dawes Commission Docket "N", page 13, case #3065, S. M. Baker and J. A. Baker, et al, vs. Cherokee Nation. Filed September 8th, 1896; answer filed; application denied at Vinita, Indian Territory, October 8th, 1896. No appeal. John W. Fleck, South McAlester, Indian Territory, attorney.

Com'r Needles: Mr. Baker, from the testimony and exhibit

its given and shown to-day, your application comes under the provisions of the Act of Congress of May 31st, 1900, which pro-

Solomon Manue" Held 7 of A. 2

vides that this Commission is without jurisdiction to receive, consider or take any record of your application for the reasons that you are not a member of the Five Civilized Tribes, and are not lawfully enrolled or admitted as such, and an examination of the records of the Board of Education reveals the fact that you applied to the Board of Education under the provisions of the Act of June 15, 1901, and that your application was rejected; no appeal was taken, and your application for the enrollment of yourself, your wife and three children is rejected. The evidence in this case and the judgment will be forwarded to the Secretary of the Interior, for his consideration. When his decision is received by the Commission, you will be notified of same at your post-office address, by mail.

H. 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.

H. D. Green

Subscribed and sworn to before me this October 2nd, 1901.

C. R. McQuinn

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Solomon W. Baker et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1908
MEMORANDUM

Cher Memo 356

Cher Memo 356



Cherokee (Miss.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT SIMON, I. T., SEPTEMBER 16, 1901.

In the matter of the application of Joanna Bennett for enrollment as a citizen by blood of the Cherokee Nation; said Bennett being sworn and examined, testified as follows: Examination by the Commission: Also applies for her three minor children.

- Q What is your name? A Joanna Bennett.
Q How old are you, Mrs. Bennett? A 39.
Q What is your post office address? A City Hospital, Wichita, Kansas.
Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
Q About what degree of Cherokee blood do you claim? A I claim that I have a 12th; my father was 8th, it was 16th.
Q Do you apply for anyone besides yourself? A My three children.
Q What is the name of your oldest child? A Claude.
Q How old is he? A 19.
Q The name of the next one? A Pearl Bennett.
Q How old is she? A She is 17.
Q The next one? A John Bennett.
Q How old is John? A 15.
Q They are alive and living with you at the present time? A Yes, sir.
Q Who was the father of the children? A Joseph.
Q Is he living? A No, sir, he is dead.
Q Was he a Cherokee or white man? A White man.
Q What was the name of your father? A Joseph Strickland.
Q Do you claim that he was a Cherokee by blood? A I do not.
Q He was a white man? A Yes, sir.
Q Is he living or dead? A Dead.
Q What was the name of your mother? A Mary A. Strickland.
Q Is she living? A No, sir.
Q Was she a Cherokee? A Yes, sir.
Q Was your mother ever recognized as a citizen of the Cherokee Nation? A She was not.
Q Have you ever been recognized? A No, sir.
Q You have never drawn any money from the tribal authorities?
A No, sir.
Q Did you apply to the Dawes Commission in 1896 for enrollment as a Cherokee? A We made our application at Tahlequah.
Q Was the application ever forwarded to the Commission?
A No, sir.
Q Have you ever lived in the Cherokee Nation? A Yes, sir.
Q When? A I forget the year I live one year at Vinita, about in '83 I lived in Atoka 12 months.
Q And one year at Vinita? A Yes, sir.
Q Was that the only time you have lived in the Cherokee Nation that one year at Vinita? A No, sir, I lived at Atoka a year; I lived at Vinita about eight or nine months.
Q Since that time you have been living in Kansas? A Yes, sir.

The tribal rolls of citizens of the Cherokee Nation examined and name of applicant not found on any in the possession of this Commission.

COMMISSION: Joanna Bennett applies for the enrollment of herself and three minor children as Cherokees by blood. She avers that she is at present a resident of Wichita, Kansas, and that she has lived in the state of Kansas all her life with the exception of eight or nine months spent at Vinita,

Joanna Bennett, et al.--3.

Indian Territory, and one year spent at Atoka, Indian Territory. She avers that she is the daughter of Joseph and Mary A. Strickland, and she claims her right to enrollment through her mother, Mary A. Strickland, who was the wife of one of the rolls in the possession of the Commission, neither does it appear that she was an applicant before this Commission for citizenship in the Cherokee Nation in accordance with an act of Congress approved June 10th, 1898. Her application therefore comes within the provisions of an Act of Congress approved May 31st, 1900, which act provides that this Commission shall be without authority to receive, consider, or make any record of any application of any person for enrollment as a citizen of the Cherokee Nation unless they have been already recognized and duly and lawfully enrolled or admitted as such. A copy of the record of the proceedings had in this application will be forwarded to the Secretary of the Interior for his review, and the applicant will be notified at a later date in regard to her application.

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J. G. Boman, 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. G. Boman

Subscribed and sworn to before me this September 23d, 1901.

C. R. Buckinora

Commissioner.

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MAY 25 1964

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., Sept. 26, 1901.

In the matter of the application of Bettie Spiler for the enrollment of herself as a Cherokee by blood; being sworn and examined by Commissioner Needles, she testified as follows:

- Q What is your name? A Bettie Spiler.
 Q How old are you? A I can't tell my age exact.
 Q Well about how old? A I think I am ~~going~~ about 30.
 Q What is your post-office address? A Muskogee.
 Q What district do you live in? A I live in, I never did hear the name of the district.
 Q Well you live in Muskogee? A No sir, I live down there at the Ferry by Mrs. Nivens.
 Q You don't recollect the name of the district? A No sir.
 Q You apply to be enrolled as a Cherokee by blood? A Yes sir.
 Q Who do you want to enroll besides yourself? A My daughter.
 Q How old is your daughter? A She is going on 40.
 Q She will have to appear for herself; does your name appear upon any of the rolls of the Cherokee nation? A No sir.
 Q Were you ever recognized by the Cherokee authorities as a Cherokee citizen? A Yes sir, I have been recognized by them.
 Q But your name is not on any of the rolls? A No sir.
 Q Didn't you apply to the Dawes Commission in 1896? A Yes sir, I have been before them twice.
 Q You were before them in 1896? A I ain't got no education.
 Q Have you ever been admitted to citizenship by the Cherokee Council or by any of the Cherokee authorities? A No sir, I never was before the Council.
 Q You never drew any money as a Cherokee citizen? A No sir.

Commissioner Needles: An examination of the records of the Dawes Commission discloses the following entry:
~~Russell~~ Dawes Commission Docket "B", page 214, #4242
 Bettie Spiler, vs Cherokee Nation;
 Filed September 9th, 1896; answer filed; application denied, at Winita, Indian Territory, November 4th, 1896; no appeal.
 Rasmus & Chermley, Tahlequah; attorneys.

1880 authenticated roll of citizens of the Cherokee Nation,
 1896 census roll of citizens of the Cherokee Nation and the
 1894 pay roll of citizens of the Cherokee Nation examined for
 the applicant and her name not found thereon.

Com'r Needles: Mrs. Spiler, from the evidence taken in your case and from the examination of the rolls and records it is found that your application comes under the provisions of the Act of Congress of May 13th, 1900, which provides that this Commission is without jurisdiction to receive, consider or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such, and ~~for~~ the further fact appears that you applied to the Dawes Commission under the Act of June 10th, 1896, to be admitted as a citizen of the Cherokee Nation, and your application was denied, from which no appeal was taken, consequently, the judgment of the Commission at that time is final. The testimony in this case will be forwarded to the Secretary of the Interior for his consideration; when his decision is rendered you will be notified ~~at~~ at your post-office address.

M. D. Green, being first duly sworn, states that as stenographer to the

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IN THE MATTER OF THE APPLICATION OF

Walter Spiler

FOR ENROLLMENT

CHEROKEE CENSUS

REFUSED

ACT OF MAY 31 1900
MEMORANDUM.

Cher Memo 357

Cher Memo 357

27

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 26, 1901.

In the matter of the application of Annie McJunkins for the enrollment of herself and two children as Cherokees by blood.

Annie McJunkins, being duly sworn and examined by Commissioner Needles, testified as follows

- Q What is your name? A Annie McJunkins.
- Q How old are you? A Well, I can't tell you, I don't know my age, Cousin Green can tell you my age.
- Q Is your mother here? A No, sir, she is dead, my father too.
- Q You don't know how old you are? A No, sir.
- Q About how old? A Well, as near as I can guess I guess I am about 65 I expect.
- Q Well I guess you are not. A Well I don't know, never had no one to tell me about my age.
- Q What is your postoffice? A Tahlequah.
- Q You apply to be enrolled as a Cherokee Freedman or Cherokee by blood? A Cherokee by blood.
- Q Who do you want to enroll besides yourself? A My two little children.
- Q What are their names? A One is Looney Hazell McJunkins.
- Q How old is Looney Hazell McJunkins? A 2 years old..
- Q What is the name of the next one? A Mary McJunkins.
- Q How old is Mary McJunkins? A She is 7 xxxxxxxx months old.
- Q Are you married? A Yes, sir.
- Q What is your husband's name? A McJunkins.
- Q Bill McJunkins? A Yes, sir, Bill McJunkins.
- Q I guessed it, didn't I? A You did that.
- Q Well he is living, is he? A Yes, sir.
- Q Is he a citizen? A He came from the states.
- Q What was your father's name? A Sank Beatty.
- Q Is he living? A No, sir, he is dead.
- Q Was he an Indian? A Yes, sir.
- Q What was your mother's name? A Malissa Parris.
- Q Is she living? A No, sir, she is dead.
- Q Was she an Indian? A Yes, sir.
- Q Is your name on any of the rolls of the Cherokee Nation? A None but the Old Settler Roll.
- Q Is it on the Old Settler Roll? A Yes, sir.
- Q You have never been recognized by the Cherokee Nation then as a citizen? A No, sir.
- Q Ever draw any money from the Cherokee Nation? A Yes, sir, I got my old settler money.
- Q Never drew any other? A No, sir.
- Q Didn't draw the strip money? A No., sir, I wasn't here at that time.
- Q Well, have you got any witnesses? A Yes, sir, Cousin Green is here.
- Q Did you ever apply to the Cherokee Nation to be admitted as a citizen? A Yes, sir.
- Q Well, were you admitted? A Well, yes, sir, I have I guess.
- Q You have got no certificate? A No, sir, Zaka Parris has got that.
- Q Ever apply to the Dawes Commission in 1893? A No, sir, not as I knew of.
- Q Where were you born? A I was born in the Choctaw Nation.
- Q Were you a slave? A No, sir.
- Q How long did you live in the Choctaw Nation? A I lived there until I was grown and married and after I was married I came back home.
- Q Came back to the Cherokee Nation? A Yes, sir.
- Q Was your father a Cherokee? A Yes, sir.
- Q Your mother a Cherokee? A Yes, sir.

- Q They are both dead, are they? A Yes, sir.
 The rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified therein.
- Q You say you have never been recognized by the Cherokee authorities as a Cherokee citizen by blood? A Why Cousin Green can tell you about that I guess, yonder he sits right over there, he is right here.
- Q Will you want to call Cousin Green as a witness? A Yes, sir.

GREEN TERRELL, being duly sworn and examined by Commissioner [redacted], testified as follows:

- Q What is your name? A Terrell.
 Q Any other name besides Terrell? A Green Terrell.
 Q How old are you? A 58 I guess.
 Q Your postoffice address? A Manard.
 Q Are you a Cherokee citizen by blood? A Yes, sir.
 Q Your name on the rolls of the Cherokee Nation? A Yes, sir.
 Q Well, do you know the applicant here, Annie McJunkins? A I knowed her mother.
 Q You know her, do you know Annie McJunkins? A Why I guess I do.
 Q Well, do you know you do? A I am not certain; let me explain how I know her; in the Choctaw Nation Malissa Parris gave birth to a child at our house.
 Q Do you know whether Annie McJunkins has ever been recognized by the Cherokee authorities as a Cherokee citizen? A No, sir, I don't think so, she has got the papers in there.
 Q Where? A In the Council, in the Executive Department now.

Commissioner: Well, Mrs. McJunkins, from the testimony in your case it appears that your application comes under the provisions of the Act of Congress of May 3, 1900, which provides that this Commission is without jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. The testimony in your case will be forwarded to the Secretary of the Interior for his consideration, and when his decision is arrived at, you will be notified by mail at your postoffice address? A We have no authority to enroll you.

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 1st of October, 1901.

C. R. Buckinridge

Commissioner.

FILED
1901

UNITED STATES

[Faint handwritten signature]

Commissioner Needles: On review of Cherokee Memorandum Case 357, the same being the application of Annie McJunking for the enrollment of herself and two children as Cherokee citizens by blood, I have this day caused the records of the Lower Commission of all proceedings in 1898 under the Act of June 10, 1898, to be carefully searched, and it is so found that Annie Babantins or either of her children were ever a party to any proceedings before the Commission for admission to Cherokee citizenship. I have also had the rolls of 1898, 1899 and 1900 of the Cherokee Nation carefully searched, and the name of either her father or mother are identified upon any of the rolls. The testimony that both her father and mother, now living, were Cherokees by blood. The applicant claims to be only on the Old Settlers Roll, which was not a citizenship roll, and hence her claim in that regard is immaterial. It appears, therefore, conclusive upon this further examination that she has no ground whatever for the claim that she was ever recognized, and either enrolled or admitted as a Cherokee citizen. In regard to any claim she may make of admission by the Cherokee Council, she refers to her cousin, Green Terrell, and he testifies that he does not think she was admitted, and that the papers are in the Executive Department. No evidence whatever is produced of her ever having been admitted by the Cherokee authorities. This being the status of the mother, the same is inevitably the status of the children, for, as stated by the mother, their father is from the States, and possesses no rights whatever.

A copy of the foregoing will be attached to the testimony in this case and be made a part thereof.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 24th day of October, 1901.

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Annie McGentris et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM

Cher Memo 358

Cher Memo 358

August 21 2.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 27, 1901.

In the matter of the Application of Gora Smith for the enrollment of herself and six children as Sherokes by blood.

Gora Smith, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A My name is Gora Smith.
- Q How old are you? A Well, I am about 39 or 40.
- Q What is your postoffice address? A Muskogee.
- Q You live in the Cherokee Nation? A Living over the line.
- Q In the Creek Nation? A Yes, sir.
- Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
- Q How much Cherokee blood do you claim? A Well, I claim I guess Herbert's, my father is a white man.
- Q Do you apply for anyone besides yourself? A Well my children.
- Q How many children have you? A I have six living children.
- Q Are they all under 21 years of age? A No, sir.
- Q Are they all unmarried? A Yes, sir.
- Q Give me the name of the oldest one? A Tim.
- Q How old is that? A He is 19 years old.
- Q The next one? A The next one is a girl named Cordie Smith.
- Q How old is she? A 16.
- Q The next one? A The next living child is Charley Smith, a boy.
- Q How old is he? A He is 14.
- Q The next one? A Francis Smith.
- Q How old is that child? A He is going on 12 years old.
- Q The next one? A The next one is Gertrude Smith.
- Q How old is she? A She is 7 years old.
- Q The next one? A The next one is Camilla Smith.
- Q How old is Camilla? A Six years old Sunday, the last of September.
- Q Are those children all living? A Yes, sir.
- Q Living with you? A Yes, sir.
- Q You are the mother of the children? A Yes, sir.
- Q Have they all one father? A Every one.
- Q What is his name? A Tim Smith.
- Q Is he living or dead? A He is just down stairs.
- Q Is he a Cherokee or a white man? A He is a white man, he is a Cherokee though.
- Q Never been recognized? A Never been recognized, got no right.
- Q Are you living with him? A Yes, sir.
- Q When were you married to him? A Well, that has been 21 years this last July since we married.
- Q Have you ever applied for enrollment in any other tribe or Nation? A No, sir.
- Q What is the name of your father? A The name of my father was Billy Brown, my own father, I have a stepfather.
- Q Is he living or dead? A Dead.
- Q Was he a Cherokee or a white man? A He was a white man.
- Q What is the name of your mother? A My mother's name is Betty Spiker.
- Q Is she living or dead, your mother? A My mother is living.
- Q She claim to be a Cherokee? A Yes, sir.
- Q You claim your right to enrollment through your mother? A That is the way I claim it.
- Q How long have you lived in the Cherokee Nation? A I have been living here for eight or nine years right near Fort Gibson.
- Q Is that the length of time you have lived in the Cherokee Nation? A Yes, sir, here near Fort Gibson.
- Q Where did you come from when you came to Fort Gibson? A We come from Texas here.

- Q They were all born in Texas? A I was born in Texas.
- Q You lived there up to nine years ago and then you came to the Cherokee Nation? A Yes, sir.
- Q Have you been living here continuously since that time?
- A Yes, sir.
- Q Have you ever been recognized as a citizen of the Cherokee Nation? A Have I been; what on any roll?
- Q Yes? A No, sir, I haven't been enrolled, they wouldn't enroll me.
- Q Have you ever drawn any money? A No, sir, I haven't drawn.
- Q Did you apply to this Commission in 1896 for enrollment as a citizenship of the Cherokee Nation? A I never applied; you mean my being before them?
- Q Yes? A No, sir, I haven't been before them.
- Q Have any of your children ever drawn any money? A No, sir, I haven't got any grown ones.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified thereon.

- Q Did your mother apply for you in 1896? A I haven't done any applying only through her.
 - Q Well, did she apply for you in 1896? A I guess she did.
- The 1896 Citizenship records of the Devas Commission examined and the following entry found on Docket B., page 214, Case No. 4242: Bettie Spiller vs. Cherokee Nation. Filed September 9, 1896; answer filed; application denied at Vinita, Indian Territory, November 4, 1896; no appeal taken; Ramus & Chornley, Tablequah, attorneys for applicant.
- Q Do you know whether or not your name was included in that application which was made to the Commission by your mother? A I don't know only just what she said.
 - Q Did she tell you she applied for you? A Well, she told me she was going there.

Commission: Core Smith applies for the enrollment of herself and six minor children, to-wit, Vin, Cortis, Charley, Phonus, Gertrude and Camilla. She avers that she has lived in the Cherokee Nation for nine years. She is not identified upon any of the tribal rolls of the Cherokee Nation nor in the possession of the Commission; neither are her children identified upon any of the rolls. It appears from the records of the Commission that her mother, Betty Spiller, was an applicant for enrollment in accordance with the Act of Congress approved June 11, 1898, for citizenship in the Cherokee Nation; that her application was denied and no appeal taken therefrom. The applicant is not positive whether her name and those of her children were included in the said application. The application which she makes for the enrollment of herself and her minor children comes within the provisions of the Act of Congress approved May 31, 1901, and under the provisions of that Act this Commission is without authority to receive, consider or make any record of your application for the reason that neither you nor your children have ever been recognized as citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such. A copy of the record of the proceedings had in this application will be forwarded to the Secretary of the Interior for his review, and you will be notified by mail at a later date of the action of the Department in regard to your application.

George D. Jones, being duly sworn, deposes 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.

George D. Jones

Sworn to and subscribed before me this the 2nd of October, 1901.

C. P. Anderson

Commissioner.

EXHIBIT

IN THE MATTER OF THE APPLICATION OF

Carol Smith et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1908

MEMORANDUM

Cher Memo 359

Cher Memo 359



Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 2, 1901.

In the matter of the application of Clara J. Parmenter for the enrollment of herself and two children as Cherokees by blood, and for the enrollment of her husband as a Cherokee by intermarriage.

Clara J. Parmenter, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Clara Parmenter.
Q How old are you? A I was born January 11, 1878.
Q What is your postoffice? A There will be my postoffice.
Q How long have you lived in the Cherokee Nation; you live in the Cherokee Nation? A Yes, sir.
Q In what district do you live? A I don't know the district, we live near Theotich, in the Cherokee Nation.
Q That is Indian district I believe? A Yes, sir, I guess so.
Q Do you apply for enrollment as a Cherokee citizen? A Yes, sir.
Q Do you want to apply for anybody besides yourself? A My children is all, two children.
Q Just yourself and two children? A Yes.
Q You don't apply for your husband? A Yes, I have a husband.
Q Is he a Cherokee? A No, sir, he is a white man.
Q Does he claim to be a Cherokee by intermarriage? A By blood.
Q He claims by blood? A No, by intermarriage.
Q Do you want to apply for him too? A Why I can't know.
Commissioner: Well, you can apply for him and then you can find out if he has any rights.
Q Give me the name of your father? A David Sales.
Q Is your father alive? A No, sir.
Q How long has he been dead? A Been dead 2 years.
Q Give me the name of your mother? A Elizabeth Sales.
Q Is your mother living? A Yes, sir.
Q Was your father a Cherokee or a white man? A Cherokee.
Q Is your mother a Cherokee or a white woman? A White woman.
Q Are you on any of the rolls of the Cherokee Nation? A Yes sir.
Q Where were you born? A Kansas.
Q How long have you lived in the Cherokee Nation? A Well, I lived here, let's see, about nine years, and then moved over to Oklahoma and stayed six, and been here about six years.
Q How old were you when you came from Arkansas to the Cherokee Nation? A I don't know, I was small.
Q You were a little child? A Yes, sir.
Q And then you lived here about nine years? A Yes, sir.
Q And then moved out to Oklahoma? A Yes, sir, and stayed about six years.
Q And then you came back here and have been living here about six years, is that right? A Yes, sir.
Q Was your father ever married except to your mother? A Yes, sir.
Q Was he married before he married your mother? A Yes, sir.
Q How many times? A Just once.
Q Who was his first wife? A Why I can't tell you.
Q Was she dead before he married your mother? A Yes, sir.
Q Was your mother ever married except to your father? A No, sir.
Q How when your father came here from Arkansas was he admitted by the Cherokee Council or Commission as citizen? A I don't know.
Q You don't know how he got his rights recognized as a Cherokee? A No, sir, he was trying for his rights though ever since he came.
Q Did you draw Cherokee strip money? A No, sir.
Q Give me the name of your husband? A Jesse Parmenter.
Q How old is he? A 27 years I think is his age.
Q Give me the name of his father? A J. H. Parmenter.
Q Is your husband's father alive? A Yes, sir.

Q Now give me the name of your husband's mother? A I don't know whether I can do that or not.

Q Is your husband's mother alive? A Yes, sir.

Q Where did your husband's father and mother live? A At Chapatoh.

Q They live near you, do they? A Yes, sir.

Q You don't know her name? A No, sir, I don't know her name.

Q How comes it you don't know the name of your mother-in-law; haven't you known her a long time? A (No response).

Q When were you and your husband married? A We were married in 1893.

Q Were you ever married excepting to this husband? A No, sir.

Q Was he ever married excepting to you? A No, sir.

Q Have you a certificate of your marriage or a marriage license?

A Yes, sir.

Q Let me see the papers? A (hands Commissioner paper.)

Commissioner: Applicant presents a marriage license issued by the Clerk of the United States Court of the Northern District of the Indian Territory, October 15, 1896, authorizing marriage between herself and her husband as stated by her, and the certificate shows that they were united in marriage on the same date by the Rev. Thomas Shanks. These papers are filed herewith.)

Q Your husband never got out a Cherokee license? A No, sir.

Q He got out a United States license only? A (No response).

Q You say your husband was never married except to you? A No, sir.

Q He isn't here with you? A No, sir.

Q Give me the names of your children? A Ola and Clyde.

Q How old is that child? A It was born in 1897.

Q Do you remember the exact date of her birth? A Yes, sir, in November.

Q Give me the name of the next child? A Clyde, December 18, 1898.

Q Are these children both living now? A Yes, sir.

Q Was any application ever made for your family in 1896 to the Dawes Commission, for admission to citizenship? A I can't tell you that.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and neither the applicant, Clara J. Pennter, nor her parents, identified thereon.

Q Do you know any one by the name of Francis M. Sales? A Yes, sir, that is a brother of my father.

Q Your husband, you say, is a white man? A Yes, sir.

Q He makes no claim except as an intermarried citizen? A That is all.

Q Isn't your name Clara J.? A Yes, sir.

Q You have a middle name then? A Yes, sir, J.

Commissioner: The records of the Dawes Commission, Booklet B, page 180, show that in case No. 3928 application was made by David Sales in 1898, filed September 8th of that year, for admission to citizenship in the Cherokee Nation. The application was denied by the Commission; appeal was taken to the United States Court and the judgment of the Commission was sustained, in case Court No. 100, and referring to the record in detail of the Court case, it is shown that this application was made by David Sales for himself and family, including his wife, Matilda G. Sales - -

Q That was your mother's name, Matilda G.? A Yes, sir.

- - and also certain children, among them Clara J. Sales.

Q Do you identify that as yourself? A Yes, sir.

It follows, therefore, that the applicant was rejected in 1898 by this Commission and by the United States Court. Under these conditions, Madam, we have no jurisdiction over your application.

The applicant applies for the enrollment of herself, her husband and two children. It is shown that the applicant, who

is now some 23 years of age, has not been upon any roll of the Cherokee Nation, and also that her father, who has been dead some two years, and her mother, who is still living, are not upon any of the rolls of the Cherokee Nation, nor have any of them ever been admitted in any manner to Cherokee citizenship or so recognized. It further appears as shown in the testimony that the applicant was a party in the application made by her father for the admission of himself and family, before the Dawes Commission in 1898, and that in the proceedings there had the applicant's father and mother and she herself were rejected by the Dawes Commission, that appeal was taken to the United States Court and the decision of the Commission was sustained. It follows, therefore, that the applicant comes under the provisions of the Act of Congress approved May 31, 1900, which provides that this Commission shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior." This much of that act applicable to this case makes it evident that the Commission is without jurisdiction over the applicant's application, and therefore she will be listed for rejection for lack of jurisdiction, and a memorandum, however, will be made of her application.

As regards the application for the enrollment of her husband, it is shown that he is a white man and makes no claim except by intermarriage. It is not necessary to go further into the status of his case, as his claim, arising from his marriage to the applicant, partakes of the same character as her own, and therefore his application is rejected for lack of jurisdiction. It would, of course, also be rejected under the Cherokee intermarriage law of December 16, 1895, and from the further fact that he married only under a United States license.

As for the applicant's two children, Ols and Clyde, they partake of the status of their mother and the application for them will be listed for rejection for lack of jurisdiction.

The marriage license and certificate, at the applicant's request, is returned to her.

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.

Subscribed before me this 2nd of October, 1901.

[Signature]

Commissioner.

359
IN THE MATTER OF THE APPLICATION OF

Jessie Permenter et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 360

Cher Memo 360



Cherokee.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 2, 1891.

In the matter of the application of Eliza E. Newcomb for enrollment as a Cherokee by blood.

Eliza E. Newcomb, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Eliza E. Newcomb.
- Q What is your age, Mrs. Newcomb? A I don't know just exactly my age.
- Q About how old are you? A 45, I believe it is 45.
- Q What is your postoffice? A Joplin, Missouri.
- Q You live in Missouri? A Yes, sir.
- Q You live at Joplin, Missouri? A Yes, sir.
- Q You apply to be enrolled as a Cherokee citizen by blood?
- A Yes, sir.
- Q Who do you desire to enroll besides yourself? A Just myself.
- Q Have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A Yes, sir.
- Q Does your name appear upon any of the rolls of the Cherokee Nation? A Yes, sir, it ought to be.
- Q But is it? A I don't know, my father is.
- Q I am not talking about your father, I am talking about you? A No, sir, I am not.
- Q Did you ever draw any money from the Cherokee Nation? A I have not drawn any yet at all.
- Q You don't think then that your name appears upon any of the rolls? A No, sir, it isn't I don't think.
- Q What was your father's name? A Joe Diamond.
- Q Is he living? A No, sir.
- Q What is your mother's name? A She was a White.
- Q What was her given name? A Lutitia Diamond.
- Q Are you married? A My husband is dead; yes, sir, I have been married twice, I am a widow now.
- Q What was your husband's name? A Thomas Newcomb.
- Q Is he living? A No, sir, he is dead.
- Q What was your former husband's name? A His name was William Lowrey.
- Q Have you ever resided in the Cherokee Nation? A No, sir.
- Q Never did? A No, sir.
- Q Never been recognized as a Cherokee citizen? A Well, no, sir, yes, when I was young, a child.
- Q Did you ever apply to the Cherokee authorities to be recognized as a Cherokee citizen? A Why I just went to the Chief.
- Q When was that? A This morning.
- Q Never did before? A No, sir, I never could get out here, never could get home any more, my father taken me out, took me out and I never could get home any more.
- Q Where were you born? A I was born in this state, Cherokee state.
- Q Cherokee Nation? A Yes, sir.
- Q When did you leave the Cherokee Nation? A Left when I was about eight years old and father taken me out.
- Q You never lived in the Cherokee Nation since? A No, sir, I have been back time and time again.
- Q Did you ever apply to the Dawes Commission in 1890? A I applied once I believe, but I didn't get to come in, I came in but went out and went home, didn't get to stay in there much, my nephew was with me.
- Q Did you apply to the Dawes Commission in 1890 to be admitted as a citizen? A No, sir.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicant not identified on any of said rolls.

-2-

Commissioner: Mrs. Newcom, your examination develops the fact that your application is governed by the provisions of the Act of Congress of May 31, 1900, and which provides that this Commission is without jurisdiction to receive, consider, or make any record of your application, for the reason that you are not a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such. The testimony in your case will be forwarded to the Secretary of the Interior for his consideration. When his decision is arrived at, you will be notified of the same by mail at your postoffice address. We have no right to enroll you.

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

Bruce C. Jones

Sworn to and subscribed before me this the 4th of October, 1901.



Commissioner.

IN THE MATTER OF THE APPLICATION OF

Elizabeth V. Newcomb

FOR CITIZENSHIP AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 361

Cher Memo 361

Department of the Interior,
Bureau of the General Land Office,
Wash., D. C., October, 1901.

In the matter of the application of Peter Richard, for the enrollment of himself and five children as Cherokee citizens by blood, and for the enrollment of her husband as a Cherokee citizen by inter-marriage:

PATRIE HUBBARD being first duly sworn by Commissioner T. H. Neffles, testified as follows:

- Q What is your name? A Peter Richard.
Q How old are you? A 39.
Q What is your post office address? A White.
Q In what district do you live? A Cherokee Nation.
Q Do you apply to be enrolled as a Cherokee citizen? A No sir, as a Cherokee by blood.
Q Who do you want to have enrolled besides yourself? A My husband and five children.
Q What is your husband's name? A George Richard.
Q Is he a Cherokee by blood? A Yes sir he was blood in his.
Q Is he a recognized Cherokee citizen? A No sir.
Q How old is he? A 43.
Q Give me the names of your children? A Robert K.
Q How old? A 30.
Q Next one? A George.
Q How old? A 14.
Q Next one? A Fred.
Q How old? A 13.
Q Next one? A a girl, Golden W.
Q How old? A 7.
Q Next one? A Elizabeth.
Q How old? A 2.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A On the 24th 1891.
Q Is there any other rolls? A Not as I know of.
Q What is your father's name? A Wiley Jones.
Q What is your mother's name? A Susan Jones.
Q Are they living? A Yes sir.
Q Do you claim your citizenship through your mother or your father? A Through my mother.
Q Where were you born? A I don't know, I have been living here ever since I was 18 years old.
Q Where did you come from when you came here? A Barker Springs, London.
Q Where is your father and mother living now? A Muskogee.
Q Is your mother on any of the rolls of the Cherokee Nation? A She was the Commissioner at Tallahassee and was enrolled.
Q Were you ever married before you married George Richard? A No sir.
Q Was he ever married before he married you? A No sir.
Q Your maiden name was Peter Jones? A Yes sir.

The 1880, 1895 and 1901 rolls of the Cherokee Nation examined and the applicant not found thereon.

- Q Did you draw money in 1895? A No sir, I was sick and couldn't come.
Q Did your children draw that money? A No sir.
Q You never did draw any money from the Cherokee Nation? A No sir.
Q You say your mother applied before the Commissioner at Fort Gibson? A No sir at Tallahassee.
Q Under the name of Susan Jones? A Kennedy was her maiden name.
Q What was the name under which she applied to the Commissioner at Tallahassee? A Jones.
Q Are those children for whom you apply all living at this time? A All living.

The records of the Commissioner examined and it is found on Roll of '95 page 111, was under name of Peter Richard vs. The Cherokee

Nation, filed September 6, 1898; answer filed; application denied, United States Indian Territory, November 18, 1898; appeal taken to the United States Court, Judgment of the Commission sustained. Court Number 153.

By John Needles: Patsy Hubbard applied for the enrollment of herself and her five children as Cherokee citizens by blood and for the enrollment of her husband as an intermarried citizen. Upon an examination of the records of the Commission it is found that she applied to the Commission in 1898 under the Act of June 10th '98, for the enrollment of herself and children and that her enrollment was refused and that she appealed to the United States Court for the Northern District of the Indian Territory and the judgment of the Commission was affirmed. Mrs. Hubbard, under the provisions of the Act of Congress of May 31, 1900, this Commission is without jurisdiction to receive consider or make any record of your application for the reason that you have not been duly and lawfully enrolled or admitted as a citizen of the Cherokee Nation, and because your name does not appear on any of the rolls of the Cherokee Nation; and for the further reason that an application was made either by you or for you in 1898 under the Act of June 10th 1898, and your application was denied, and an appeal was taken to the United States Court and the decision of the Commission affirmed. Consequently this Commission is without jurisdiction to receive this application, but the testimony and record so far taken in your case will be forwarded to the Secretary of the Interior for his approval and when his decision is arrived at you will be notified of the same by mail.

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weise

Subscribed and sworn to before me this the 16th of October, 1901.



Commissioner.

NOT AVAILABLE

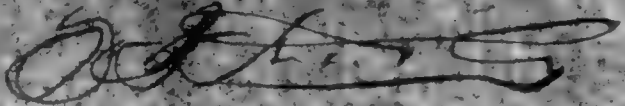
Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D.C., January 9, 1902.

In the matter of the application of Patsy Hubbard et al to be enrolled as citizens of the Cherokee Nation.

Upon an examination of the original papers filed with the Commission under the provisions of the Act of Congress approved June 10, 1896, it is found that the names of all the applicants embraced herein were embodied in an application made to the Commission under the provisions of said act in the matter of the application of Patsy Hubbard et al for admission to citizenship in the Cherokee Nation, and the application was denied by the Commission, and appealed to the United States Court for the Northern District of Indian Territory, where the decision of the Commission was sustained.

None of the applicants are identified upon any of the tribal rolls of the Cherokee Nation now in possession of the Commission. Neither does it appear that they were ever admitted to citizenship in the Nation by an act of the Cherokee National Council or Commission on citizenship.

It is directed that copies of this statement be filed with the Secretary in the above case.



Commissioner.

McIntosh, Indian Territory, January 17, 1902.

Mrs. Patsy Hubbard,

Welch, Indian Territory.

Dear Madam:

On the 15th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself, your husband, George Hubbard, and your five minor children, Robert H. Hubbard, George Hubbard, Fred Hubbard, Golden V. Hubbard, and Elizabeth Hubbard, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (29 Stat. 381). The Act of Congress of May 31, 1900 (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Ind-

Mrs. P. H.--98.

in Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that you, your husband, and your five minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your husband, and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Hoedler,

Commissioner in Charge.

Encl. C-561.

Register.

IN THE MATTER OF THE APPLICATION OF

George Hubbard et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 362

Cher Memo 362

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MEMORANDUM.

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C. October, 15th 1901.

In the matter of the application of Washington Jones for the enrollment of himself and one child as Cherokee citizens by blood, Washington Jones being first duly sworn by Commissioner T. B. Hodges, testified as follows:

- Q What is your name? A Washington Jones.
Q What is your age? A 38 or 9.
Q What is your post office address? A Welch.
Q What district do you live in? A Delaware.
Q Do you apply as a Cherokee Indian? A Yes sir.
Q By blood? A Yes sir.
Q How do you desire to have enrolled besides yourself? A One child.
Q What is its name? A Nettie Jones.
Q How old is it? A 12 years old.
Q Are you married? A Yes sir.
Q What is your wife's name? A Anna.
Q Is she a citizen? A Yes sir.
Q When were you married to her? A I don't know exactly how long it has been, 12 years I guess.
Q Have you a certificate of your marriage or proof of marriage to her? A Yes sir.
Q Where is it? A My sister knows it.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee? A I can't make no difference with no as I know of.
Q I ask you if you have ever been recognized by the Cherokee authorities as a Cherokee citizen? A Yes sir.
Q Where? A Right here.
Q Where? A In the Nation.
Q What Nation? A Cherokee Nation.
Q Was recognized you? A I guess the authorities.
Q Have you any proof of it? A No.
Q Have your name appear on any of the rolls of the Cherokee Nation '94 or 6.

The 1890, 1896 and 1904 rolls of the Cherokee Nation examined and the name of the applicants not found thereon.

- Q Have you ever been admitted by the Cherokee Council? A No sir.
Q How long have you lived in the Cherokee Nation? A About 30 years.

The records of the Commission examined and on Pocket "B" page 112 be. 111, among others the name of Washington Jones vs. The Cherokee Nation, filed September 8, '86, answer filed; application denied, Florida, Indian Territory November 18, 1896; same taken to the United States Court and the judgment of the Commission sustained. Court number 103.

By the Commission: Washington Jones applied for the enrollment of himself and his child Nettie Jones as Cherokee citizens by blood. Upon examination of the rolls of the Cherokee Nation the name of the applicant and his child cannot be found. It appears from the records of the Commission that this applicant applied under the act of June 19th 1896 and was denied and that upon appeal to the United States Court the decision of the Commission was affirmed.

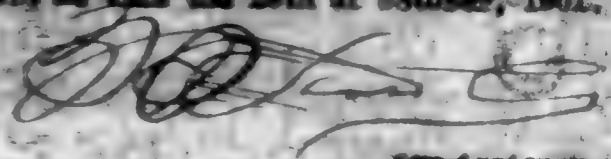
Mr. Jones, it appears that your case comes under the provisions of the act of Congress of May 31, 1900, which provides that this Commission shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such,

The testimony already taken and the records so far made in your case will be furnished to the Secretary of the Board for his use and you will be notified as his decision and the case shall have been decided on.

That, Sir, being that the same shall be as stated, and the Commission in the case shall be as stated in the proceedings in the above case and that the following is a true and correct transcript of his stenographic notes therein.

Chauncey West

Subscribed and sworn to before me this 20th of October, 1901.



Commissioner

EXHIBIT

EXHIBIT




Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 9, 1902.

In the matter of the application of Washington Jones et al to
be enrolled as citizens of the Cherokee Nation.

Review of the original papers filed with the
Commission in the case of Washington Jones et al
approved June 18, 1901, shows that the name of his daughter, Nettie Jones, was entered in said appli-
cation, which was denied by the Commission, and an appeal taken to
the United States Court for the Northern District of Indian
Territory, where the decision of the Commission was sustained.

Neither the applicant nor his daughter are identified upon any
of the tribal rolls of the Cherokee Nation now in possession of the
Commission, nor does it appear that they have ever been admitted to
citizenship in the Nation by an act of the Cherokee National Council
or Commission on Citizenship.

It is directed that copies of this statement be filed with the
testimony in the above case.



Commissioner.

12

STATEMENT OF THE FEDERAL
COMMISSION TO THE FULLY CIVILIZED TRIBES

10

100

Waskagee, Indian Territory, January 17, 1902.

Mr. Washington Jones,
Walch, Indian Territory.

Dear Sir:

On the 15th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your minor child, Hettie Jones, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 16, 1896 (29 Stat. 321). The Act of Congress of May 31, 1900 (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and fully and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Mr. T. J. [unclear]

The Commission has, therefore, on this date decided that yourself and your minor child above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said child as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By _____
(Signed) T. E. HODGINS,

Commissioner in Charge.

Encl. C-582.

Register.

IN THE MATTER OF THE APPLICATION OF

Washington Jones et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 363

Cher Memo 363

Caroline (name.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 16th, 1901.

In the matter of the application of Caroline Ball for the enrollment of herself and five minor children as Cherokee citizens; said Caroline Ball being duly sworn and examined by Commissioner Keebles, testified as follows:

- Q What is your name? A Caroline Ball.
Q Any middle name? A No, sir.
Q How old are you, Mrs. Ball? A I was 47 the 10th of last May past.
Q What is your post office? A Lenapah.
Q What district do you live in? A I will tell you where I live, I don't understand about the district; it is about a mile and a half west of Lenapah.
Q Do you apply to be enrolled as a Cherokee citizen by blood?
A Yes, sir.
Q Who do you desire to enroll besides yourself? A My family, I am a married lady.
Q How much family? A Nine children.
Q Please give me the names of your children?
A I have them here, I will just show them to you, just how they are (hands paper to Commissioner.)
Q Edward Ball, he is of age; I want the children that are under age; he is 27 years of age. A Yes, sir.
Q Nora, 23; Ida, 23; John, '80, make him 21; David '82, make him 19; Filda, '88, make her 16; Pearlie in '87, 15; Jessie, '89, 13; Carrie 10; Mrs. Ball, these oldest children, Edward, Nora, Ida and John, will have to apply for themselves, because they are of age?
A All right I don't know anything about it.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A No, sir, this is the first time.
Q Does your name appear upon any of the rolls of the Cherokee Nation?
A I guess you will have to find that out, I don't understand anything about it.
Q You don't know that your name is on any of the rolls? A No, sir, I don't know it at all, because I never appeared before.
Q Did you ever draw any money from the Cherokee Nation?
A No, sir, I never did.
Q Where were you born? A I was born in Illinois.
Q Were any of your children born in the Cherokee Nation?
A No, sir; they was not.
Q How long have you lived in the Cherokee Nation? A Moved down in April.
Q Last April? A Yes, sir.
Q First time you ever lived in the Cherokee Nation? A Yes, sir.

The tribal rolls of Cherokee citizens examined and names of applicants not found thereon.

- Q Did you apply to the Dawes Commission in 1896? A Yes, sir, I written those letters sent down here, and I think one was sent down here, the White House, I think is where I had them sent.
Q What is your husband's name? A John Ball.
Q Is he living? A Yes, sir.
Q Does he claim to be a Cherokee citizen? A No, sir; he don't.
Q You were both and raised them in the state of Illinois?
A Yes, sir, in Calhoun County, of course my father was Mathews.
Q What was your father's name? A Hesse Mathews.
Q Does your father claim citizenship? A He always called.
Q Is he living? A No, sir. He is dead.
Q What was your mother's name? A Alice Wedlock.

Caroline Ball, et al.

Is your mother living? A. No, sir, she died when I was little; my father was born in North Carolina.

THE HEARING: Mrs. Ball, the examination in your case develops the fact that your application is governed by the provisions of the Act of Congress approved May 31st, 1900, under the provisions of said Act of Congress this Commission is without jurisdiction to receive, consider or make any record of your application for the enrollment of yourself and minor children, for the reason that you are not a recognized citizen of the Cherokee nation, and duly and lawfully enrolled or admitted as such. The testimony taken in your case to-day will be forwarded to the Secretary of the Interior for his consideration and when his decision is forwarded to the Commission you will be notified of the same by the course of mail.

—o—o—o—o—o—o—

J. O. Ressen, 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. O. Ressen

Witnessed and sworn to before me this October 21st, 1901.



Commissioner.

COMMUNICATIONS SECTION
U. S. DEPARTMENT OF THE ARMY
WASHINGTON, D. C.

Muskogee, Indian Territory. January 17, 1902.

Mrs. Caroline Ball,
Lenepah, Indian Territory.

Dear Madam:

On the 16th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, David Ball, Tilda Ball, Pearlina Ball, Jessie Ball, and Carrie Ball, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (29 Stat. 521). The Act of Congress of May 31, 1900 (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its

Mrs. C. R.—40.

refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your five minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

BY ~~(Signed) T. D. Needles,~~
Commissioner in Charge.

Encl. C-363.

Register.

IN THE MATTER OF THE APPLICATION OF

Caroline Ball et al

FOR ENROLI

MENT IN THE COURT OF THE COMMONS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 364

Cher Memo 364

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DEPARTMENT OF
COMMISSION TO THE

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(Name.)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 23d, 1901.

In the matter of the application of Anna Wattenberger for the enrollment of herself as a citizen of the Cherokee Nation; said Wattenberger being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Anna Wattenberger.
Q What is your age? A 58.
Q Your post office address? A Adair.
Q What district do you live in? A Coowasee.
Q Do you apply to be enrolled as a Cherokee citizen? A Yes, sir.
Q Do you want to enroll anybody but yourself? A Just myself and my children.
Q How many children? A Eight.
Q Have you got eight children all under age? A All of age, seven of my own and my stepson.
Q They will all have to apply for themselves, each one of them. Have you ever been recognized by the Cherokee authorities as a Cherokee citizen? A I never have tried.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A I have told that the census admitted us.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A No, sir.
Q Where were you born? A I was born in East Tennessee.
Q How long have you lived in the Cherokee Nation? A I came here in 1884.
Q Been living here continuously since 1884? A Yes, sir, we came here in '74, but wasn't satisfied and left and came back.

The tribal rolls of citizens of the Cherokee Nation examined, and name of applicant not found thereon.

Record of the Dawes Commission examined and following record found:

1896, Docket "A", page 336, case No. 2092; Samuel J. Wattenberger, versus Cherokee Nation; filed September 8th, 1896; answer filed. Application denied, Vinita, Indian Territory, October 30th, 1896. Appeal taken United States Court, judgment of the Commission sustained; Court No. 106.

- Q Is there any additional statement you desire to make in regard to this? A No, sir, none I know of.

COM'R NEEDLES: Mrs. Wattenberger, from the testimony you have given and upon examination of the records of this Commission, the fact is developed that your application comes under the provisions of the Act of Congress of May 31st, 1900; which provides that this Commission is without jurisdiction to receive, consider, or make any record of your application for the reason that you are not a recognized citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and for the further reason that the records of this Commission show that you applied to be admitted to Cherokee citizenship under the Act of June 10th, 1896, and that your application was rejected by the Commission, which decision was appealed to the United States Court for the Northern District Indian Territory, in which the decision of the Commission was sustained.

The testimony taken to-day and record will be forwarded to the secretary of the Interior for his consideration, and you will be notified of his decision by mail at your post office address.

Anna Wattenbarger.--2.

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission 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 24th, 1901.



Commissioner.

EX-100
PAPER CO. H. O. J. A. O. H. E. W. V. S. E. R.

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IN THE MATTER OF THE APPLICATION OF

Anna Wattenbarger

FOR ENROLLMENT AS

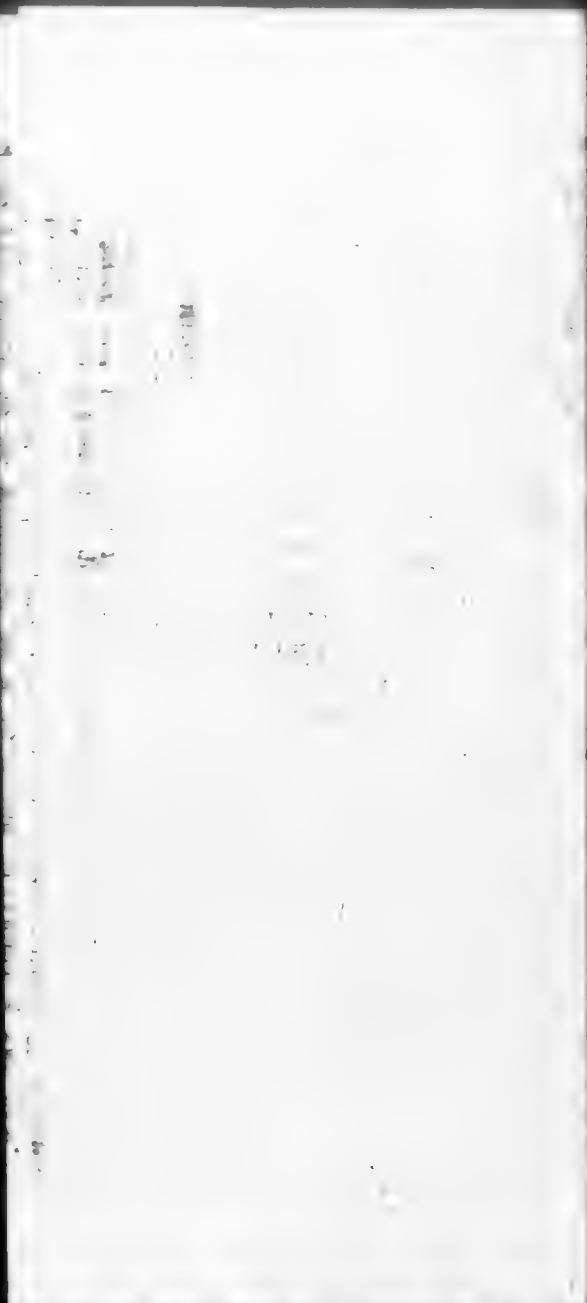
CHERONEE (MISSING)

REFUSED

AGT OF MAY
MEMORANDUM

Cher Memo 365

Cher Memo 365



MEMORANDUM

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 26th 1901.

In the matter of the application of Emily Jane Hinnest for the enrollment of herself and three children as Cherokee citizens by blood; She being first duly sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Emily Jane Hinnest.
Q What is your age? A 49.
Q What is your post office address? A Baxter Springs, Kansas.
Q What district do you live in? A Gaspar Agency.
Q Do you apply to be enrolled as a Cherokee citizen? A Yes sir.
Q Who else do you want to have enrolled besides yourself? A Three children.
Q What are the names of these children? A William.
Q How ~~many~~ old is William? A 19.
Q Next? A Annie.
Q How old? A 17.
Q Next? A Mike.
Q A boy? A Yes sir.
Q How old? A 14.
Q These children all living at this time? A Yes sir.
Q All living with you? A Yes sir.
Q Have you ever been recognized by the Cherokee authorities? A Yes No sir.
Q Is your name on any of the rolls of the Cherokee Nation? A No sir

The 1880, 1886 and 1894 rolls of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Where do you live? A In the Gaspar Agency
Q Where did you come from there? A From Missouri.
Q When? A Last fall.
Q Were these children born in Missouri? A Yes sir.
Q Are you married? A Yes sir.
Q What is the name of your husband? A William R. Hinnest.
Q Is he a citizen? A No sir.
Q Dont claim any citizenship? A No sir.

By Com'r Needles: Your testimony develops the fact that your application comes under the provisions of the act of Congress of May 31st, 1900—

- Q Have you ever applied to the Cherokee Council for admission to Cherokee citizenship? A No sir.
Q Did you apply to the Dawes Commission in 1896? A No sir.

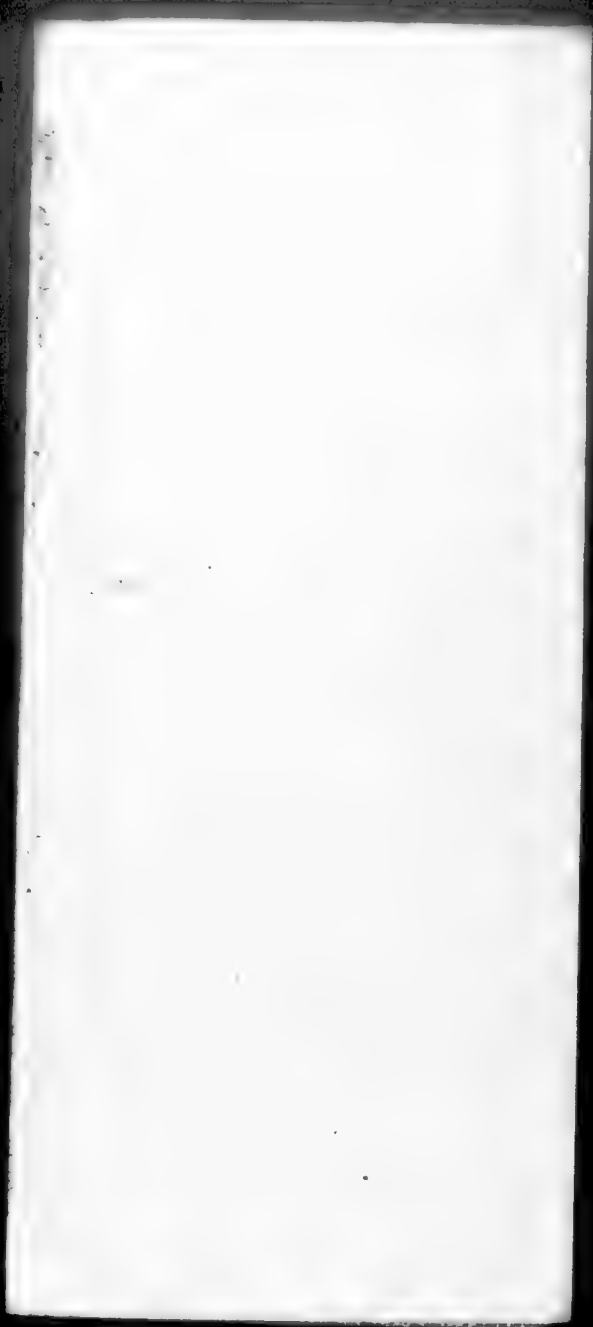
Under the provisions of that act the Commission is without jurisdiction to receive, consider or make any record of your application for the reason that you are not a recognized citizen, duly and lawfully admitted or enrolled as such. Therefore at present ~~your~~ the record so far made in your case will be forwarded to the Secretary of the Interior for his approval and when his decision is arrived at you will be notified of the same at your post office address.

+++++

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 cause and that the foregoing is a full true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 26th of October, 1901.

Chas. von Weize
Commissioner

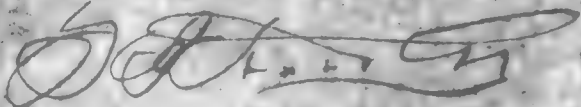


Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 9, 1902.

In the matter of the application of Holly J. Blount, et al.,
to be enrolled as citizens of the Cherokee Nation.

That on examination of the tribal rolls of the Cherokee Nation
it is found that the above named persons are not
citizens of the Cherokee Nation as defined by the
Cherokee Nation by an act of the Cherokee National Council or Commission
on Citizenship, or the Commission to the Five Civilized Tribes under
the provisions of the Act of Congress approved June 10, 1896, or by
the United States Court on appeal.

It is directed that copies of this statement be filed with the
testimony in the above case.



Commissioner.



Muskogee, Indian Territory, January 17, 1902.

Mrs. Emily J. Elanest,
Barter Springs, Kansas.

Dear Madam:

On the 20th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your three minor children, William Elanest, Annie Elanest, and Mike Elanest, as citizens of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1900 (20 Stats. 281). The Act of Congress of May 31, 1900 (31 Stats. 281), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof,

Mrs. E. J. B.—78.

and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your three minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By (Signed) T. B. Hoedles.

Commissioner in Charge.

Encl. C-365.

Register.

IN THE MATTER OF THE APPLICATION OF

Emily J. Blauset et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.
REFUSED

MEMORANDUM.
ACT OF MAY 31, 1900

REFUSED

Cher Memo 366

Cher Memo 366



MEMORANDUM

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Vinita, I. T. October, 20th 1901.

- In the matter of the application of Anna Smith for the enrollment of herself and four children as Cherokee citizens; she being sworn by Commissioner G. R. Frankelice, testified as follows:
(She also applies for her husband as an intermarried citizen)
- Q What is your name? A Anna Smith.
Q How old are you? A About 34 or 5.
Q What is your postoffice? A Welch.
Q In what district do you live? A Delaware.
Q Do you want to be placed on the Cherokee roll? A Yes sir.
Q Do you want to apply for anyone besides yourself? A Myself and four children.
Q You don't apply for your husband? A Yes sir I would like to.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q What is your husband? A United States man.
Q He don't claim any right except by intermarriage? A Yes sir.
Q How long have you lived in the Cherokee Nation? A 22 or 3 years.
Q Are you a recognized citizen of the Cherokee Nation? A I don't know.
Q Are you on any of the rolls of the Cherokee Nation? A Yes sir on the strip money roll.
Q '84 roll? A Yes sir.
Q Have you ever been admitted by the Cherokee Council or citizenship court? A No sir.
Q Were your father or mother ever admitted by the Cherokee Council or citizenship court? A No sir my father didn't claim, my mother did but she died before she was admitted.
Q Was she ever enrolled? A Yes sir in '84.
Q That is the only way in which you have been recognized? A Yes sir.
Q And your father was never recognized in any way? A No sir.
Q What is the name of your father? A George Richard.
Q Is he dead? A Yes sir.
Q Give me your mothers name? A Jane.
Q Is she dead? A Yes sir.
Q Did you or your family ever apply to the Dawes Commission to be admitted to citizenship in '86? A Yes sir.
Q Did you apply with your father and mother? A Just my mother.
Q We don't seem to be able to find my record of your mother or any of the family; wasn't it an effort to get on the census roll of 1886 that you made? A Yes sir.
Q Then you didn't apply to the Dawes Commission? A Yes sir.
Q Give some of the names of those in that case? A Smiths and Richards.
Q Do you know what the Dawes Commission did with you in '86? A No sir I don't.
Q Give me the name of your husband? A Henry Smith.
Q How old is he? A Right at 50.
Q How long have you been married to him? A 22 or 3 years.
Q Were you ever married except to him? A No sir.
Q Was he ever married except to you? A No sir.
Q Have you a marriage license and certificate? A No sir.
Q Did he get out a Cherokee license? A No sir.
Q Where did you marry him? A He married in Cherokee County.
Q In the Choctaw Nation? A No sir in the State.
Q What state? A Kansas.
Q You married under a United States license? A Yes sir.
Q You and he have lived together ever since your marriage have you?
A Yes sir.
Q Give me the names of your children? A Myrtle Smith.
Q How old? A 18 years old.
Q Next child? A Rowland.
Q How old? A 16.
Q Next child? A George.
Q How old? A 14.
Q Next? A Mahel.
Q How old? A 12.

- Q Are these children all living now? A Yes sir.
 Q Did you ever draw strip money? A No sir.
 Q How did that happen? A They wouldn't give it to us, I went and asked them and they wouldn't give it to us.

Applicant not found on the 1880 roll under the name of Hubbard. Applicant here states that she is not on that roll.

- Q Did you draw your money on Anna Smith? A I told you I didn't draw strip money.
 Q Then you are not on the '94 roll? A No sir.
 Applicant not on the roll of 1894.
 Q What district were you in in '96, four years ago? A Delaware.
 Applicant not on the roll of 1896.
 Applicant not on the Wallace Roll.
 Applicant not on the Kern Clifton roll.
 Q Who was your lawyer before the Dawes Commission, if you had a lawyer? A Mr. Soper.
 Q What was your father, a Cherokee? A He didn't claim, he didn't make any application but he was part Indian; it was just my mother that claimed.
 Q Do you know Robert Hubbard? A Yes sir, my nephew.
 Q And Goldie? A Yes, my niece.
 Q When did your mother die? A About 7 or 8 years ago.

It appears from the Commission record Docket "A" page 471, Commission number 3891 that George Hubbard et al applied for admission as Cherokee citizens on September 8th 1896. Answer filed, and the application was denied by the Commission. On November 10th 1896 appeal was taken to the United States Court and the Judgment of the Commission was sustained.

The applicant's testimony shows that her mother Jane was dead at that time and the record shows that Anna Smith was a party in the case with her father. The Court number is 4301.

The applicant applies for the enrollment of herself, her husband and four children. The applicant applies for the enrollment of herself and children as Cherokees by blood. She is not identified on any of the rolls, and all which are in the possession of the Commission have been carefully searched and as shown in the testimony, she was a party in an application made by her father. (The applicant now corrects her former statement and states that it was her brother George Hubbard who made the application) At all events, her name is identified in the case as set forth in the testimony and she with the others were rejected by the Dawes Commission and an appeal was taken to the United States Court and the decision of the Commission was sustained. It follows therefore, that the applicant is not a recognized citizen of the Cherokee Nation and has not been admitted or enrolled as such, and hence this Commission is not deemed to have jurisdiction over her case, and she will be listed now for rejection for lack of jurisdiction, and only a memorandum will be made of her case.

Her husband is said to have married her under the United States law some 22 or 3 years ago. He is not upon any roll and no claim is made for him except through his wife. In view of the conditions just stated he will be listed for rejection for lack of jurisdiction and only a memorandum, as usual, will be in his case.

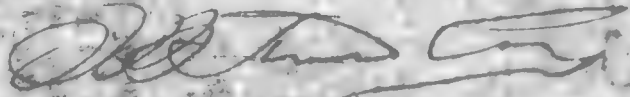
As for the four children named in the testimony, none of them are on any of the rolls and they cannot have any rights except through their mother, and under the conditions just stated they also will be listed for rejection for lack of jurisdiction and only a memorandum will be made of their case. In present action

of the Commission will be reported to the Secretary of the Interior, and under the law, if he approves of the action of the Commission, that will be final and the applicant will be notified of the action of the Secretary.

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 thereon.

Chas von Weise

Subscribed and sworn to before me this the 7th of November, 1901.



Commissioner.



Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D. C., January 9, 1902.

In the matter of the application of Anna Smith et al to be
enrolled as citizens of the Cherokee Nation.

Upon an examination of the tribal rolls of the Cherokee Nation
now in possession of the Commission it is found that none of the
parties mentioned herein are identified thereon, nor does it appear
that they were ever admitted to citizenship in the Cherokee Nation
by an act of the Cherokee National Council or Commission on Citizenship.

All the parties mentioned in this application, with the exception
of Henry Smith, were included in an application made to the Commis-
sion under the provisions of the Act of Congress approved June 10,
1896, in the matter of the application of George Hubbard et al, which
application was denied by the Commission, and an appeal taken to the
United States Court for the Northern District of Indian Territory,
where the decision of the Commission was sustained.

It is directed that copies of this statement be filed with the
testimony in the above case.



Commissioner.

COMMUNICATIONS
SECTION
OFFICE

Waskoee, Indian Territory, January 17, 1903.

Mrs. Anna Smith,

Wasko, Indian Territory.

Dear Madam:

On the 28th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself, your four minor children, Myrtle Smith, Howard Smith, George Smith, and Mabel Smith, as citizens by blood of the Cherokee Nation, and for the enrollment of your husband, Henry Smith, as a citizen by intermarriage of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 19, 1896 (29 Stats. 221). The Act of Congress of May 31, 1900 (31 Stats. 221), provides:

"That said Commission shall continue to exercise all

Mrs. A. S.--/A.

authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this date decided that you, your husband, and your four minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your husband, and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Needles,

Commissioner in Charge.

Encl. C-366.

Register.

3647

IN THE MATTER OF THE APPLICATION OF

FOR ENROLLMENT AS
CHEROKEE CITIZENS

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo 367

Cher Memo 367

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

In the matter of the application of Polly Johnson for the enrollment of herself and two children as Cherokee citizens by blood and for the enrollment of her husband as a Cherokee citizen by intermarriage—she being sworn by Commissioner S. R. Breckinridge, testified as follows:

- Q Give me your full name? A Polly Johnson.
Q How old are you? A 40.
Q What is your post office? A Mawcogee, I. T.
Q Do you live in the Cherokee Nation? A My home is in the Cherokee Nation but I have been in Mawcogee for a year now.
Q In what district in the Cherokee Nation do you claim your home? Delaware district.
Q Do you want to be enrolled as a Cherokee freedman or as a Cherokee by blood? A By blood.
Q Do you want to have anyone enrolled besides yourself? A My husband and two children.
Q What is your husband, a Cherokee by blood? A No sir he dont claim as an Indian.
Q Do you apply for him as an intermarried citizen? A Yes sir.
Q Is he a colored man? A Yes sir.
Q Where were you born? A I was born in Tennessee.
Q When did you come to the Cherokee Nation? A About 25 years ago.
Q Were you ever recognized as a Cherokee; were you ever admitted by a Cherokee court or Council? A No sir, I am in the Jones case.
Q What Jones case? A The Sarah Jones case.
Q Is that a case where they applied to be admitted as Cherokees by blood before the Dawes Commission in 1896? A Yes sir.
Q Do you claim to be upon any of the Cherokee rolls? A No sir unless it is the '94 roll.
Q Did you draw strip money? A No sir.
Q Then you are not on the '94 roll—so you are not on any of the rolls? A No sir.
Q Is your husband? A No sir.
Q Are any of your children? A No sir.
Q Give me the name of your husband? A James Johnson.
Q How old is he? A I guess he is 44 years old.
Q Give me the names of your children? A James Johnson Jr.
Q How old is this child? A He will be 15 this coming January.
Q What is the name of the next child? A Gracie H.
Q How old is this child? A She will be 8 years old the 25th of September.
Q Are they both living now? A Yes sir.
Q Are they living with you? A Yes sir.
The applicants are not found on the 1894 pay roll, or upon the 1880 or 1896 rolls.
Q Did your husband get out a Cherokee license when he married you or a United States license? A United States license.

It is shown on Booklet "B", Dawes Commission record, page 515, Case No. 4811, that the applicant was a party in a case to which she refers in her testimony, and that her application was filed September 8th 1896, answer filed, that the application was denied, and appeal was taken to the United States Court, and as shown by Court number 183, the judgment of the Commission was sustained.

The applicant applies for the enrollment of herself, her husband and two minor children. The applicant claims to be a Cherokee by blood, to have been born in the State of Tennessee and to have come to the Cherokee Nation 25 years ago; she is now 40 years of age. She does not claim to be upon any of the rolls except the roll of 1894, but states in testimony that she did not draw Cherokee strip money, and a search of the Cherokee pay roll for 1894 fails to disclose her name upon said roll. She

does not claim to have been admitted to citizenship or recognized as a Cherokee citizen in any manner whatsoever, by any court or tribunal. As shown in the testimony, she was a party in an application made to the Dawes Commission for admission to Cherokee citizenship in 1888, her application was tried, appeal was taken to the United States Court and the judgment of the Commission was sustained. It follows from this record that the applicant has no ground whatever upon which to base a claim for enrollment at this time, and she will be listed for rejection in accordance with the Act of Congress of May 31, 1900; it being the opinion of the present Commissioner that the Commission has no jurisdiction in her case.

As for her husband, no claim is made for him except through his marriage to the applicant; as she has been shown to possess no rights whatever, of course her husband has acquired no rights through her and he has not been married to her under a Cherokee license; his application is also listed for rejection for lack of jurisdiction in accordance with the requirements of the Act of May 31, 1900.

As for the two children named in the testimony, both of whom are living now, they are not upon any roll and of course possess no rights except what they acquired through their mother; as she possess none, these children also will be listed for rejection for lack of jurisdiction upon the same card with their mother.

This application, if this finding is approved by the Commission, will be duly forwarded to the Secretary of the Interior and the applicant will be informed when such action is taken and she is now informed that if this action be approved by the Commission and by the Secretary of the Interior, it will, under the law, be final with reference to the parties concerned.

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, and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 11th of November, 1901.

Chas. von Weise

Stenographer.



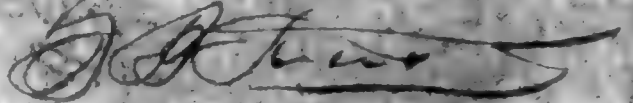
Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 9, 1902.

In the matter of the application of Polly Johnson et al to be enrolled as citizens of the Cherokee Nation.

Upon an examination of the original papers filed with the Commission under the provisions of the Act of Congress approved June 18, 1896, in the matter of the application of Sarah Jones et al for admission to citizenship in the Cherokee Nation, it is found that the names of the applicant and her two children, James, et al., and Gracie M. Johnson, were embraced in said application, which was denied by the Commission, and an appeal taken to the United States Court for the Northern District of Indian Territory, where the decision of the Commission was sustained.

The applicants in this case are not identified on any of the tribal rolls of the Cherokee Nation now in possession of the Commission, nor does it appear that they ever were admitted to citizenship by an act of the Cherokee National Council or Commission on Citizenship.

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.

COMM

1918

1918

Muskogee, Indian Territory, January 17, 1902.

Mrs. Polly Johnson,

Muskogee, Indian Territory.

Dear Madam:

On the 29th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, James Johnson, Jr., and Greola E. Johnson, as citizens by blood of the Cherokee Nation, and also for the enrollment of your husband, James Johnson, as a citizen by intermarriage of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (29 Stats. 221). The Act of Congress of May 31, 1900 (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application

Mrs. P. J. —/2.

of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that you, your husband, and your two minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your husband, and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Needles,

Commissioner in Charge.

Encl. C-567.

Register.

COPY

BH

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

I.T.D. 7924-1907.

March 4, 1907.

SIR:

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

Sir:

The Department has this day affirmed your decisions, adverse to the applicants, in the following citizenship cases, received with your reports of February 28, 1907, viz:

Jeanne Barber, et al., Cherokee by blood,
Ada Crittenden, Chickasaw freedman,
Mable Harrison, Chickasaw, freedman,
Sam N. Williams, Choctaw freedman,
Robert Butler, Cherokee freedman,
Hallie Fields, Choctaw freedman,
Willie Harper, Cherokee freedman,
Grant Feather, Cherokee,
James Christie, Cherokee by blood,

The Department has also denied a motion to reopen and reconsider the Cherokee enrollment case of Polly Johnson, et al. and a motion to reopen the Cherokee enrollment case of D. C. Bays, received with your reports of February 28, 1907.

A copy of Indian Office letter of March 2, 1907 (Land 21697, etc.), submitting your reports, is inclosed.

The papers in the cases have been sent to the Indian Office with a carbon copy hereof.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inc. and 22 incs.
for Ind. Off.

273

REPLY TO THE FOLLOWING:
Cherokee
N 247.

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

Muskogee, Indian Territory, June 12, 1907.

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

Dear Sir:

You are advised that the motion to reopen and reconsider Departmental decision in the matter of the application for the enrollment of Polly Johnson, et al., as citizens of the Cherokee Nation was denied by the Department on March 4, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,



Commissioner.

Incl. W-4.
S.W.

IN THE MATTER OF THE APPLICATION OF

Jones Johnson et al

FOR ENROLLMENT

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 368

Cher Memo 368

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File with Memo. case of Ethel Fox. C.F.R.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 30, 1901.

In the matter of the application of Carrie Fox et al for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Bruckinridge, she testified as follows:

- Q Give me your full name? A Carrie Fox.
- Q How old are you? A 23.
- Q What is your post-office address? A Hayden.
- Q In what district do you live? A Lightning, I live here on Lightning.
- Q ~~Where do you live?~~ In what district do you live, Coowescoowee? A Coowescoowee.
- Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
- Q Do you want to have anybody enrolled besides yourself? A My 2 children.
- Q Have you a husband? A Yes sir, I have a husband.
- Q Do you apply for him? A No sir.
- Q You just apply for yourself and 2 children? A Yes sir.
- Q Are you on any of the rolls of the Cherokee Nation? A I am on the Wallace roll.
- Q And do you think that is all? A Yes sir.
- Q Give me the name of your father? A Ellis Warren.
- Q Is he dead? A No sir.
- Q Does your father claim to be a Cherokee Freedman? A No sir.
- Q He does not? A No sir.
- Q Give me the name of your mother? A Mandy Warren.
- Q Is your mother alive? A No sir, she is dead.
- Q She claim to be a Cherokee Freedman? A Yes sir.
- Q How long has she been dead? A About 8 or 9 years I think.
- As well as I can remember, I was small and I can't remember.
- Q How old would your mother be if she were living now? A I don't
- A I don't know sir, you will have to ask my sister, I was too small
- Q Have you a full sister named Annie Elms? A Yes sir.
- Q She has already applied hasn't she? A Yes sir.
- Q And all this testimony about your mother and all that has been gone into in her case? A Yes sir.
- Q How long have you lived in the Cherokee Nation, were you born here? A Yes sir.
- Q Have you lived here all your life? A Yes sir, right near it. I have been in Texas part of the time.
- Q Where did you live when you were not here? A Texas.
- Q When did you come from Texas? A I have been backwards and forwards here to see about my home and stock all the time.
- Q When was the first time you ever came here from Texas? A Well about a year ago I think.
- Q About a year ago you came for the first time? A Yes sir.
- Q Are you living down in Texas at this present time? A No sir, I am here at home with my father.
- Q Well you came here first about a year ago, have you been here ever since you came that time? A No sir, I haven't been here ever since; I go backwards and forwards.
- Q Give me the names of your 2 children? A Ethel Fox (Produces birth affidavit.)
- Q This child is 6 years old isn't it? A Yes sir.
- Q Born in 1895? A Yes sir.
- Q Is this child on any roll? A No sir.
- Q Where was the child born? A Texas.
- Q Then you have another child named Sadie Fox? A Yes sir.
- Q This child is about 2 year old, nearly 2 years old now isn't it? A Yes sir.
- Q Well where was this child born? A Texas.
- Q Where were you married? A Texas.

- Q To whom were you married? A Jim Fox.
Q Is he a colored man? A Yes sir.
Q ~~Is~~ He is a state man isn't he? A Yes sir.
Q Have you a certificate of ~~your~~ marriage? A No sir, not here.
Q Were you ever married except to this man, Jim Fox? A No sir.
Q Was he ever married except to you? A No sir.
Q How old a man is Jim Fox? A He is about 25.
Q Where is he now? A With his father in Texas.
Q You and he still claim each other as husband and wife? A Yes sir.
Q What is he doing down there, farming? A Yes sir, he is farming with his father.
Q Who did you live with down in Texas before you got married?
A My aunt Net Champion.
Q She is an aunt of yours? A Yes sir.
Q Where was your mother, was she with you? A My mother is dead. Died when I was a little bit of a girl, and my father sent me to Texas to go to school.
Q And where was your father all that time? A Here in the Cherokee Nation.
Q ~~What~~ He left you down there to go to school?
A Yes sir, sent me there to go to school.
Q Well where you born there? A No sir, born here in the Cherokee Nation.
Q What was the first time you ever came to the Cherokee Nation from Texas, was it about a year ago? A That was not the first time I ever came here; you mean the first time I ever came, I came backwards and forwards all the time to see my father while I was in school.
Q You were born here in the Cherokee Nation? A Yes sir.
Q How old were you when you went to Texas? A I don't know exactly how old I were, my sister or father can tell you that.
Q You went there when you were a little thing? A Oh no sir, I was near about a young lady I suppose.
Q Well it was more than seven years ago, it was before you got married? A Yes sir.
Q Because you were married down there? A Yes sir, I married in Texas.
Q You are on no roll but the Wallace roll, you don't claim to be on any other roll? A No sir, I guess not, I don't know.
Q Well I don't want to look them up unless it is necessary, if you know it will save us a good deal of work, do you know? A Well the Wallace roll is the onliest one I know.
Q The only one you claim to be on? A Yes sir.

Com'r: All the rolls examined and reported to be only on the Wallace roll.

Wallace roll, page 151 #3145, Carrie Warren, Cooweescoowee District.

1880 authenticated roll and 1896 census roll of citizens of the Cherokee nation examined for Mary Warren and Ellis Warren, and named not found thereon.

NOTE on Wallace roll states: (Opposite applicant's name) "Child of Ellis Warren."

BY MR. HASTINGS, Cherokee representative:

- Q Well you went to school in Texas? A Yes sir.
Q Well you ought to know some thing about your age when you went down there? A Yes, but I don't know anything about my age.
Q Well about how old were you? A My sister can tell you.
Q Well I am getting after you to tell me, ~~you are~~ on the stand?
A Well I guess I was about 14 or 15 years old as near as I can remember, but I am not positive, because I don't know for certain.
Q How long before you married did you go down there? A Well I don't know how long before, exactly.
Q You don't have no idea how long you were there before you were

married? A No sir, I don't.

Q How long did you go to school there? A Well I went to school there a good while.

Q Well about how long? A Well I reckon about 3 years, two or three.

Q You have been living down with your husband ever since you married? A No, I have been back ards and forwards; him and I have both been here in the Cherokee Nation.

Q But you never kept house here? A No sir, we never exactly kept house here; came back to see about my place here and my pappa.

Q He is down there now? A Yes sir, he is.

Q Farming? A Yes sir.

BY COM'ER BRECKINRIDGE:

Q Your child Ethel you say is not on any roll at all? A No sir.

Q Where is that child now? A She is in to my father's.

Q Did you bring her up with you this last time? A Yes sir. She is out to pa's in the country.

Q Both of them are living now, these children? A Yes sir, both of them are living.

Q When did you leave your husband down there in Texas, when did you come here this time? A Well I don't know sir, about,-

Q Week, or two weeks? A Well it has on longer than that, I guess.

Q Did you bring either of the children with you? A I brought them both with me, I haven't brought them here in town, but they are out here.

COMMISSIONER BRECKINRIDGE: The applicant applies for the enrollment of herself and two children. She claims to be the child of a deceased colored woman, Mandy Warren, who is alleged to have been a Cherokee Freedman, and seems to have died quite a number of years ago, but is not identified on the roll of 1890; apparently she died prior to any subsequent roll. There is no dispute as to the applicant being the child of this woman, Mandy. It is uncertain what rights, if any, she acquired through her mother, but that question, it appears, is fully developed in the case of one Annie Elms, Cherokee Freedman Doubtful Case No. 860; but apart from that, the applicant is now 23 years of age. She is not identified on the roll of 1890 or on the roll of 1896 or on the Kern-Clifton roll, but is identified on the Wallace roll. It also appears from her testimony that she was sent to Texas when quite a girl to attend school, and after attending school for some 2 or 3 years she there married to a Texas colored man, for whom no right of citizenship is claimed. This marriage occurred 7 years ago, and it is considered obvious from the testimony that the applicant has lived with her husband consistently in the State of Texas since that time, with the exception of an occasional visit to the Cherokee Nation. Her 2 children, one 6 years of age and the other 2, were both born in the State of Texas. She states that she has returned to the Cherokee Nation from time to time since her marriage, but has never taken up her domicile in the Cherokee Nation. Her husband is now in Texas engaged in farming, and the applicant returned some two or three weeks ago on the present visit. Whatever her rights may have been under her mother, it is considered clear that she has abjured her rights by consistently acquiring a residence and making her home in the State of Texas for a number of years, and the applicant will now be listed as a Cherokee Freedman for rejection. As for her 2 children, the child Ethel Fox is old enough, being 6 years of age, to be upon the roll of 1896, and also upon the Kern-Clifton roll. This child is not upon any roll. It is considered that under the Act of May 31, 1900, and in accordance with the terms of the injunction of the United States Court this Commission has no jurisdiction or power to receive or consider an application for the enroll-

Carrie Fox et al 4

ment of the child Ethel, therefore this child Ethel will not be listed for enrollment in no form, but only a memorandum of the fact of the application will be made; this memorandum will, as required by law, be reported in due time to the Secretary of the Interior, of which the applicant will be given due notice, and in accordance with the present understanding of the law his approval of a decision of the Commission should it be finally rendered that it has no jurisdiction whatever in the case will be final in the premises. As for the child, Sadie Fox, 2 years of age, this child is considered to have no rights except those which it derives through its mother. In view of the decision in her case this child will now be listed for enrollment as a Cherokee Freedman on a Rejected card. As to the fact of the birth of these children and their being alive there appears to be an affidavit of birth in each case, which will be permitted to be filed in attestation of the fact of birth. If the Commission finally rejects the applicant and her child, Sadie, their action will be made known to the applicant at her post-office address, and it will be duly reported to the Secretary of the Interior for his approval, as provided by law.

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 November 5th, 1901, at Tahlequah, Indian Territory



Commissioner.

IN THE MATTER OF THE APPLICATION OF

Elmer Fox

FOR ENROLLMENT AS

CHEMIST

REFUSED

ACT OF MARCH 1907
MEMORANDUM

Is referred to Freedmen

Memo # 1.

Cher Memo 369

Cher Memo 369

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I.T., October 30, 1901.

In the matter of the application of Ida May Harris for the enrollment of herself and three children as Cherokees by blood, and for the enrollment of her husband as a Cherokee by intermarriage.

Ida May Harris, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Ida May Harris.
Q That is your present name, is it? A Yes, sir, now.
Q How old are you? A Well, I am 21 or 22, I don't know just which.
Q What is your postoffice? A Welch.
Q In what district do you live? A Delaware.
Q Do you want to apply for yourself as a Cherokee citizen by blood? A Yes, sir.
Q Do you want to apply for anybody besides yourself? A Yes, sir, three children.
Q Have you a husband you want to apply for? A Yes, sir, if I am allowed to.
Q Will you can apply? A Yes, sir.
Q You apply for yourself then and three children and your husband?
A Yes, sir.
Q Do you apply for your husband as a Cherokee by blood? A No, sir, he is a state man.
Q Is he a white man or a colored man? A A colored man.
Q How long have you lived in the Cherokee Nation? A I was born and raised in the Cherokee Nation.
Q Have you lived in the Cherokee Nation all your life? A Yes, sir.
Q Are you on any of the rolls of the Cherokee Nation? A Yes, sir.
Q Give me the name of your father? A Washington Jones.
Q Is he alive? A Yes, sir.
Q What is he, a Cherokee or a colored man? A He is a colored man, Cherokee by blood.
Q Cherokee and colored? A Yes, sir.
Q Claims to be a Cherokee by blood, does he? A Yes, sir.
Q Give me the name of your mother? A Annie Jones.
Q Is she alive? A Yes, sir.
Q She and your father living together? A Yes, sir; that is my stepmother though, Annie Jones.
Q Well, what is the name of your own mother? A Lizzie Jones is her name.
Q Is Lizzie Jones dead? A Yes, sir.
Q How long has she been dead? A About 16 or 17 years, I was a little girl.
Q Did she claim to be a Cherokee by blood? A No, sir.
Q What was she? A A state woman.
Q White woman or a colored woman? A A colored woman.
Q Had your father and mother live together from the time of their marriage until your mother died? A Yes, sir.
Q Was your father ever married before he married your mother, Lizzie? A No, sir.
Q Was she ever married before she married your father? A No, sir, not as I know of.
Q How many children did your father have altogether? A Five.
Q Give me the name of your husband? A Willis Harris.
Q How old is he? A Well he is 25.
Q Where is he now? A He is at home in the Cherokee Nation.
Q Why didn't he come with you? A He was down Monday but he had to go back.
Q When were you and he married? A In 1895.
Q Did he get out a Cherokee license? A No, sir, I have my certificate that we were married by (exhibiting paper.)
Commissioner: The applicant presents a duly authenticated license issued by the Clerk of the United States Court Northern District, Indian Territory, December 20, 1895, auth-

original marriage between herself and her husband as stated by her. The certificate shows that they were united in marriage in accordance with said license by the Rev. H. H. Curtis, on the 28th of December, 1893. This is filed herewith.

- Q Your husband then only got out this license? A Yes, sir.
- Q The United States license? A Yes, sir.
- Q You and he have lived together ever since you were married, have you? A Yes, sir.
- Q Was he ever married before he married you? A No, sir.
- Q Were you ever married before you married him? A No, sir.
- Q Give me the name of your children? A Ethel May Harris.
- Q How old is this child? A Five years old the 20th of September past.
- Q Give me the name of the next child? A Helen Rogena Harris.
- Q How old is this child? A She was 1 year old the 20th of last January.
- Q Give me the name of the next child? A Stella Harris.
- Q How old is that child? A She will be 2 years old the 9th of this January.
- Q Are these children all living now? A Yes, sir.

The 1890 authenticated roll and the 1896 census roll of the Cherokee Nation examined, and the applicants not identified thereof.

- Q Did you draw Cherokee strip money? A No, sir, we didn't draw.
- Q Then none of you are on that 1894 roll? A Yes, sir, we were put on the '94 roll.
- Q Well then you got the money? A No, sir, we never got it.
- Q Then you are not on the roll; that is the money roll? A Yes, sir.

The 1894 pay roll of the Cherokee Nation examined and the applicants not identified thereof.

- Q Were you an applicant ever before the Dawes Commission for admission to citizenship? A Well my father always put me down before.

Q That is what I asked you: in 1898 when the Commission was authorized to admit people to citizenship, did your family apply to be recognized and admitted as Cherokee citizens? A I think they did.

- Q There is a case in which I find the name of Serenah Jones; who was she? A That was my grandmother.

Q And Washington Jones; that your father? A Yes, sir.

Q Thomas Jones; who is that? A That is my uncle.

Q And Wiley Jones, Jr.; who is that? A My uncle.

- Q You all applied at that time, did you? A Yes, sir, I think so.

Commissioner: It is found in Bucket B of the record of the Dawes Commission of its proceedings in 1898 that that the applicant's father and a number of other persons applied to the Commission for admission as Cherokee citizens; the application was filed September 8, 1898; answer was filed, and in looking over the record there is found the name of Serenah Jones, who applied for herself and her child, Washington Jones, and his three children, Ida Harris, Nee Jones, Hattie Jones, and Washington Jones, Jr. The application was denied by the Commission, appeal was taken to the United States Court and the judgment of the Commission was sustained; court case No. 182. The Commission record is on page 313, Commission No. 4811.

Commissioner: The applicant applies for the enrollment of herself, her husband and three children. As shown by the record, the applicant is 22 years of age, is not identified upon any of the rolls of the Cherokee Nation, and there is no evidence that she has ever been recognized in any manner as a Cherokee citizen. It is shown that she was a party in an application to the Dawes Commission in 1898 for admission to Cherokee citizenship, and her application was denied; appeal

was taken to the United States Court, and the judgment of the Commission was sustained. It follows, therefore, that the applicant is not a recognized citizen of the Cherokee Nation, and has never been enrolled or admitted as such. She is deemed therefore to come under the provisions of the act of Congress of May 31, 1900, which denies this Commission jurisdiction in cases of that character. She will therefore be listed for rejection for lack of jurisdiction, and only a memorandum will be made of her application. This memorandum, if approved by the full Commission, will be duly forwarded to the Secretary of the Interior, and if approved by him, will be final in the case.

As for the applicant's husband, no claim is made of citizenship for him except through his wife. He married her under a United States license, is not upon any roll, and partakes of course in other respects of her status, as just stated. Only a memorandum will be made of the application for him, as in the case of his wife.

As for the three children named in the testimony, they are none of them upon any roll. They partake of the status of their mother, and only a memorandum will be made of their application, which will be disposed of as in the case of their mother.

The applicant's marriage license and certificate are returned to her at her request.

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.

Bruce S. Jones

Sworn to and subscribed before me this 5th of November, 1901.

[Signature]

Commissioner.



Memo. No. 309.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 9, 1902.

In the matter of the application of Ida May Harris et al to be enrolled as citizens of the Cherokee Nation.

Upon an examination of the tribal rolls of the Cherokee Nation now in possession of the Commission it is found that none of the applicants are identified of record thereon, nor does it appear that they were ever admitted to citizenship by an act of the Cherokee National Council or Commission on Citizenship.

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.

McKeesee, Indian Territory, January 17, 1902.

Mrs. Ida May Harris,
Welch, Indian Territory.

Dear Madam:

On the 20th day of October, 1901, you appeared before the Commission to the Five Civilized Tribes, and made application for the enrollment of yourself and your three minor children, Ethel May Harris, Helen E. Harris, and Stella Harris, as citizens by blood of the Cherokee Nation, and also for the enrollment of your husband, William Harris, as a citizen by intermarriage of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1898 (30 Stat. 521). The Act of Congress of May 31, 1900 (31 Stat. 521), provides

"That said Commission shall continue to exercise all

Mrs. I. N. H.—/A.

authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this date decided that you, your husband, and your three minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your husband, and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be only communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By ~~(Signed) T. B. Hoelzer,~~
Commissioner in Charge.

Encl. C-360.

Register.

IN THE MATTER OF THE APPLICATION OF

William Harris et al

FOR ENROLLMENT IN

CHEROKEE NATION

REFUSED

ACT OF MAY 1900

MEMORANDUM

Cher Memo 370

Cher Memo 370



REJECTED FILE: File with Pearl Davis, et al Cher. N.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 31, 1901.

In the matter of the application of Henry Davis for the enrollment of himself as a Cherokee Freedman, and for the enrollment of himself as three children as Cherokees by blood; being sworn and examined by Commissioner Breckinridge, he testified as follows:

- Q Give me your full name? A Henry Davis.
Q How old are you? A I think about 50, I don't exactly know my age.
Q What is your post-office? A Vinita.
Q In what district do you live? A I ain't acquainted with the districts here.
Q Don't you live here? A Yes sir, but I never got acquainted with the names of the districts.
Q Do you live here in town? A Yes sir.
Q What part of town do you live in? A In the east part, right across from the colored Baptist Church.
Q That's Delaware district? A Yes sir.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself, A My children, by blood.
Q You apply for yourself and some children? A Yes sir.
Q How many children? A I have 10 children, 5 girls and 5 boys.
Q Are they all under 21 years of age? A No sir.
Q You can apply for those that are under 21 and not married, how many have you got like that? A I have got three.
Q Three that are under 21 and unmarried? A Yes sir.
Q All the balance are either over 21 or married? A Yes sir.
Q Then you apply for yourself and three children? A Yes sir.
Q As you apply for these children as Cherokees by blood do you?
A Yes sir.
Q How long have you lived in the Cherokee Nation? A I just came here the 20th of last May.
Q Where were you born? A I was born in Georgia, Lumpkin County, on the Hightower River.
Q And you never were in the Cherokee Nation until last May? A No sir.
Q Well then you have no claim as a Cherokee Freedman, you were not a slave here during the war? A Yes sir, I was a slave back there.
Q Yes but that's not a slave back there; you have never been put on any roll of the Cherokee nation? A I never applied until now.
Q This is the first time you have ever attempted to be recognized in any way? A Yes sir.
Q You are not on the roll then and never been recognized heretofore by any official authority? A Yes sir, only by my people, that's here.

COMMISSIONER BRECKINRIDGE: So far as the applicant is concerned there shall be no further proceedings in his case, as it is considered at this point to come within the scope of the temporary injunction of the United States Court barring this one class of Freedmen claimants, it being clearly shown by the present examination that the applicant has never been recognized in any manner as a Cherokee Freedman, is not upon any roll and was never in the Cherokee Nation in his life until last May, and at that time 35 years of age.

- Q Give me the names of your children? A Lucinda Davis,
Q How old is that child? A She don't have the blood, the balance, the other 9 have the blood; she belonged to Ross Davis, a slave under him in Georgia.
Q Tell me how old Cindy is? A She was born in '60.
Q I thought you were going to give me these three under 21 years of age, I have nothing to say to you about the others? A Pearl Davis
Q How old is Pearl?

Henry Davis et al 2

- Q Give me the name of the next child? A Robert Davis.
Q Going on 17; he is older than she is.
Q Next child? A Paul Davis, he is 10 years old.
Q Are these children all living now? A Yes sir.
Q Is the mother alive? A No sir.
Q She is dead? A Yes sir.
Q What was her name? A Her name was Anna Thurman, before I married her.
Q When did she die? A She died in Denver, Colorado.
Q Where were these three children born that you have just named?
A Denver, Arapahoe County, Colorado.
Q Are these children your children? A Yes sir.
Q Where are these children at this time, are they here in the Cherokee Nation? A Yes sir.
Q All alive and in the Nation at this time? A The boy Robert, isn't
Q Where is Robert? A He is in his way here and there, I don't know exactly where he is now.
Q Has Robert ever been in the Cherokee Nation? A No sir.
Q Never here in his life? A No sir.
Q When was Paul first here? A Last May.
Q When was Pearl first here? A Last May.
Q Was their mother, Anna, ever in the Cherokee Nation? A No sir.
Q You just brought them here last May? A Yes sir.
Q Where did you say you married Anna? A I married her in Georgia.
Q How old would Anna be if she were living now? A When I married her in '63 she was 16 years old.
Q Was she born in Georgia? A Yes sir.
Q She lived there all her life until she went to Colorado? A Yes sir, in Jackson County.
Q Never was a slave in the Cherokee Nation? A No sir.
Q None of these children on any roll of the Cherokee Nation? No sir.
Q Never applied to have them recognized in any way as Cherokees by blood until now? A No sir, not until now.
Q You never applied to have them recognized as Cherokees of any character until now? A Until now.

COMMISSIONER BRACKETT: It is evident from the examination that these children have never been recognized as Cherokee citizens, and have never been enrolled or admitted as such. Their mother, a native of Georgia, was 16 years of age at the time of her marriage in '63, she died some 9 years ago and never in her life was she in the Cherokee Nation. Their father, now 50 years of age, was never in the Cherokee Nation until last May, and he has just been placed upon a memorandum case, as a Cherokee Freedman, in accordance with an injunction of the United States Court. Two of these children came to the Cherokee Nation for the first time last May; one of them, Robert, was never in the nation; he is not here now. It is perfectly evident, under these circumstances, that there is no ground whatever of jurisdiction in this case, and unless only a memorandum will be made of the application of these three children, they being listed for rejection under their application as Cherokees by blood, and this action, if confirmed by the commission will be made known to the Secretary of the Interior, of which due notice will be given to the applicant, and if he appeals there of same, his action will be final under the law.

M.D. Green, being first duly sworn, states that as stenographer to the

Henry Davis et al 3

Commissioner 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 November 5th, 1914

J. A. [Signature]

Commissioner

RECORDED
INDEXED
NOV 10 1914

IN THE MATTER OF THE APPLICATION OF

Georg Davis et al.

CHEROKEE PATENTS

REFUSED
ACT OF MAY 1880
MEMORANDUM

Transferred to P.M. 2,

Cher Memo 371

Cher. Memo 371

Q. 1111

711 371

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FILED: MEMO: File with Henry Davis, C.F.R.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 31, 1901.

In the matter of the application of Henry Davis for the enrollment of himself as a Cherokee Freedman, and for the enrollment of three children as Cherokees by blood; being sworn and examined by Commissioner Breckinridge, his testimonial follows:

- Q Give me your full name? A Henry Davis.
Q How old are you? A I think about 59, I don't exactly know my age.
Q What is your post-office? A Vinita.
Q In what district do you live? A I ain't acquainted with the districts here.
Q Don't you live here? A Yes sir, but I never got acquainted with the names of the districts.
Q Do you live here in town? A Yes sir.
Q What part of town do you live in? A In the east part, right across from the colored Baptist Church.
Q That's Delaware district? A Yes sir.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My children, by blood.
Q You apply for your children self and some children? A Yes sir.
Q How many children? A I have 10 children, 5 girls and 5 boys.
Q Are they all under 21 years of age? A No sir.
Q You can apply for those that are under 21 and not married, how many have you got like that? A I have got three.
Q Three that are under 21 and unmarried? A Yes sir.
Q All the balance are either over 21 or married? A Yes sir.
Q Then you apply for yourself and three children? A Yes sir.
Q You apply for these children as Cherokees by blood do you?
A Yes sir.
Q How long have you lived in the Cherokee Nation? A I just came here the 20th of last May.
Q Where were you born? A I was born in Georgia, Lumpkin County, on the Hightower River.
Q And you never were in the Cherokee Nation until last May? A No sir.
Q Well then you have no claim as a Cherokee Freedman, you were not a slave here during the war? A No sir, I was a slave back there.
Q Was but that's not a slave back there; you have never been put on any roll of the Cherokee nation? A I never applied until now.
Q This is the first time you have ever attempted to be recognized in anyway? A Yes sir.
Q You are not on the roll then and never been recognized in before by any official authority? A No sir, only by my people that's here.

COMMISSIONER BRECKINRIDGE: So far as the applicant is concerned there will be no further proceedings in his case, as it is considered at this point to come within the scope of the temporary injunction of the United States Court barring that one class of Freedmen claimants, it being clearly shown that by the present examination that the applicant has never been recognized in any manner as a Cherokee Freedman, is not upon any roll and was never in the Cherokee Nation in his life until last May, and he is now 59 years of age.

- Q Give me the names of your children? A Lucinda Davis.
Q How old is that child? A She don't have the blood, the balance, the other 9 has the blood; she belonged to Hans Davis, a slave under him in Georgia.
Q Tell me how old Cindy is? A She was born in 1860.
Q I thought you were going to give me these three under 21 years of age, I have nothing to say to you about the others? A Pearl Davis
Q How old is Pearl? A Going on 16.

Henry Davis et al 2

- Q Give me the name of the next child? A Robert Davis.
Going on 17; he is older than she is.
- Q Next child? A Paul Davis, he is 10 years old.
- Q Are these children all living now? A Yes sir.
- Q Is the mother alive? A No sir.
- Q She is dead? A Yes sir.
- Q What was her name? A Her name was Anna Thurman, before I married her.
- Q When did she die? A She died in Denver, Colorado.
- Q Where were these three children born that you have just named?
Denver, Arapahoe County, Colorado.
- Q Are these your children? A Yes sir.
- Q Where are these children at this time, are they here in the Cherokee Nation? A Yes sir.
- Q All alive and in the nation at this time? A ~~Yes~~ The boy Robert, isn't.
- Q Where is Robert? A He is on his way here somewhere, I don't know exactly where he is now.
- Q Has Robert ever been in the Cherokee Nation? A No sir.
- Q Never here in his life? A No sir.
- Q When was Pearl first here? A Last May.
- Q When was Paul first here? A Last May.
- Q Was their mother, Anna, ever in the Cherokee Nation? A No sir.
- Q You just brought them here last May? A Yes sir.
- Q Where did you say you married Anna? A I married her in Georgia.
- Q How old would Anna be if she were living now? A When I married her in '63 she was 16 years old.
- Q Was she born in Georgia? A Yes sir.
- Q She lived there all her life until she went to Colorado? A Yes sir, in Jackson County.
- Q Never was a slave in the Cherokee Nation? A No sir.
- Q None of these children on any roll of the Cherokee Nation?
A No sir.
- Q Never applied to have them recognized in any way as Cherokees by blood until now? A No sir, not until now.
- Q You never applied to have them recognized as Cherokees of any character until now? A Until now.

COMMISSIONER BRECKINRIDGE: It is evident from the examination that these children have never been recognized as Cherokee citizens, and have never been enrolled or admitted as such. Their mother, a native of Georgia, was 16 years of age at the time of her marriage in '63; she died some 9 years ago and never in her life was she in the Cherokee Nation. Their father, now 59 years of age, was never in the Cherokee Nation until last May, and he has just been placed upon a memorandum case, as a Cherokee Freedman, in accordance with an injunction of the United States Court. Two of these children came to the Cherokee Nation for the first time last May; one of them, Robert, was never in the nation; he is not here now. It is perfectly evident, under these circumstances, that there is no ground whatever of jurisdiction in this case, and only a memorandum will be made of the application of these three children, they being listed for rejection under their application as Cherokees by blood, and this action, if confirmed by the Commission will be made known to the Secretary of the Interior, of which notice will be given to the applicant, and if he approves of same, his action will be final under the law.

M. D. Green, being first duly sworn, states that as stenographer to the

Henry Davis et al 3

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 November 2th, 1894

[Handwritten Signature]

Commissioner.

M/371

IN THE MATTER OF THE APPLICATION OF

Henry Davis

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Transferred to M/3-

Cher Memo 372

Cher Memo 372

A. Insured 35 ✓

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE PUBLIC LANDS
FILED
NOV 22 '901

[Handwritten signature]

RECORDS DEPARTMENT

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I. T., November 12, 1901.

In the matter of the application of John Sumpter for the enrollment of himself as a Cherokee Freedman by intermarriage. Being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A John Sumpter.

Q What is your age? A I guess about 51.

Q Post-office? A Tahlequah.

Q 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 It ought to be on two, but I don't know just whether it is or not. It ought to be on the '81 roll; I never was taken but twice.

Q Did you ever draw money from the Cherokee Nation? A No sir.

Q Your name is not on any pay rolls of the Cherokee Nation? A No sir, if it is I don't know.

Commissioner Needles:

Rolls of the Cherokee Nation examined and applicant's name not found thereon.

Q You claim citizenship by intermarriage? A Yes sir.

Q What is your wife's name? A Mary Sumpter.

Commissioner Needles: Upon examination of the records of this Commission it is found that Mary Sumpter has been listed for enrollment as a Cherokee Freedman of the Cherokee Nation upon straight card No. 50, her name appearing upon the authenticated roll of 1890, said enrollment having been made on April 3, 1901.

Applicant presents duly authenticated marriage license issued by the authorities of the Cherokee Nation authorizing the marriage between John Sumpter, a citizen of the United States, and Miss Mary Meadows, a citizen of the Cherokee Nation, issued under the seal of the Cherokee Nation on the 14th day of October 1889; certificate attached thereto certifying that said John Sumpter and Mary Meadows were duly married according to the authority granted in the aforesaid license on the 14th day of October, 1889; said marriage license and certificate having been recorded as provided by the laws of the Cherokee Nation.

Q You are a citizen of the United States yourself? A Yes sir.

Commissioner Needles: By reason of the fact that the name of John Sumpter does not appear upon any of the rolls of the Cherokee Nation, and for the further reason that the Judge of the United States Court for the Northern District of the Indian Territory has enjoined this Commission, temporarily restraining them from receiving any applications for enrollment who have not heretofore been enrolled by the Cherokee Nation upon any of their authenticated rolls; the Judge of said Court in his opinion stating that applications similar to the one now ~~being~~ being applied for come under the provisions of the act of Congress of May 31, 1900, consequently the Commission at this time is without jurisdiction to receive, consider or make any record of the application of said applicant. The testimony and decision in this case will be forwarded to the Secretary of the Interior for his approval, and upon same being received by the Commission the applicant will be notified by due course of mail at his post-office address of the action of the Secretary of the Interior in the premises.

John Sumpter 2

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

M. D. Green

Subscribed and sworn to before me this November 14, 1901.



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J. C. Starr
Notary Public

M/372

IN THE MATTER OF THE APPLICATION OF

John Sumpter

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 21, 1900

MEMORANDUM

Transferred to 9 M. 11

Cher Memo 373

Cher Memo 373

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 19, 1901.

In the matter of the application of Edwin A. Welch for the enrollment of himself as a Cherokee by blood.

Appearances:
I. P. Gladace, Agent for Applicant;
Cherokee Representatives present.

Edwin A. Welch, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Edwin A. Welch.
Q How old are you? A I was born in '70.
Q 31 years old? A 30.
Q What is your postoffice address? A Sallisaw.
Q What district do you live in? A Sequoyah.
Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
Q Do you apply to enroll anyone else besides yourself? A No, sir.
Q Where were you born? A Born in Texas, Parker County.
Q Have you ever been recognized by the tribal authorities as a citizen of the Cherokee Nation? A No, I have not.
Q Does your name appear upon any of the tribal rolls? A I don't know whether I do or not, not unless someone else had put it there.
Q Did you ever apply to the Commission to the Five Civilized Tribes for admission as a citizen of the Cherokee Nation? A I never myself.
Q Did anyone apply for you? A If they did I ~~was~~ don't know it.
Q When did you come to the Cherokee Nation? A I first came here in '90.
Q How long did you remain? A I don't remember, about a couple or three weeks then.
Q Then where did you go? A I taken sick, I was at Tahlequah, and I went back home.
Q Back to Texas? A Yes, sir.
Q How long did you remain in Texas then? A I came back in '91.
Q Then where did you go? A I have lived here ever since.
Q Have you been living here continuously since '91? A Yes, sir.
Q How often have you been out since that time? A Just one time.
Q When was that? A It has been a couple of years after I came back I have gone and stayed a couple of months only on a visit and come back.
Q Gone back to Texas? A Yes, sir.
Q Have you ever exercised the right of suffrage in the State of Texas? Did you ever vote down there? A No, I never have.
Q Have you ever voted in the Cherokee Nation? A No I haven't.
The 1880 authenticated roll of Cherokee citizens examined and the applicant not identified thereon.
The 1896 census roll of Cherokee citizens examined and the applicant not identified thereon.
The 1894 pay-roll of Cherokee citizens examined and the applicant not identified thereon.
Q Did you ever draw any money from the tribal authorities? A Never did.
Q What was the name of your father? A John E. Welch.
Q What was the name of your mother? A Why she was a widow woman when he married her.
Q What is her name? A Her maiden name was Mary Spear before she was ever married.
Q Is your mother living? A Yes, sir.
Q Your father living? A Yes, sir.
Q Through whom do you claim your right to enrollment, through your mother or father? A Through my father.
Q Has your father ever been recognized as a citizen of the Cherokee Nation? A They told me he had, he always claimed it, when I came here I stayed with him up there in Flint, he owns about

three hundred acres of land.

Q Has he ever been an applicant before the Commission? A I don't know anything about it, he is on the rolls here, he draved strip money.

Q Did you ever know anyone by the name of James A. Welch? A That is my brother.

Q Where is he living? A He is living in Sequoyah. I don't know whether it is the same one, that is his name.

Q Did he ever apply to the Commission in 1898 for admission to citizenship in the Cherokee Nation? A No, we made out papers but they never did get before the Commission.

Q That was in 1898? A Yes, sir.

Q Were these papers made out in the name of your brother? A In the name of James A. Welch.

Q And your name was included in these papers, was it? A Yes, sir.

Q Isn't it a fact that these papers were sent to the Commission?

A They were sent to me at Wagoner, and I was to go before the Commission and I never got them and after I came back here.

Q Did you employ an attorney at that time? A Judge Littlejohn, he is here in town.

Q Were not the papers in his possession? A Yes, sir.

Q Didn't he send them to the Commission? A He sent them to me at Wagoner and told me how to place them before the Commission.

Q What did you do with the papers? A I have got them yet.

Q Did your brother have copies of these papers? A No, sir.

Q Do you know any other James A. Welch living in the Cherokee Nation? A No I don't.

Q Are you positive these papers were never sent to the Commission? A These were never sent.

Q Were there any other papers ever sent? A I don't know, if they have, there has been other parties put them there, I don't know anything about it.

The Commission 1898 citizenship records examined, and on Docket B, page 27, Case No. 3147, appears following: Edward A. Welch and James A. Welch vs. Cherokee Nation; filed September 7th, 1898; answer filed; application denied at Vinita, Indian Territory, October 16, 1898; no appeal taken; Mays, I.T., postoffice.

Q Was your brother living at Mays at that time, or was Mays his postoffice? A Mays at that time was our postoffice.

Q Are you sometimes known as Edward A. Welch? A Why I don't know about that, I sign my name Edwin A.

Q Was there ever anybody in your family by the name of Edward A. Welch? A No; if there was I don't know anything about it.

Commission: Edwin A. Welch applies for the enrollment of himself as a Cherokee by blood. He is not identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission. He avers that he was born in the State of Texas and came to the Cherokee Nation in 1890. He remained here some three weeks and then went back to the State of Texas and remained there until 1891, since which time he claims to have resided continuously in the Cherokee Nation. It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that the applicant and his brother, James A. Welch, applied to the Commission for admission to citizenship in the Cherokee Nation; that their application was denied, and no appeal taken. The application of Edwin A. Welch would therefore come within the provisions of the Act of Congress approved May 31, 1900, which act provides that the Commission shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, unless the applicant has already been recognized as a citizen and duly and lawfully

enrolled or admitted as such. A copy of the records of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for review, and the applicant will be notified of the decision of the Department at a later date.

.....
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 19th of November, 1901.

M. D. Green
Notary Public.

M 373

IN THE MATTER OF THE APPLICATION OF

Edwin A Welch

FOR ENROLLMENT AS

CHEROKEE CITIZEN

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 374

Cher Memo 374

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 20, 1901.

In the matter of the application of Jacob G. Gilmore for the enrollment of himself and one child as Cherokee by blood.

Jacob G. Gilmore, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Jacob G. Gilmore.
Q How old are you? A 66.
Q What is your postoffice address? A Leavenworth, Kansas.
Q Do you apply for enrollment as a citizen by blood of the Cherokee Nation? A Yes, sir.
Q What degree of Cherokee blood do you claim? A Well my grandmother she is a full blood, and my mother was half.
Q What was your father? A My father was part colored and part Blackhawk Indian.
Q Do you apply for anybody besides yourself? A Four children.
Q Give me the name of the oldest one under 21 years of age?
A Alfred Gilmore.
Q How old is he? A He is 42.
Q He will have to apply for himself; have you got any children under 21 years of age? A One.
Q How old is it? A 18.
Q What is its name? A Mary E. Gilmore.
Q You say she is 18 years old? A Yes, sir.
Q Is she living? A Yes, sir.
Q Is she living with you? A Yes, sir.
Q What was her mother's name? A Mary E. Gilmore.
Q Is her mother living? A No, sir.
Q Was her mother a Cherokee? A No, sir, her mother was part Cherokee and part colored.
Q Have you ever been recognized as a citizen of the Cherokee Nation by the tribal authorities? A I never has been recognized any more than all the nations recognized me as an Indian.
Q Have you ever been recognized by the tribal authorities? A No, sir.
Q Never drawn any money from the Cherokee Nation? A No, sir, never drawn any money.
Q Did you ever make any application to the tribal authorities for enrollment? A Never did.
Q Did you ever apply to the Commission to the Five Civilized Tribes for enrollment? A No, sir, never have.
Q Have you ever lived in the Cherokee Nation? A No, sir.
Q Were either of your parents ever recognized as citizens of the Cherokee Nation? A They were all slaves.
Q Was your mother a slave? A My mother was a slave, my grandmother was a slave, she was stolen from the Cherokees when she was a girl.
Q What tribe? A From the Cherokees, my grandmother.
Q That was before the war? A It was 100 years ago nearly, and they said the way it came about that they came to get her, they were all out hunting and her mother was a girl playing out in the road and this man Montgomery came along riding and picked her up and took her home and concealed her until the raid was over and then he made her go by his name and he had two children by her himself, that is my mother and my mother's sister.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified thereon.

The 1896 citizenship records examined, and the applicant not identified thereon.

Commission: Jacob G. Gilmore applies for the enrollment of himself and his daughter, Mary E. Gilmore, as citizens by blood of the Cherokee Nation. The applicant avers that he has never been recognized as a citizen of the Cherokee Nation, and

that he has never resided within the boundaries of the Cherokee Nation. The tribal rolls have been examined, and neither his name nor that of his daughter appear of record thereon. His application appears to come within the provisions of the Act of Congress approved May 31, 1900, which act provides that the Commission shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribal in Indian Territory unless the person has already been recognized as a citizen and duly and lawfully enrolled or admitted as such.

A copy of the record of the proceedings had in this application will be forwarded to the Secretary of the Interior for his review, and the application will be notified at a later date of the action of the Department in regard to the application.

Applicant's address is 800 High St., Leavenworth.

Since 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.

G. Jones

Witness my hand subscribed before me this the 20th of November, 1901.

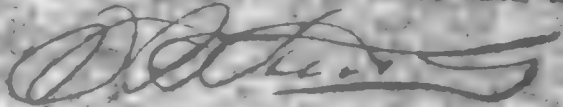
M. D. Green
Notary Public.

In the event of the death of the applicant, it is directed to be recorded as follows on the records of the Nation.

Upon an investigation of the records of the Cherokee Nation in the Department of the Interior, it was determined that the name of the applicant, *John Doe*, is not on the list of those admitted to citizenship by an act of the Cherokee National Council or Commission on Citizenship.

No record can be found which would indicate that either the applicant or his child were ever admitted to citizenship in the Cherokee Nation by the tribal authorities.

It is directed that copies of this statement be filed with the testimony in this case.



Commissioner.

01000

Muskogee, Indian Territory, January 17, 1902.

Mr. Edwin A. Welch,

Sallisaw, Indian Territory.

Dear Sir:

On the 18th day of November, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (26 Stats. 321). The Act of Congress of May 31, 1900 (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Mr. E. A. Wright.

The Commission has, therefore, on this date decided that you are not a citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of your application for enrollment as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Hedges,
Commissioner in Charge.

Encl. C-573.

Register.

m/374

IN THE MATTER OF THE APPLICATION OF

Jacob G. Gilmore et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 375

Cher Memo 375

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 21, 1901.

In the matter of the application of Sarah P. Fenburg for the enrollment of herself and three children as Cherokees by blood.

Sarah P. Fenburg, appearing before the Commission and being duly sworn and examined, testified as follows:

- Q What is your name? A Sarah P. Fenburg.
- Q How old are you? A I am 46 years old, will be 47 this next month.
- Q What is your postoffice address? A Stilwell.
- Q What district are you living in? A Live in Flint.
- Q Do you claim to be a Cherokee by blood? A Yes, sir.
- Q How much Cherokee blood do you claim? A My daddy he was one eighth.
- Q What was your mother, a white woman? A Yes, sir.
- Q Makes you one sixteenth; do you want to apply for anyone besides yourself? A I have three children.
- Q How old is the oldest one? A Going on 14 years old.
- Q Give me its name? A Mary Alice Jane Keys.
- Q How old is that child? A She is going on 14 years old.
- Q What is the next one? A Annes Mercina Keys.
- Q How old is she? A She will be 12 years old at her birthday.
- Q What is the name of the next child? A Sarah Belle Keys.
- Q How old is she? A She is going on 11 years old.
- Q Are these children all living? A Yes, sir.
- Q Are they living with you? A Yes, sir.
- Q They are all your own children? A Yes, sir.
- Q Who is the father of the children? A Jones.
- Q How do they have the name of Keys? A You see I was a Keys.
- Q What is their name, is it Jones or Keys? A Keys, I reckon would be their proper name, where I come from that is the way the children went.
- Q Were you married to Jones? A No, sir.
- Q What was his first name? A John Henry.
- Q Is he living or dead? A Dead.
- Q Was he a white man? A Yes, sir, he was a white man.
- Q What was the name of your father? A Richard Keys.
- Q What was the name of your mother? A Mary Keys.
- Q Through whom do you claim your right to enrollment, your father or mother? A My father.
- Q Do you claim that he was a Cherokee? A Yes, sir, he was a Cherokee.
- Q Are your parents both dead? A Yes, sir, both dead.
- Q Have you ever been recognized as a citizen of the Cherokee Nation? A No, sir.
- Q Is your name on any of the tribal rolls? A Yes that is what I can't tell you, I don't know that.
- Q Have you ever drawn any money from the Cherokee Nation? A No, sir, I never have.
- Q Did you ever apply to the tribal authorities for enrollment? A I come in here in '94 to apply and this here Judge Lynch that was in here, he wasn't judge then, he told me that he would take my case and put it through for \$15, and he never done nothing at it so I heard.
- Q Have you ever drawn any money from the Nation? A No, sir, never have.
- Q Did you ever apply to the Commission for enrollment, to this Commission? A No, sir, not in particular I didn't.
- Q Did you apply in 1896, five years ago, did you make an application then to this Commission for admission to citizenship in the Cherokee Nation? A Not to my recollection I didn't.
- Q Did you have anyone do it for you? A Well I had a man to write but you see I didn't have no witnesses or nothing.
- Q Was he an attorney? A No, sir, he was just a neighbor man.

The tribal rolls of the Cherokee Nation in the possession of the Commission examined, and the applicants not identified on any of said rolls.

Q How long have you been married to your present husband? A I have been married to him, I was married March, 1894.

Q Was he a Cherokee or a white man? A He is a Dutchman.

The 1896 Citizenship records of the Commission examined, and there appears, Docket A., page 10, case No. 60, Sarah P. Fonburg et al. vs. Cherokee Nation; filed August 6, 1896; answer filed; application denied at Vinita, Indian Territory, October 12, 1896; no appeal; Evansville, Ark., given as postoffice.

Q Where were you living five years ago, was Evansville, Arkansas, your postoffice five years ago last summer? A Yes, sir, Evansville was my office then.

Q Did you employ anyone to apply to the Commission for your admission and your children to citizenship in the Cherokee Nation, did you employ an attorney? A No, sir, I didn't employ no attorney.

Q Did you make application to the Commission at that time? A There was a neighbor man, that wrote for me.

Q Sent your papers to the Commission? A ~~Yes~~ I guess he sent them, I don't know.

Q Didn't you ever receive a notice from the Commission that your application had been refused; didn't they send you a notice that your application had been refused? A They sent me something, I don't know whether you would call it a notice or not.

Q Do you remember what was in it? A I don't remember what was in it.

Q It appears from the records that you applied to the Commission in 1896 and were rejected.

Commission: Sarah P. Fonburg applies for the enrollment of herself and her three children, Mary A. J. Keys, Annes M. Keys, and Sarah B. Keys, for enrollment as citizens by blood of the Cherokee Nation. Neither the applicant nor any of her children are identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission. It appears that Sarah P. Fonburg was an applicant before the Commission in accordance with the act of Congress approved June 10, 1896, for admission to citizenship in the Cherokee Nation; that her application was denied by the Commission and no appeal taken therefrom. The application which she makes on her own behalf and on behalf of her minor children clearly comes within the provisions of the act of Congress approved May 31, 1900, which provides that this Commission shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory unless the applicant has already been recognized as a citizen and duly and lawfully enrolled or admitted as such. A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review, and the applicant will be notified at a later date of the action of the Department in regard to her application.

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 22nd day of November, 1901.

[Signature]
Notary Public.




Memo. No. 376.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washoe, D.C., January 9, 1908.

In the matter of the application of Sarah P. Penbury et al to
be enrolled as citizens of the Cherokee Nation.

Upon an examination of the records of the Cherokee Nation in the
possession of the Commission, the same fail to show that

It is directed that copies of this statement be filed with the
testimony in the above case.



Commissioner.

PAPER CO. HOLYOKE

MADE IN U.S.A.



Muskogee, Indian Territory, January 17, 1902.

Mr. Jacob G. Gilmore,
Leavenworth, Kansas.

Dear Sir:

On the 20th day of November, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your minor child, Mary E. Gilmore, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (29 Stats. 521). The Act of Congress of May 31, 1900 (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by

Mr. J. S. Graft.

the Secretary of the Interior."

The Commission has, therefore, on this date decided that you and your minor child above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said child as citizens of said Nation.

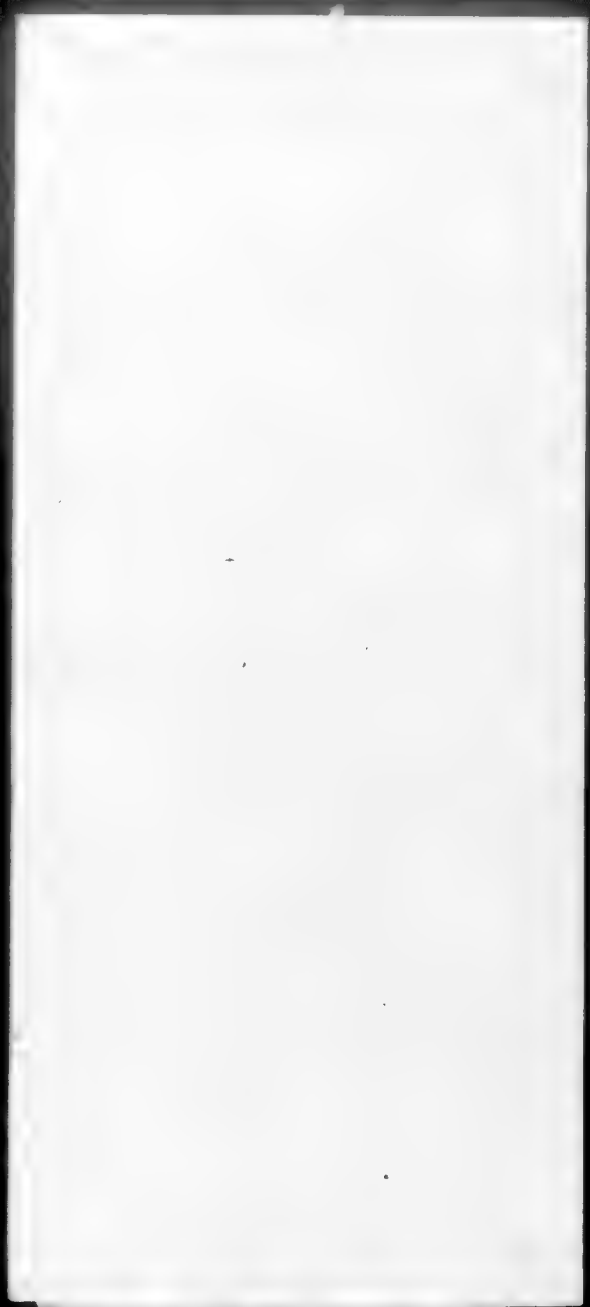
A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) S. B. Hooper,

Commissioner in Charge.

Encl. C-374.



Muskogee, Indian Territory, January 17, 1902.

Mrs. Sarah P. Perburg,

Stillwell, Indian Territory.

Dear Madam:

On the 21st day of November, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your three minor children, Mary A. J. Keys, Anne M. Keys, and Sarah B. Keys, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1896 (29 Stat. 821). The Act of Congress of May 31, 1900 (31 Stat. 821), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof,

Mrs. S. P. Y. ~~12~~.

and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your three minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Hodges

Commissioner in Charge.

Encl. C-375.

Register.

IN THE MATTER OF THE APPLICATION OF

Sarah V. Fontburg et al

FOR

CHERONYMUS WILKINS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 376

Cher Memo 376

Cherokee Rejected, Vane.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washg., D. C., December 6, 1901.

In the matter of the application of Nancy S. Martin for the enrollment of herself and three children as Cherokee Indian citizens by blood; being sworn by Commissioner Needles and examined by Commission and testified as follows:

- Q What is your full name? A Nancy Carolina Martin.
Q How old are you? A 65 the 12th of November October.
Q What is your post-office address? A Irving, Illinois, Montgomery County.
Q Do you make application for enrollment as a citizen by blood of the Cherokee nation? A Yes.
Q Do you apply for enrollment as a citizen by blood? A Yes sir, I can't take post.
Q How much Cherokee blood do you claim? A Well my grandfather was half Cherokee.
Q Your mother was a white woman? A She was three-quarters, grand-mother.
Q Do you apply for any one besides yourself? A Well if I could get the children enrolled I would like to.
Q Have you any children under 21 years of age? A Yes sir, I have got three.
Q How many are married? A Two sir.
Q What is the name of the oldest one? A William is Oscar William Martin.
Q How old is he? A 19 in September.
Q What child is her name is your second?
Q Is he married? A No sir.
Q How old is she? A 18 in October last.
Q What child is this Hamilton Martin?
Q How old is she? A 14 last May.
Q Is she married? A Yes sir.
Q Are they alive and living with you at this time? A Yes sir.
Q Is their post-office address Irving, Illinois? A Yes sir.
Q Who is the father of the children? A Andrew Martin.
Q Is he living? A No sir.
Q Is he a Cherokee or a white man? A He is a white man.
Q What is the name of your father? A James Paul.
Q Is your father living or dead? A He is dead.
Q Was he a Cherokee or a white man? A He was part Cherokee.
Q What was the name of your mother? A Polly Smith before she was married.
Q Is she living? A No sir.
Q Was your mother a Cherokee or a white woman? A She was a Cherokee, she's half-blood Cherokee, but she was Cherokee.
Q Has she ever been recognized as a citizen of the Cherokee Nation? A No sir.
Q Is that named any of the tribal rolls? A No sir, my name is not.
Q Do you ever apply to this Commission before? A Not before, no sir.
Q How long have you resided in the Cherokee nation? A I never was here before in my life.
Q How many times application to the tribal authorities for enrollment? A Not before.
Q Was it the first application for citizenship you have ever made? A Yes sir.
Q How long have you been any money as a citizen of the Cherokee nation? A No sir.

1898 unobstanted roll of citizens of the Cherokee nation applied for applicant and name not found.

1896 census roll and 1894 pay roll of citizens of the Cherokee Nation examined for applicant and her children, and names

McIntosh, Indian Territory, January 17, 1902.

Mrs. Nancy C. Martin,
Irving, Illinois.

Dear Madam:

On the 8th day of December, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your three minor children, Oscar W. Martin, Lena B. Martin and Ella B. Martin, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 18, 1898 (30 Stat. 221). The Act of Congress of May 21, 1900 (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof,

Mrs. H. C. H.,—*js*.

and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your three minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. E. Keelley

Commissioner in Charge.

Encl. C-576.

Register.

M 376

IN THE MATTER OF THE APPLICATION OF

Nancy C. Martin et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 377

Cher Memo 377

V - [unclear]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

JAN 14 1902

[Signature]

Muskogee, Indian Territory, January 17, 1908.

Mrs. Eliza J. Miller,
Alaska, Indian Territory.

Dear Madam:

On the 9th day of December, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, Elmer I. Miller, James E. Miller, Annie E. Miller, Rosa Miller, and Stanley E. Miller, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 19, 1898 (30 Stats. 231). The Act of Congress of May 21, 1900 (31 Stats. 231), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and it refu-

M...

IN THE MATTER OF THE APPLICATION OF

Eliza J. Miller et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 378

Cher Memo 378

6 - June 1902

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE TERRITORIES

FILED
JAN 14 1902

[Handwritten signature]

OFFICE OF THE COMMISSIONER
WASHINGTON, D. C.

Hattiesburg, Indian Territory, January 17, 1902.

Mrs. Sarah P. Floyd,
Hauge, Indian Territory.

Dear Madam:

On the 19th day of December, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation nor in possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1900 (31 Stat. 321). The Act of Congress of May 31, 1900 (31 Stat. 321), provides

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Mrs. S. P. P.—~~2~~.

The Commission has, therefore, on this date decided that you are not a citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of your application for enrollment as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. R. Needles.

Commissioner in Charge.

Encl. C-378.

Register.

M 378

IN THE MATTER OF THE APPLICATION OF

Sarah F. Floyd

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 379

Cher Memo 379

Exhibited and read to the Court the following...

John W. ...

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In the matter of the application of John Barber for the enrollment of himself and two children as citizens by blood of the Cherokee Nation, as might appear by Chapter 1000, being the act, entitled as follows:

BY THE COMMISSIONER:

- Q What is your name? A John Barber.
- Q How old are you? A Fifty years old.
- Q Your present place address? A Sango, Indian Territory.
- Q What district do you live in in the Cherokee Nation? A Sequoyah.
- Q You desire to make application for enrollment as a Cherokee by blood? A Yes, sir.
- Q What degree of Cherokee blood do you claim? A My mother was a full-blood Cherokee.
- Q Was your father a white man? A Yes, sir.
- Q You desire to apply for anyone besides yourself? A I have two children and my husband.
- Q Is your husband a white man? A Yes, sir.
- Q What is the name of your oldest child? A Willie K. Barber.
- Q How old is he? A Seven years old.
- Q What is the name of the next child? A Clarence Raymond Barber.
- Q How old is he? A Four years old.
- Q These children both living at home with you? A Yes, sir.
- Q Are those the two children there? A Yes, sir.
- Q Who is the father of the children? A John Barber.
- Q Is he alive or dead? A Yes, sir, he is alive.
- Q Is he a Cherokee or a white man? A A white man.
- Q What is the name of your father? A My father was Bruce.
- Q Is he full name? A James Bruce.
- Q Is he living or dead? A He is dead.
- Q Was your father a Cherokee or a white man? A My father was a white man.
- Q What is the name of your mother? A She was a Cheate.
- Q What was her full name? A Jennie Cheate.
- Q Is she living? A No, sir, she is dead.
- Q Your mother was a Cherokee? A Yes, sir.
- Q How long have you resided in the Cherokee Nation? A Well I have lived there off and on now for fifteen years, but not altogether. I have been part of the—
- Q How long have you actually resided in the Cherokee Nation? A Well, about seven months.
- Q Seven months? A Yes, sir.
- Q Where did you come from when you came to the Cherokee Nation? A Well, I came from Alabama to Arkansas, and from here over to the Cherokee Nation.
- Q That was about seven months ago? A Yes, sir, and I have lived here in the Cherokee Nation.
- Q When was the first time that you ever came to the Cherokee Nation? A Oh, that's fifteen years ago.
- Q How long did you remain here? A Well, I have been in the Nation and in Fort Smith together ever since—
- Q How long did you remain at that time when you came here fifteen years ago? A Well, about a year.
- Q Then where did you go? A Went back to Fort Smith.
- Q How long did you stay at Fort Smith? A Well, stayed back off and on, I was part of the time in the Nation and part of the time in Arkansas.
- Q How long did you live in Alabama? A Well, I couldn't tell, I was young when I came from Alabama.
- Q You went to Alabama after you came to the Cherokee Nation, did you not? A No, sir.
- Q Didn't you state that you came to Arkansas seven months ago from Alabama? A No, I went to the Nation from Fort Smith seven months

WALLER PAPER CO. PHOTO

ago, I came fifteen years ago from Alabama.

Q Have you ever been back in Alabama since you came from there?

A No, sir.

Q How long at any one time have you resided in the Cherokee Nation?

A Well, not over ten months at a time.

Q Do you own any property here? A No, sir.

Q Have you ever been recognized as a citizen of the Nation? A No,

Q Did you ever apply to this Commission for admission? A No, sir.

Q Have you ever drawn any money from the tribal authorities? A No,

Q Have your children ever drawn any money? A No, sir.

The authenticated roll of 1886 examined and the name of Lou Barber does not appear of record thereon.

The census roll of 1886 examined, and neither the name of the applicant nor of her two children appears of record thereon.

Lou Barber applies for the enrollment of herself and her two children, Willis E. Barber and Clarence R. Barber as citizens by blood of the Cherokee Nation. The applicant avers that she has been living in the Cherokee Nation and in the state of Arkansas for the last fifteen years. She avers that the longest she ever lived in the Cherokee Nation was for a period of ten months. She is not identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission. Neither are the names of the children identified on any of the rolls. The applicant avers that she has never been in any manner recognized as a citizen. This application clearly comes within the provisions of the Act of Congress approved May 31, 1900, which act provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for review, and the applicant will be notified at a later date of the final action of the Commission as well as of the action of the Department in the matter of her application.

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

Arthur G. Croninger

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

[Signature]

Commissioner.

✓ - Memo - 379

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE TWO CIVILIZED TRIBES

FILED
JAN 14 1902


ACTING CHAIRMAN

Langley, Indian Territory, January 17, 1908.

Mrs. Lou Barker,

Langley, Indian Territory.

Dear Madam:

On the 12th day of December, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Willie L. Barker and Clarence R. Barker, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1906 (34 Stat. 221). The Act of Congress of May 31, 1900 (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof,

Mrs. L. B.—

and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your two minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

(Signed) T. B. Swales

Commissioner in Charge.

Encl, O-579.

Register.

M. 37

IN THE MATTER OF THE APPLICATION OF

Low Barber et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 380

Cher Memo 380

11

Department of the Interior,
Commissioner of the Cherokee Nation,
Washington, D. C., December 12, 1901.

In the matter of the application of William A. Lewis for the enrollment of himself and his four children as citizens of the Cherokee Nation.

Applicant represented by N. A. Gibson, attorney, Muskogee, Indian Territory.

The said William A. Lewis, being duly sworn, testified as follows:

BY THE COMMISSIONER:

- Q What is your name? A My name is William A. Lewis.
Q How old are you, Mr. Lewis? A I was born in 1817, 5th of March.
Q About eighty-five years old then? A Yes, sir.
Q What is your post-office address? A Fort Gibson.
Q You are living in Illinois District, Cherokee Nation? A Yes, sir.
Q Do you desire to make application for enrollment as a Cherokee by blood? A No, for it has been proved—
Q You claim to be a Cherokee by blood? A It has been proved, sir.
Q Do you apply for anyone besides yourself? A My children and grand-children, yes, sir.
Q Are they all over 21 years of age? A No, not all.
Q Your children are all over 21 years of age, are they? A No, I have got some of them, some of them are not a year old, one is 18.
Q Not your grand-children? A My own children.
Q What is the name of the oldest one? A The oldest one is 54 years old.
Q What is the name of the child that is 18 years old? A Well, Frances Courtney; and Henry Merryweather, and then Florence and Richard.
Q Florence and Richard? A Yes, sir.
Q Is that all there are under 21? A Yes, sir, that is all under 21.
Q How old is Frances? A She is past eighteen.
Q How old is Henry? A He is sixteen, fifteen or sixteen.
Q And Florence? A Well, she is four, three or four.
Q How old is Richard? A Two.
Q Are these children all living with you? A Yes, sir.
Q Who is the mother of the children? A The mother of two of them is dead.
Q Who is the mother of Frances? A She was Sarah Brown, she is dead.
Q Sarah did you say? A Sarah Brown, she is dead, Henry's mother is dead, the same woman.
Q She is the mother of Frances and Henry? A Yes, sir.
Q Who is the mother of Florence? A Well, she is living.
Q What's her name? A J. B. Lewis.
Q What is the J for? A Sarah's for, I reckon, after her brother.
Q She is living? A Yes, sir.
Q Is she the mother of both Florence and Richard? A Florence and Richard.
Q Were those two wives Cherokees or white women? A White women.
Q Does your name appear on any of the tribal rolls? A Well, I come to that Nation here as a soldier, I think, I was not enrolled because I was a soldier, I was twenty-two years old, a soldier.
Q Have you ever been recognized in any manner by the tribal authorities? A You see I have never been denied a citizen.
Q What was that? A Well, I was I think, I didn't know the difference, now after the war was over I came, they told me I had better not be enrolled, when I applied to be enrolled in 1861, and made application at Tahlequah, and they rejected me on the rolls because I had taken the oath of allegiance to the Government.

Q You have never drawn any money since that time from the United States? A No, sir, I was a soldier enlisted in the army of the way here.

Q Had you apply to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A I did in 1881, sir.

Q In 1896, to this Commission, that is, about five years ago? A Yes, sir.

It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that one W. A. Lewis applied for citizenship on the 8th day of September, 1896; that the answer of the Nation was filed, and the application denied on the 4th day of November, 1896. It further appears that an appeal was taken from the decision rendered by the Commission, to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission rejecting the said W. A. Lewis was confirmed.

Q Have either of your children ever been recognized as citizens? A No, but they went to school, went to school always.

The 1880 roll examined for the name of the applicant, and the same not found thereon.

The 1896 roll examined for the names of the applicant and his four children, and the same not found thereon.

William A. Lewis applies for the enrollment of himself and his four minor children, Elizabeth, Henry, Mary, and John, as citizens by blood of the Cherokee Nation. The applicant states that he is not a recognized citizen of the Cherokee Nation; neither his name nor the names of his children appear on any of the tribal rolls now in the possession of the Commission. It further appears that the applicant applied to this Commission in accordance with the Act of Congress of June 10, 1896, for admission to citizenship in the Cherokee Nation; that his application was denied, and an appeal taken from the decision of the Commission to the United States Court, where the decision of the Commission was sustained. It would appear from the testimony in this case that this application comes within the provisions of the Act of Congress approved May 31, 1900, which provides: "That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior. A copy of the record of the proceedings had in the matter of the application of the said William A. Lewis for the enrollment of himself and his four minor children as above enumerated, will be transmitted to the Secretary of the Interior, and the applicant will be notified at a later date by the Chief of the Bureau of the Commission, as well as of the action of the Department in regard to his application.


Wm. D. Crawford, Chief of the Bureau, states that he transmitted to the Commission to the Five Civilized Tribes, Oklahoma Territory, the foregoing testimony, and that the same was received by the Commission on the 10th day of October, 1900, and that the same was filed in the office of the Commission on the 11th day of October, 1900.

[Handwritten signature and scribbles]

1 - Memo 300

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JAN 14 1902


ACTING CHAIRMAN

Muskogee, Indian Territory, January 17, 1908.

Mr. William A. Lewis,

Port Gibson, Indian Territory.

Dear Sir:

On the 18th day of December, 1901, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your four minor children, Frances C. Lewis, Henry M. Lewis, Florence Lewis, and Richard Lewis, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 10, 1898 (30 Stats. 381). The Act of Congress of May 31, 1900 (31 Stats. 291), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its

No. 7. 2. 1900.

refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this date decided that yourself and your four minor children above named are not citizens of the Cherokee Nation, and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are also informed that the Commission has on this date forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision. The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) T. B. Needles,

Commissioner in Charge.

Encl. G-300.

Register.

M/380

IN THE MATTER OF THE APPLICATION OF

William A. Lewis et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Chem Memo 381

Chem. Memo 381

In the matter of the application of China A. Johnson for enrollment of herself and her son, Charley Nelson, as members of blood.

China A. Johnson, being duly sworn and examined by the undersigned or Needles, testified as follows:

Q What is your name? A China Johnson, it was China Howell.
Q How old are you? A I was 27 the 11th of last November.
Q What is your postoffice address? A Briartown, Canadian District.
Q Do you apply to be enrolled as a Cherokee by blood? A Yes, sir.
Q Who do you want to enroll besides yourself? A One more, just the one child is all I have got.
Q What is the child's name? A Charley Nelson; I have been married twice.
Q How old is your son Charley? A He is going on 12 years old.
Q Are you married now? A Yes, sir.
Q What is your husband's name? A Johnnie Johnson.
Q What was your former husband's name? A Wilson Nelson.
Q Is he living? A No, sir, he is dead.
Q What was your father's name? A Erice Howell.
Q Is he living? A No, sir, he has been dead about two years.
Q What is your mother's name? A Sarah Howell.
Q Is she living? A Yes, sir, I reckon, she was the last I heard from here.

Q Is your name on any of the rolls of the Cherokee Nation? A I reckon it is, they registered me when I was quite young, and a man by the name of Hafner came round to register me, and they registered me again.

Q Where were you born? A I was born in Georgia.

Q How long have you lived in the Cherokee Nation? A I have been here seven years in March.

Q Where did you move from here? A Georgia, Murray County.

Q You ever been recognized by the Cherokee authorities, as a citizen? A I reckon so.

Q Ever draw any money? A We hadn't come here when they draw, and we never have drawn ours as yet, they had done drawed before we came.

Q Where did your father die? A He died at Briartown in Canadian.

Q What was your name in 1886, twenty years ago? A Howell.

The 1886 authenticated roll of Cherokee citizens examined, and the applicant not identified on said roll.

Q In 1896, five years ago, what was your name then? A Nelson.

The 1896 census roll of Cherokee citizens examined, and the applicant and her son not identified on said roll.

Q Do you know whether you applied in 1896 to the Dawes Commission?

A Well I don't recollect for certain whether we did or not, I heard him tell but I have forgot it has been so long ago.

Q Where was your child, Charley Nelson, born? A He was born in Georgia.

Q As I understand you then, you were born and raised in Georgia and removed to the Cherokee Nation about seven years ago? A Yes, sir.

Commissioner: The 1896 records examined, and the name of Erice M. Howell is found as having applied. Applicant says that was the name of her father.

Q Is your name China A.? A Yes, sir, China Howell.

Q Well, what is your middle name? A All my name, China Ann.

Commissioner: Upon examination of the records of the Dawes Commission, it is found that Erison M. Howell applied to have himself and his daughter, China A. Nelson, altogether, readmitted to citizenship in the Cherokee Nation, on the 6th day of September, 1896. The record shows that the application was denied on the 24th day of November, 1896, and that no appeal

Cherokee N-341.

COPY

McAlester, Indian Territory, April 9, 1902.

Mrs. Chinn Ann Johnson,

McAlester, Indian Territory.

Sir:

On January 2, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of your self and your minor child Charley Nelson, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been expelled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stat. 521).

The act of May 31, 1900, (31 Stat. 521), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

C. J. ...

The Commission has, therefore, on this day decided that you and your son above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said son as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be fully communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

James D. ...
Acting Chairman.

Encl. N-381.
Register,

COMMISSIONERS
HENRY L. DAWES.
TAMM BIRNEY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

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

NOTED IN REPLY TO THE FOLLOWING

Cher. Mem. 581.


Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Chas. A. Johnson et al., Cherokee Mem. No. 581, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 19th day of May, 1902.

Very respectfully,



Acting Chairman.

Mar 87
755

IN THE MATTER OF THE APPLICATION OF

China A Johnson et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31
MEMORANDUM

Cher Memo 302

Cher Memo 382

u m 382

Comptroller.

Subscribed and sworn to before me this twenty first day of 1805.

Notary

True and correct transcript of the stenographic notes taken at

testimony and proceedings in the case of the late John A. ...

Commissioner of the State of New York, in the matter of the

JAN 16 1805

COMMISSION TO THE ...

... the ...

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RESPECTED, MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 6, 1902.

In the matter of the application of Minerva Elizabeth Owens for the enrollment of herself and five children as Cherokee Indian citizens by blood; being sworn, - and examined by the Commission she testified as follows:

- Q What is your name? A Minerva Elizabeth Owens.
Q How old are you? A Thirty years old.
Q What is your post-office address? A Tange.
Q Is that in the Indian Territory? A Yes sir.
Q What district do you live in? A Boggywah.
Q Do you claim to be a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A Quarter-blood.
Q Do you desire to make application for any one besides yourself?
A Five children.
Q What is the name of the eldest child? A Vera Mae Owens.
Q How old is she? A Thirteen.
Q What is the name of the next child? A David J. Owen.
Q How old is David J.? A Twelve.
Q Next child? A Harry E.
Q How old is he? A He is nine years old.
Q Next child? A May.
Q How old is she? A Seven.
Q What is the name of the next child? A Marshall.
Q How old is he? A He is two years old.
Q Is that a girl or a boy? A Girl.
Q Is that all? A Yes sir.
Q Are these children living? A Yes sir.
Q Are they living with you? A Yes sir.
Q Who is their father? A Richard Owens.
Q They all have the same father? A Yes sir.
Q Is he living? A Yes sir.
Q Is he of a Cherokee or a white race? A He is a white man.
Q What is the name of your father? A James F. Floyd.
Q Is he living? A Yes sir.
Q What is the name of your mother? A Sarah F. Floyd.
Q Is she living? A Yes sir.
Q You claim your right to enrollment through your mother? A Yes sir.
Q Have you ever been recognized in any manner by the tribal authorities of the Cherokee Nation as a citizen? A No sir.
Q Does your name appear upon any of the rolls? A No sir.
Q Did you ever apply to the authorities for enrollment, or admission to citizenship? A No sir.
Q Did you ever apply to this Commission for admission to citizenship?
A No sir.

1880 authenticated roll, 1896 census roll and the 1894 pay roll of citizens of the Cherokee Nation examined; the applicants and names not found thereon.

1896 citizenship docket examined; all bills in accordance with act of Congress approved June 20, 1896, examined and it does not appear that Minerva Elizabeth Owens made application to the Commission for admission to Cherokee citizenship under the provisions of said act.

By Commission: Minerva E. Owens applies for the enrollment of herself and five minor children, to-wit: Vera Mae, David J., Harry E. May and Marshall Owen and claims by blood of the Cherokee Nation. Neither the applicant nor any of her children were identified on the rolls of the Cherokee Nation and in the

-2-

applicant applied to the Commission for the admission to citizenship in the Cherokee Nation under the provisions of the Act of Congress approved June 10, 1896. It would appear that from the testimony in this case that this application clearly comes within the provisions of the Act of Congress approved May 31, 1890, which provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or have any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and legally naturalized or admitted as such, and the review of such applications shall be final when approved by the Secretary of the Interior."

A copy of the proceedings had in the matter of this applicant will be forwarded to the Secretary of the Interior for his review and final decision and the applicant will be notified at a later date of the action of the Department as regards her application.

595 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 transcript of his stenographic notes thereof.

Subscribed and sworn to before me this January 22, 1902.



Referred to
Chief Clerk

By (insert name)
James B. [unclear]

THE COMMISSIONER OF THE LAND OFFICE

M 382

after the same is made known to the Commission
The Commission's final report will be duly considered by the
Secretary.

As a body of the Commission, for the consideration and final de-
cision to the Secretary of the Interior, the Commission of the
Interior. The Commission has on this day

A copy of the report of the Commission in this case is being
sent for yourself and your wife children as citizens of said Nation
and especially as receiver, counsel, or wife and record of the
Commission to the Secretary of the Interior, the Commission is at-
tention and this and finally subject as mentioned in such and
that five other children were named and not citizens of the
The Commission has, therefore, on this day decided that you are

X.P.O.S.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Minerva Elizabeth Owens,
Wingo, Indian Territory,

Sir:

On the 6 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and five minor children, Wera Maud Owens, David J. Owens, Harry N. Owens, May Owens and Burvell Owens, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authority of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Courts in Indian Territory as usual, in accordance with the provisions of the act of June 20, 1900, (29 Stats. 381).

The act of May 31, 1902, (31 Stats. 381), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any report on any application of any person for enrollment as a member of any of the Five Civilized Tribes, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and the refusal of such enrollment shall be final when approved by the Secretary

N.A.C-2.

The Commission has, therefore, on this day decided that you and your five minor children above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for yourself and your said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded to the Secretary of the Interior, Department of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

IN WITNESS WHEREOF, THE CHIEF OF BUREAU, THIS 12th DAY OF MARCH, 1904.

W. H. HARRIS, Chief of Bureau

W. H. HARRIS,
Chief of Bureau

COMMISSIONERS
HENRY L. DAWES,
TANS SIKSY,
THOMAS S. NEEDLE,
C. R. BRCKINRIDGE

ALLISON L. AVLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Washago, Indian Territory, May 20, 1902.

W. V. Hastings, Esq.,

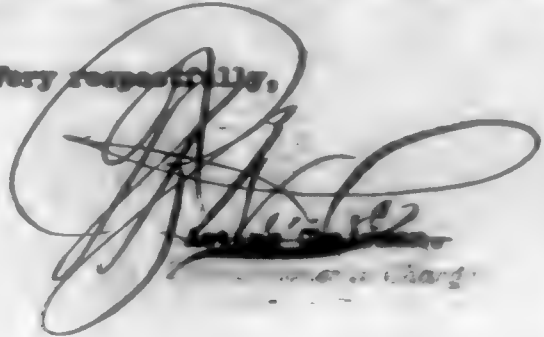
Attorney for Cherokee Nation,

Washago, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Minerva H. Owens-Cherokee Memorandum No. 382, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



CHEROKEE NATION-111

M

IN THE MATTER OF THE APPLICATION OF

Memoria E. Owen et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM...

Cher Memo 383

Cher Memo 383

A M 383.

COMMISSIONER OF THE GENERAL LAND OFFICE

FILED
JAN 13 1962

[Signature]
ATTORNEY GENERAL

Commissioner.

[Large handwritten signature]

Subscribed and sworn to before me this January 25th, 1962.

and the complete transcripts of his speech before the Senate.
Commissioner and proceedings in this case and further proceedings in a
Commissioner for the said civilized tribes and further proceedings in a
M. J. Green, before the said only under, please find an acknowledgment in the

RECORDED, 1902:

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D.C., January 6, 1902.

In the matter of the application of Gusta Christy for enrollment as a Cherokee Indian citizen by blood, being sworn, and examined by the Commission she testified as follows:

- Q What is your name? A Gusta Christy.
Q How old are you? A Twenty-two.
Q What is your post-office address? A Benge, Indian Territory.
Q What district do you live in? A Sequoyah.
Q Do you claim to be a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A Quarter.
Q Do you make application for the enrollment of anyone besides yourself? A No sir.
Q What is the name of your father? A James F. Floyd.
Q Is he living? A Yes sir.
Q What is the name of your mother? A Sarah Frances.
Q Is she living? A Yes sir.
Q Do you claim your right to enrollment through your father or mother?
A My mother.
Q Have you ever been recognized in any manner by the tribal authorities of the Cherokee Nation as a citizen? A No sir.
Q Did you ever apply to the authorities for admission to citizenship? A No sir.
Q Did you ever apply to the Commission for admission? A No sir.

1890 authenticated roll, 1896 census roll and the 1894 pay roll of citizens of the Cherokee Nation examined for the applicant and her name not found thereon.

1896 Citizenship Decree made in accordance with the act of Congress approved August 12, 1896, June 10, 1896 examined and it is not found that this applicant made application to the Commission for admission to Cherokee citizenship under the provisions of that act.

Commissioner Gusta Christy applies for the enrollment of herself as a Cherokee by blood. She is not identified on any of the tribal rolls of the Cherokee Nation, now in the possession of this Commission, nor does it appear that she was an applicant before the Commission for admission to citizenship in the Cherokee Nation in accordance with the provisions of the act of Congress approved June 10, 1896. It would appear from the testimony in this case that the applicant's application should come within the provisions of the act of Congress approved May 21, 1902, which provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully declared admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the report of the proceedings in the matter of the application of Gusta Christy will be forwarded by the Secretary of the Interior to the Senate and House of Representatives, and the Department of the Interior will be kept advised of the progress of the application in regard to her application.

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 January 7th, 1922.

[Signature]

Commissioner.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Gusta Christy,
Monga, Indian Territory.

Madam:-

On the 6 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Stat. 381).

The act of May 31, 1900, (31 Stat. 381) provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

C.C.-2.

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By _____
(SIGNED)

Jams Bixby.

Acting Chairman.

Cherokee M-383.
Register.

COMMISSIONERS
MERRY L. DAWES.
TAMM BIRNEY
THOMAS B. NEEDLES.
C. R. BRIDGEMAN.

ALLISON L. AVLESDOTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Case No. 341.

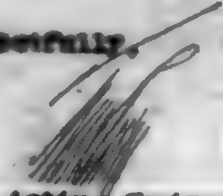
Washoe, Indian Territory, May 27, 1900.

W. T. Hastings, Esq.,
Attorney for Cherokee Nation,
Washoe, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1900, rejecting the application of Gusto Christy, Cherokee Case No. 341, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1900.

Very respectfully,



Acting Chairman.

Case No. 341

W 383
300

IN THE MATTER OF THE APPLICATION OF

Gusta Christy

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 384

Cher Memo 384

486 W 2

Engraved and worn in gold on this laurel day, 1903.

RECORDED
JAN 16 1903
CHIEF CLERK

[Handwritten signature]

Countersigned

and the Commission on the part of the Secretary of the Interior. The Commission on the part of the Secretary of the Interior has the honor to acknowledge the receipt of the report of the Commission on the part of the Secretary of the Interior, and to inform you that the same has been forwarded to the Secretary of the Interior for his consideration.

Remains per application.

at a later date of the first action of the Department in interest for his review, and the applicant will be notified of this application will be forwarded to the Secretary of the Interior.

A copy of the records of the proceedings as to the matter referred to the Interior.

of such applications shall be filed when approved by the Secretary and the applicant shall be notified of the result of the application. The applicant shall be notified of the result of the application. The applicant shall be notified of the result of the application.

REJECTED, MEMO.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 6, 1902.

In the matter of the application of Florence Butler for the enrollment of her self and two children as Cherokee Indian citizens by blood; being sworn, - and examined by the Commission she testified as follows:

- Q What is your name? A Florence Butler.
Q How old are you? A Twenty-two years old.
Q What is your post-office address? A Benge, Indian Territory.
Q What district do you live in? A Sequoyah.
Q You claim to be a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A Quarter.
Q You desire to apply for anyone besides yourself? A My two children.
Q What is the name of the eldest one? A Gracie Butler.
Q How old is she? A Four years old.
Q What is the name of the next one? A Eva Hazel Butler.
Q How old is she? A Two years old.
Q Are these children both living? A Yes sir.
Q Are they living with you? A Yes sir, both present.
Q What is their father's name? A Luther Butler.
Q Is he living? A Yes sir.
Q Is he a white man? A Yes sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A By the tribal authorities of the Nation? A No sir.
Q Did you ever make application to the tribal authorities of the Cherokee nation for admission to citizenship? A No sir.
Q Did you ever apply to this Commission for admission to citizenship? A No sir.

1880 unauthenticated roll 1894 census roll and the 1894 pay roll of citizens of the Cherokee Nation examined for applicants and names not found thereon.

1896 Citizenship Dockets made in accordance with the act of Congress approved June 10, 1896, examined and it is not found that Florence Butler was an applicant for admission under the provisions of that act.

- Q What is the name of your father? A J. F. Floyd.
Q Is he living? A Yes sir.
Q What is your mother's name? A S. F. Floyd, Sarah F.
Q Is she living? A Yes sir.
Q Do you claim your right to enrollment through your mother? A Yes sir.

Commission: Florence Butler applies for the enrollment of herself and two minor children, Gracie and Eva Hazel Butler as citizens by blood of the Cherokee Nation. Neither the applicant nor her children are identified on any of the tribal rolls of the Cherokee Nation in the possession of this commission, nor does it appear that the applicant was an applicant before the Commission for admission to citizenship in accordance with the provisions of the Act of Congress approved June 10, 1896. It would appear that from the testimony in this case that this application clearly comes within the provisions of the Act of Congress approved May 31, 1900, which provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not

receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review, and the applicant will be notified at a later date of the final action of the Department as regards her application.

H. 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.

H. D. Green

Subscribed and sworn to before me this January 7th, 1902.



Commissioner

COPY.

Mustang, Indian Territory, April 9, 1902.

Mrs. Florence Butler,

Mustang, Indian Territory,

Madam:

On the 3 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Gracie Butler and Eva Hazel Butler as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stats. 341).

The act of May 31, 1900, (31 Stats. 421), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

P. 2.-2.

The Commission has, therefore, on this day decided that you and your two minor children ~~who~~ named are not citizens of the Cherokee Nation and duly and lawfully enrolled as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known by the Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

James P. [unclear]
[unclear] Chairman.

Encl. N-204
Register.

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

ALLISON L. AYLESWORTH.
SECRETARY.

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

PLEASE IN REPLY TO THE FOLLOWING
Character No. 584

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 20, 1908.

W. W. Hastings, Esq.,


Attorney for Cherokee Nation,

Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1908, rejecting the application of Florence Butler et al, Cherokee Memorandum No. 584, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1908.

Very respectfully,



Commissioner in Charge.

Character No. 584

IN THE MATTER OF THE APPLICATION OF

Florence Butler et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED
ACT OF MAY
MEMO

Cher. Memo 385

Cher Memo 385

2 M385

COMMISSION ON THE ...

FIELD
JAN 16 1962

CHAIRMAN

Copy retained.

Subscribed and sworn to before me this January 16th, 1962.

[Signature]

five and one-half pages of his stenographic notes for each session. He has proceeded in this case and that the transcript in a continuation to the five civil cases he collected recorded the ...
M. D. Green, Jr. is first only sworn, unless that as stenographer to the

MINNEAPOLIS, MINN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegon, I. T., January 2, 1893.

In the matter of the application of Thomas E. Floyd for enrollment as a Cherokee Indian citizen by blood, being sworn, and examined by the Commission he testified as follows:

- Q What is your name? A Thomas E. Floyd.
Q How old are you? A Twenty-seven.
Q What is your present occupation? A Farmer.
Q What district do you live in? A Cherokee.
Q You claim to be a Cherokee by blood? A Yes sir.
Q What degree of blood do you claim? A Quarter, I think.
Q Do you apply for enrollment under yourself? A No sir.
Q What is the name of your father? A James F. Floyd.
Q What is your mother's name? A Sarah Brown.
Q Are your parents both living? A Yes sir.
Q You claim your right to enrollment through your mother? A Yes sir.
Q Have you ever been recognized in any manner by the tribal authorities as a citizen of the Cherokee nation? A No sir.
Q Did you ever apply to the tribal authorities for admission to citizenship? A No sir.
Q Did you ever apply to this Commission for citizenship? A No sir.

1890 authenticated roll, 1895 census roll and 1898 pay roll of citizens of the Cherokee nation examined and did not find Thomson.

1895 Citizenship Roll of the Commission made in accordance with the act of Congress approved March 3, 1890, and it is not found that this applicant made application to the Commission for admission to citizenship under said act.

By Commission Thomas E. Floyd's application for the enrollment of himself as a Cherokee citizen by blood. It is not testified on any of the rolls of the Cherokee Nation due to the possession of this Commission, neither does it appear that he was an applicant before this Commission after the passage of the Act of Congress approved June 15, 1891. It appears that this application of Floyd was made within the provisions of the Act of Congress approved May 21, 1890, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or take any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully admitted or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in connection with the application of said Thomas E. Floyd shall be furnished to the Secretary of the Interior for his review and final decision, and the applicant shall be notified of a later date of the action of the Department as regards his application.

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 thereon.

W. D. Green

Subscribed and sworn to before me this January 7th, 1892.

[Signature]

body of
Prof. H-288

RECEIVED
JAMES B. BROWN

THE OFFICE OF THE DIRECTOR OF THE BUREAU OF INVESTIGATION

When the same is made known to the Bureau of Investigation
The Director's time will be duly commensurate to the
extent.

7M385
The Director of the Bureau of Investigation has been informed that the Commission has on this day received a memorandum of the Bureau of Investigation and that the Commission has on this day received a memorandum of the Bureau of Investigation in this case is received

of the Bureau of Investigation in this case is received

concerning the same and the Bureau of Investigation has the honor to refer you to the Bureau of Investigation in this case is received
Letter of the Bureau of Investigation in this case is received
The Commission has on this day received a memorandum of the Bureau of Investigation in this case is received

J. H. D. G.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Thomas H. Floyd,

Langs, Indian Territory,

SIR:

On the 4 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stat. 381).

The act of May 21, 1900, (31 Stat. 511), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, examine, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

2.1.72

The Commission has received a copy of the report which you
are not a citizen of the United States and will not lawfully be
replied or admitted to land, and that, in view of the provision of
law which requires that the Commission should be satisfied that the
applicant is a person of good character and of good standing for the purposes
of the law.

A copy of the report of the Commission will also be forwarded
to you. You are informed that the Commission has on this day for-
warded a memorandum of its findings to the Secretary of the Interior
with a copy of the proceedings for his consideration and final de-
cision.

The Secretary's final action will be communicated to you
when the same is made known by the Department.

Very respectfully,
The Secretary of the Interior

2.1.72
[Signature]

RECEIVED
FEB 1 1972

COMMISSIONERS
HERRY L. DAVIS,
TAMS BIXBY
THOMAS B. NEEDLES,
C. R. BECKENRIDGE.

ALLISON L. ATLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Chero. Mem. 385.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

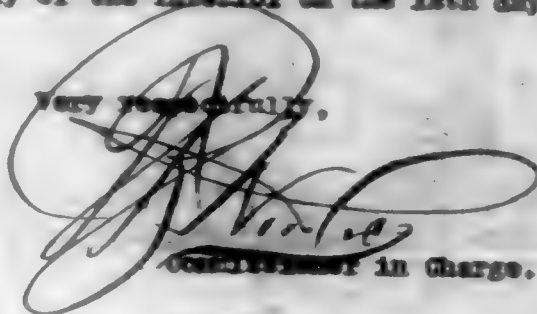
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Thomas M. Floyd, Cherokee Mem. No. 385, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Commissioner in Charge.

M: 33
IN THE MATTER OF THE APPLICATION OF

Thomas M. Floyd et al

FOR ENROLLMENT

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher. Memo 386

Cher Memo 386

MEMPHIS, TENN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, I. T., January 6, 1902.

In the matter of the application of John James Floyd for enrollment of himself and two children as Cherokee Indian citizens by blood; being sworn, and examined by the Commission, he testified as follows:

- Q What is your name? A John James Floyd.
Q How old are you? A Thirty-three.
Q What is your post-office address? A Dodge.
Q In the Cherokee Nation? A Yes sir.
Q What district are you living in? A Sequoyah.
Q You make application for enrollment as a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A Quarter.
Q Do you apply for anyone besides yourself? A I have two children.
Q What is the name of the elder one? A Bertie Lee.
Q How old is she? A Eight years old.
Q What is the name of the next one? A Gertie.
Q How old is Gertie? A Seven years old.
Q No middle name? A No sir.
Q Is that all, just those two children? A Yes sir.
Q Are those children both alive? A Yes sir.
Q Are they living with you? A Yes sir.
Q Who is their mother? A My wife.
Q What is her name? A Ary Floyd.
Q Is she living? A Yes sir.
Q Is she a Cherokee or a white woman? A White woman.
Q What is the name of your father? A Floyd.
Q His full name, please? A James F. Floyd.
Q Is he living? A Yes sir.
Q He is a white man? A Yes sir.
Q What is the name of your mother? A Sarah Frances Floyd.
Q Is she living? A Yes sir.
Q You claim your right to enrollment through your mother? A Yes sir.
Q Have you ever been recognized in any manner as a citizen of the nation? A No sir.
Q Did you ever apply to the Tribal authorities for admission to citizenship? A No sir, never have.
Q Did you ever apply to this Commission for citizenship? A No sir.
Q Have you ever drawn any money from the tribal authorities? A No sir.

1890 authorized roll, 1896 census roll and the 1894 pay roll of citizens of the Cherokee Nation examined and applicant nor his children found thereon.

1896 Citizenship Booklets made in accordance with act of Congress approved June 10, 1896, examined for applicants and it does not appear that application in their behalf was made to the Commission at that time.

Commission: John J. Floyd applies for the enrollment of himself and two children, Bertie L. and Gertie Floyd, for enrollment as Cherokee citizens by blood. Neither the applicant nor his children are identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission, nor does it appear that he was an applicant before the Commission for admission to citizenship under the provisions of the Act of Congress approved June 10, 1896. It would appear that this application came within the provisions of the Act of Congress approved May 31, 1900, which act provides:

of the application of the party
himself and for
of the party of the party of the party
the applicant and the party of the party
of the party of the party of the party

H. D. Green, being first duly sworn, states that as photographer in the
connection to the five captioned articles he personally received the
testimony and proceedings in this case and that the foregoing is
true and complete to the best of his knowledge and belief.

Subscribed and sworn to before me this January 10, 1900.

A large, dark, handwritten signature, possibly reading "H. D. Green", is written across the page. The ink is very dark and the strokes are somewhat thick and irregular.

particular.
Prof. H. 2000.

THE GOVERNMENT
OF THE DISTRICT OF COLUMBIA
OFFICE OF THE DISTRICT CLERK

THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

after the same to some person in the District.

The Board of Commissioners of the District of Columbia
do hereby certify that the following is a true and correct copy
of the same as the same appears from the records of the
Board of Commissioners of the District of Columbia.

71386

and a copy of the same to be made for the use of the
Board of Commissioners of the District of Columbia and the
Board of Public Works of the District of Columbia.

IN WITNESS WHEREOF, I have hereunto set my hand and the
seal of the District of Columbia, this 15th day of
January, 1900.

Attest: I have hereunto set my hand and the seal of the
District of Columbia, this 15th day of January, 1900.
The District of Columbia, this 15th day of January, 1900.
The District of Columbia, this 15th day of January, 1900.

COPY.

Washago, Indian Territory, April 9, 1902.

Mr. John James Floyd,

Beuge, Indian Territory.

Sir:

On the 9 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and two minor children Bertie Lee Floyd and Gertie Floyd, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have never been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Stat. 321).

The act of May 31, 1900, (31 Stat. 321), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

J.J.P.3

The Commission has, therefore, on this day decided that you and your two minor children above named are not citizens of the United States and only and lawfully admitted as aliens and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any report of the application for the enrollment of naturalization and citizenship in the name of said United States.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES

BY

James S. Gentry

Commissioner

Ind. 2-200
Register

614

CLARENCE L. LADD
TOMAS I. SWANSON
WILLIAM L. BULLINGTON

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

REFER IN REPLY TO THE FOLLOWING
Chero. Mem. 386.

WASHINGTON, D. C., MAY 27, 1902.

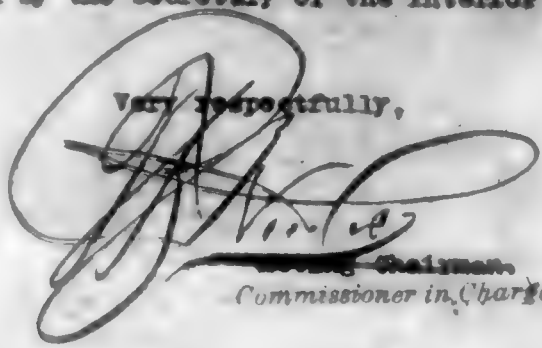
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of John James Floyd et al., Cherokee Memorandum No. 386, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Chairman,
Commissioner in Charge.

IN THE MATTER OF THE APPLICATION OF

FOR ENROLL

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM

Cher Memo 387

Cher Memo 387

a m387.

Expedited and sent to desks in this General Off. 1905.

Commissioner et.

[Handwritten signature]

[Handwritten signature]

find and compare transcripts of his stenographic notes prepared.
testimony and proceedings in this case and that the foregoing is a
Commission to the five Civilized Tribes he correctly recorded the
N.D. Green, being first duly sworn, states that as stenographer to the

the Department as regards his exhibition.

exhibition will be notified at a later date of the action of
the Inspector for his review and final decision, and the
of this exhibition will be forwarded to the Secretary of
a copy of the record of the proceedings had in the matter

of the Interior.
such exhibitions shall be filed when approved by the Secretary
and tentatively entered or admitted as such, and the return of
reports may not be sent or recorded of their progress, and only

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 6th, 1902.

In the matter of the application of Columbus B. Floyd for enrollment as a Cherokee Indian citizen by blood; being sworn, and examined by the Commission he testified as follows:

- Q What is your name? A Columbus D. Floyd.
 Q How old are you? A 32 years old.
 Q What is your post-office address? A Benge, Indian Territory.
 Q What district do you live in? A Sequoyah.
 Q Do you claim to be a Cherokee by blood? A Yes sir.
 Q What degree of Cherokee blood do you claim? A How much?
 Yes. A My mother was a half-breed I believe.
 Q Your father a white man? A Yes sir.
 Q Do you desire to enroll any one besides yourself? A That's all.
 No wife or children? A No sir, my wife is white and no children.
 Q What is the name of your father? A James F. Floyd.
 Q Is he living? A Yes sir.
 Q What is the name of your mother? A Sarah Frances.
 Q Is she living? A Yes sir.
 Q Do you claim your right to enrollment through your father or through your mother? A Through my mother.
 Q Your father is a white man? A Yes sir.
 Q Have you ever been recognized in any manner as a citizen of the Cherokee Nation? A No sir.
 Q Was your name ever upon any of the tribal rolls? A No sir.
 Q Did you ever apply to any of the tribal authorities for admission to citizenship? A No sir.
 Q Did you apply to this Commission under act of Congress of June 10th, 1896? A Yes sir, this is the application I reckon aint it?
 Q This is the only application you have ever made? A Yes sir.
 Q How long have you resided in the Cherokee Nation? A Been living off and on in the Cherokee Nation for 21 years, Cherokee and Choctaw, and near Arkansas, around close to Fort Smith and Cherokee and Choctaw Nations.
 Q Were your parents ever recognized in any manner as citizens?
 A No sir.

1880 authenticated roll, 1896 census roll and 1894 pay roll of citizens of the Cherokee nation examined for applicant and his name is not found thereon.

1896 Citizenship Dockets, made in accordance with the act of Congress approved June 10, 1896, examined and name of applicant does not appear, it does not appear that said Columbus D. Floyd was an applicant before the Commission for admission to Cherokee citizenship.

By Commission: Columbus D. Floyd applies for enrollment of himself as a citizen by blood of the Cherokee Nation. He avers that he has never been recognized in any manner as a citizen by the authorities of the Nation. The tribal rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of the applicant does not appear of record thereon; neither does it appear that he was an applicant before the Commission in accordance with the provisions of the act of Congress of June 10th, 1896. It would appear that this application comes within the provisions of the act of Congress approved May 31st, 1900, which said act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Ter-

ritary who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review and final decision, and the applicant will be notified at a later date of the action of the Department as regards his application.

M.D. Swain, being first duly sworn, deposes 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. Swain

Subscribed and sworn to before me this January 6th, 1902.

[Signature]

Commissioner.

Register, Prof. H-888

YOUNG MEN'S
YOUTH GROUP

THE COMMISSION TO THE NINE CLASSES

with the view to some measure of the Commission.

The Secretary's duty will be to carry out the Commission's

views.

At the close of the proceedings, the Commission will have to
submit a report to the Secretary of the Commission.

It will be the duty of the Commission to see that the

views of the Secretary are fully considered in the report
of the Commission.

The Commission will be responsible for the selection of members
of the Commission.

O.D. 2-8.

71387

C.D.F-2.

quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By James B. Byrby
Acting Chairman.

Mail, H-207.
Registrar.

COMMISSIONERS
HENRY L. DAVIS,
TAMM BARRY,
THOMAS B. NEEDLES,
C. R. BRACKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cher. Mem. 387.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

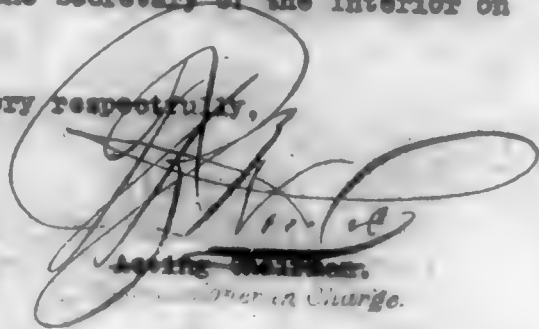
Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Columbus D. Floyd, Cherokee Memorandum No. 387, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Allison L. Aylesworth,
Secretary in Charge.

IN THE MATTER OF THE APPLICATION OF

Columbus D. Floyd

FOR ADJUDICATION AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Chem. Memo 388

Chem. Memo 388

2 m 388

FILED
JAN 16 1932

Commissioner.

Subscribed and sworn to before me this 14th day of Jan'y, 1932.

[Handwritten signature]

first and complete transcript of his speech before the
Commission and his conduct in this case and that the foregoing is a
Commission to the said Statutes which he collected, recorded the
M. P. Green, being first duly sworn, and as given in speech before the

.....

of the final section of the paper and as regards the other section
obligatory will be duly notified in writing at a later date
the interest for his consideration and final decision, and the

RECORDED, MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 6, 1902.

In the matter of the application of Lula Hindman for the enrollment of herself and one child as Cherokee Indian citizens by blood; being sworn, and examined by the Commission and testified as follows:

- Q What is your name? A Lula Hindman.
Q How old are you? A I am twenty-five.
Q What is your post-office address? A Henge, Indian Territory.
Q What district do you live in? A Sagooyah.
Q You claim to be a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A Quarter.
Q You apply for anyone besides yourself? A One child.
Q What is its name? A Elmer Hindman.
Q How old is this child? A Three years old.
Q Is it living? A Yes sir.
Q Is it living with you? A Yes sir.
Q What is its father's name? A George Hindman.
Q Is he living? A Yes sir.
Q Is he a Cherokee or a white man? A White man.
Q What is the name of your father? A J. E. Floyd.
Q Is your father living? A Yes sir.
Q What is your mother's name? A Sarah Frances.
Q Is she living? A Yes sir.
Q Do you claim your right to enrollment through your mother?
A Yes sir.
Q Have you ever been recognized in any manner by the tribal authorities of the Cherokee Nation as a citizen of that Nation? A No sir.
Q Did you ever apply to the authorities for admission to citizenship?
A No sir.
Q Did you ever apply to this Commission? A No sir.

1880 authenticated roll, 1896 census roll and 1894 pay roll of citizens of the Cherokee Nation examined for applicants and their names not found thereon.

1896 Citizenship Dockets examined and it is not found that the applicant made application to this Commission under the provisions of the act of Congress approved June 10, 1896.

By Commission: Lula Hindman applies for the enrollment of herself and son Elmer Hindman as citizens by blood of the Cherokee Nation. The applicant's ~~names~~ are not identified on any of the tribal rolls of the Cherokee Nation now in the possession of this Commission, nor does it appear that she was an applicant before the Commission for admission to citizenship in the Cherokee Nation under the provisions of the Act of Congress approved June 10, 1896. It would appear from the testimony that this case comes within the provisions of the Act of Congress approved May 31, 1900, which act provides:

"That the Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not make any record, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Ida Hindman,

Dodge, Indian Territory,

Native:

On the 6 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your minor child Elmer Hindman, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1900, (31 Stat. 321).

The act of May 31, 1900, (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

L.N.-2.

The Commission, has, therefore, on this day decided that you and your minor child above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said child as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By SIGNED, James Bixby.
Acting Chairman.

Encl. N-300,
Register.

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COMMISSIONERS
HENRY L. DAWES,
TANS SIXBY,
THOMAS B. NEEDLES,
C. R. BRACKINRIDGE.

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

ORDER TO APPLY TO THE FOLLOWING
Chas. Mem. 386.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

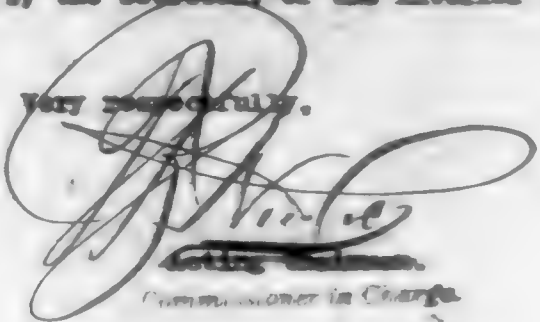
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Lula Hindman et al., Cherokee Memorandum No. 388, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 19th day of May, 1902.

Very respectfully,



Allison L. Aylesworth
Commissioner in Charge

2002-57-100

IN THE MATTER OF THE APPLICATION OF

Lula Hindman et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 389

Cher Memo 389

and investigation has been completed. It is noted that the subject was seen at the residence of the victim on the evening of the murder. It is suggested that the subject be interviewed as to his activities on the evening of the murder.

On the evening of the murder, the subject was seen at the residence of the victim. It is noted that the subject was seen at the residence of the victim on the evening of the murder. It is suggested that the subject be interviewed as to his activities on the evening of the murder.

[Handwritten signature]

Very truly yours,
Special Agent in Charge

[Large handwritten signature]

COMM-FBI

FILED
JAN 16 1942

A M 389

RECORDED, MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 7, 1902.

In the matter of the application of Dary Ann Roberts for the enrollment of herself and four children as Cherokee Indian citizens by blood; appearing before the Commission, and being sworn and examined she testified as follows:

BY COMMISSIONER:

- Q What is your name? A Dary Ann Roberts.
Q How old are you? A I am about 40.
Q What is your post-office address? A Fort Gibson.
Q Are you living in the Cherokee Nation? A Yes sir.
Q What district? A Tallequah.
Q You claim to be a Cherokee by blood? A Yes sir.
Q How much Cherokee blood do you claim? A I don't know.
Q Do you want to apply for anyone besides yourself? A Just me and my children.
Q How old is the oldest one of your children? A He soon will be twenty-four.
Q All your children over 21 years will have to apply for themselves in person, give me the names of those under 21 years of age and unmarried and living at home with you? A There isn't but one married.
Q Give me the name of those unmarried and under 21 years of age?
A Arvy Lien.
Q How old is she? A She will soon be 19 years old.
Q What is the name of the next one? A Lucinda.
Q How old is she? A She will soon be 16.
Q Now the name of the next youngest one? A Nettie.
Q How old is Nettie? A Going on 12.
Q Now the next one? A 11.
Q What is her name? A Nettie.
Q Now the next child? A That's all but the one that's married.
Q These are all the children you have under 21 years of age living? A Yes sir.
Q Are these children all living? A Yes sir.
Q Are they all living at home with you? A All but one.
Q These four now? A Well there is five at home with me.
Q Never mind about the five, I want to know about these four children, are they all living with you? A Yes sir, they are all living with me.
Q Give me the father of these children, what's his name? A Of my children?
Q Yes. A Andrew Roberts.
Q Is that your husband there, is that Andrew Roberts? (Pointing to man standing by.) A Yes sir.
Q What is the name of your father? A Nathaniel Danger.
Q Is he living or dead? A No sir, he is dead.
Q Was your father a white man or a Cherokee? A He was a white man.
Q What is the name of your mother? A Eliza Ann.
Q Is she living? A No sir, she is dead.
Q Was she a Cherokee? A Yes sir.
Q You claim your right to enrollment as a Cherokee through your mother? A Yes sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation; that is, has your name ever been placed on any of the rolls?
A Yes sir.
Q What roll, your name does not appear on any roll since the roll of 1890 was made deposit, that is about 21 years ago? A No sir.
Q Did you apply to this Commission in 1896 for admission to citizenship? A No sir.
Q Did your husband make application for you in 1896? A No sir.
Q How don't you know that your husband did apply for you in 1896?

A Well I reckon he did.

Commission: It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that Dary A. Roberts was an applicant before the Commission under the provisions of said act, for admission to citizenship in the Cherokee Nation; that her application was filed on the 15th day of September, 1896, and the answer of the Cherokee Nation was filed as thereto, and her application was denied at Vinita, Indian Territory, November 10, 1896, and an appeal was taken from the decision rendered by the Commission.

ANDREW ROBERTS, being sworn and examined testified as follows:

BY COMMISSION:

Q What is your name? A Andrew Roberts.

Q How old are you, Mr. Roberts? A I am 32 years old.

Q What is your post-office address? A Fort Gibson.

Q Are you the husband of Dary Ann Roberts, who is making application for enrollment? A Yes sir.

Q Did you make the application to the Base Commission in 1896 for her enrollment as a citizen of the Cherokee Nation? A I did.

Q Were all the names of the children embraced in this application made in that application? A Yes sir, and two others besides that.

Q These four children mentioned here were embraced in that application? A Yes sir, they was.

Q When were you married to your wife? A I was married in 1870.

Q Since your marriage to her who has never been recognized in any manner to your knowledge as a citizen of the Cherokee Nation? A She has always been.

Q Her name has never been on any of the rolls? A Never been on no rolls.

Q She has never drawn any money? A Never has.

1880 authenticated roll, 1898 pay roll and 1896 census roll of citizens of the Cherokee Nation examined and applicants not identified the same.

Commission: Dary Ann Roberts applies for the enrollment of herself and four children, Arvy Lien, Lucinda, Bertie and Mattie Roberts, as citizens by blood of the Cherokee Nation. Neither the applicant nor any of her children can be identified on any of the tribal rolls of the Cherokee Nation in the possession of this Commission. It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that said Dary Ann Roberts was an applicant before the Commission for the enrollment of herself and children as citizens of the Cherokee Nation. That her application was denied, and no appeal taken from the decision rendered by the Commission.

It would appear from the testimony that this application clearly comes within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and only and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of the application of said Dary Ann Roberts for the enrollment of herself and children will be forwarded to the Secretary of the Interior.

of the Interior for his final review and consideration, and the applicant will be notified at a later date of the action of the Department as regards her application.

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 January 8th, 1902.

[Signature]

Commissioner.

Reception
No. 11-268

By (initials)
James Dixon

THE COMMISSION FOR THE HAZ CHAMBER LETTERS.

When you send in your letter to the Commission.

The Secretary, a Trustee of the Commission, will be glad to see you.

389
With a copy of the Proceedings, the Commission will be glad to see you.
I enclose a memorandum of the action of the Secretary of the Commission,
with enclosed, you are informed that the Commission has on this day
A copy of the record of the Proceedings in this case is herewith
returned.

of the publication of Journals and said affidavits as officers of said
Commission is without prejudice to receive, consider, or send any record
and that, pursuant to the provision of the laws enacted, the Commission
Charles Hutton and John and Jennifer Smith as admitted as agents
and your four minor children were named as not officers of the
The Commission has, therefore, on this day decided that you
D.V. 1-2-6.

COPY.

Waskage, Indian Territory, April 9, 1902.

Mrs. Mary Ann Roberts,

Fort Gibson, Indian Territory.

Sir:

On the 7 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your four minor children, Arvy Linn Roberts, Lucinda Roberts, Nestie Roberts, and Mattie Roberts as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1901, (29 Stats. 321).

The act of May 11, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

D.A.B-8

The Commission has, therefore, on this day decided that you and your four minor children above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By _____

Tams Birbu
Acting Chairman.

Encl. N-381
Registry

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

ALLISON L. AYLESWORTH.
SECRETARY

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

ANSWER IN REPLY TO THE FOLLOWING NO.
Cherokee Memo-389

Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,

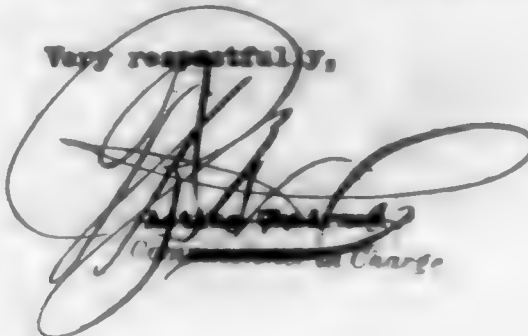
Attorney for Cherokee Nation,

Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Mary Ann Roberts et al, Cherokee Memorandum No. 389, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Allison L. Aylesworth
Secretary

CHEROKEE MEMO-412

IN THE MATTER OF THE APPLICATION OF

Dary A. Roberts et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEM 317

Cher Memo 390

Cher Memo 390

George Freedman, Defendant, Name.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Washoe, D.C., January 8th, 1902.

In the matter of the application of Isela Smith for the
enrollment of herself as a Cherokee Freedman;

Appearances:

A. S. Howe, Esq., Attorney for the applicant;
W. E. Hastings, of attorneys for the Cherokee Nation.

ISELA SMITH, being sworn and examined, testified as follows:

BY CONFIDENT:

- Q What is your name? A Isela Smith.
Q How old are you? A Twenty-four.
Q What is your post-office address? A Washoe.
Q Do you make application to be enrolled as a Cherokee Freedman?
A Yes sir.
Q What is the name of your mother? A Charlotte Smith.
Q Is she living? A Yes sir.
Q Does your mother claim to be a Cherokee Freedman? A She does.
Q What is the name of your father? A Joseph Smith.
Q Is he living? A Yes sir.
Q Is he a Cherokee or a state man? A State man.
Q Do you desire to make application for the enrollment of any
one else besides yourself? A No sir.
Q Have you ever been recognized by the tribal authorities of the
Cherokee nation as a Freedman? A I don't understand that.
Q That is, have you ever been enrolled by the authorities of the
Cherokee nation? A No sir.
Q Have you ever drawn any money from the Cherokee nation? A No sir.
Q Did you ever apply to the tribal authorities for enrollment? A
No sir.
Q How long have you actually resided in the Cherokee Nation? A No
definite length of time.
Q Have you ever resided there? A No sir, I have never resided
there.
Q How long have you resided in the Creek nation? A About four years.
Q Where did you come from to the Creek nation? A Missouri.
Q Were you born in Missouri? A I was.
Q Did you live there continuously up until you came here four
years ago? A Yes sir.
Q You have never resided in the Cherokee Nation? A Never so def-
inite length of time.
Q Have you ever been in the Cherokee Nation? A Yes.
Q How long did you remain there? A No definite long that time.
Q Were you there on a visit? A Yes sir.
Q Did you remain a few weeks or days? A Yes sir.

By Commission: The tribal rolls of the Cherokee Nation
in the possession of the Government have been examined and
the name of the applicant is not found there.

BY MR. HASTINGS:

- Q How long have you been married? A I have been married about
six weeks or more.
Q Who married you? A Ed or Tyne.
Q Where? A Here in Washoe.
Q What is the name of your husband? A Green Smith.
Q Is he a citizen or a state man? A State man.
Q You came out on the trail did you? A To Washoe?
A Yes. A Yes sir.

- Q You never lived anywhere in the Territory except Hot Springs? A That is all.
- Q What year did you move down here? A It has been four years ago.
- Q You have been living here continuously now four years? A Yes sir.
- Q Come from Saint Louis here? A Yes sir.

BY COMMISSION: Isola Smith applies for the enrollment of herself as a Cherokee Freedman. She is not identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission.

By reason of the injunction recently granted by the Cherokee Nation through its properly constituted authorities and which injunction was granted temporarily by the Bill of the United States Court for the Northern District of Oklahoma Territory, this Commission has no authority to receive, consider or make any record of this application, and it is noted that the applicant is not identified on any of the tribal rolls of the Cherokee Nation. Her possession of the land in question and it does not appear that she has ever been admitted to citizenship by the tribal authorities of the nation. Her application to the Five Civilized Tribes approved in the act of Congress approved June 10, 1906, or by the United States Court on appeal, and a permanent record will be made of her application. A copy of the record of proceedings will be forwarded to the Secretary of the Interior for his consideration, and final approval, and the applicant will be notified at a later date of the action of the department as regards her application.

M. D. Green, being first duly sworn, deposes that as clerk of 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 January 12th, 1912.

[Handwritten Signature]

Commissioner

M 390

IN THE MATTER OF THE APPLICATION OF

Isabel Smith

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

e. F. M. 5.

Cher Memo 391

Cher Memo 391

a. M 391

M 391

MAY 18 1908

Commissioner.

Subscribed and sworn to before me this twenty fourth day of May 1908.

Witness my hand and seal of my office of the Notary Public for the County of New York, this 24th day of May, 1908.

And I hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the office of the Notary Public for the County of New York.

Cherokee Freedmen, Rejected Name.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 8th, 1902.

In the matter of the application of Laurana Kell for enrollment as a Cherokee Freedman.

Appearances:

Mr. A. S. Mahea, attorney for the applicant;
Mr. W. W. Hastings, of attorneys for the Cherokee Nation.

LAURANA KELL, being sworn and examined, testified as follows:

BY COMMISSION:

- Q What is your name? A Laurana Kell.
Q How old are you? A 21 years.
Q What is your post-office address? A Muskogee, Indian Territory.
Q Do you apply for enrollment as a Cherokee Freedman? A I do.
Q Do you apply for anyone but yourself? A No sir.
Q What is the name of your father? A Joseph Smith.
Q Is he living? A Yes sir.
Q What is the name of your mother? A Charlotte Smith.
Q Is she living? A Yes sir.
Q Does she claim to be a Cherokee Freedman? A Yes sir.
Q Have you ever resided in the Cherokee Nation? A Not any definite time.
Q How long have you been living in Muskogee? A About four years.
Q Where did you come from to Muskogee? A Missouri.
Q Were you born in Missouri? A Yes sir.
Q Did you live there continuously up until you came here four years ago? A Yes sir.
Q You never had an actual residence in the Cherokee Nation? A Only here in Muskogee.
Q I say, you have never had an actual residence in the Cherokee Nation? A No sir, only been there.
Q Have you ever been recognized by the tribal authorities of the Cherokee Nation as a Freedman, that is have you been enrolled?
A No sir.
Q Have you ever drawn any money from the tribal authorities?
A No sir.
Q Did you ever apply to them for enrollment? A No sir.
BY COMMISSION: The tribal rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of the applicant does not appear of record there.
Q What is the name of your husband? A Charles Kell.
Q Is he living? A Yes sir.
Q Is he a statement? A Yes sir.
BY MR. HASTINGS:
Q Were you ever married? A Yes sir, Indian Territory.

BY COMMISSION: Laurana Kell applies for the enrollment of herself as a Cherokee Freedman.

By reason of the injunction recently prayed for by the Cherokee Nation, through its properly constituted authorities, and which injunction was granted temporarily by Judge Gill of the United States Court for the Northern District, Indian Territory this Commission has no authority to receive, consider or make any record of this application, for the reason that the applicant is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission, and it does not appear that she has ever been admitted to citizenship by the tribal authorities of the Nation, the Commission to the Five Civilized Tribes as provided in the act of Congress approved June 10, 1896, or by the United States Court

IN THE MATTER OF THE APPLICATION OF

Laurena Ezell

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1906

MEMORANDUM

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Cher Memo 392

Cher Memo 392

Cherokee Freedmen:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 8th, 1902.

In the matter of the application of Charlotte Smith for
the enrollment of herself as a Cherokee Freedman.

Appearance:

A. S. McRae, Attorney for the applicant;
W. W. Hastings, of Attorneys for the Cherokee Nation.

CHARLOTTE SMITH, being sworn and examined, testified as follows

BY COMMISSION:

- Q What is your name? A Charlotte Smith.
Q How old are you? A I am between 45 and 50.
Q What is your post-office address? A Muskogee.
Q Are you living in the Creek Nation? A Yes sir.
Q Do you apply for enrollment as a Cherokee by blood or a Cherokee Freedman? A Freedman.
Q Do you apply for the enrollment of anyone else besides yourself? A Three children.
Q Are these children under 21 years of age and unmarried? A Married.
Q Have you any unmarried children? A No sir.
Q Your children over 21 years of age and those married must apply in person. A Yes sir.
Q What is the name of your father? A I don't remember my father, he was an Indian.
Q Was he a Cherokee Indian? A Yes sir, his name was Griffin.
Q Is he living or dead? A He is dead, I guess, a good many years ago, I don't remember.
Q What is the name of your mother? A Eliza Davis, she belonged to Davis.
Q Is she living? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q Who was her owner? A Mrs. Dr. Davis.
Q What was her full name? A Why Eliza Davis.
Q Mrs. Dr. Davis' name? A Oh, Mrs. Dr. Davis name was Polly Davis.
Q Was she a Cherokee Indian? A Yes sir.
Q Recognized as such? A Yes sir.
Q Were you born a slave? A Yes sir.
Q To whom did you belong? A Mrs. Dr. Davis.
Q Where were you born? A In the Cherokee Nation, I think.
Q What district were you born in? A In Flint District.
Q Did you live there at the outbreak of the war between the United States and the Confederacy? A Yes sir.
Q Did you leave the nation at the outbreak of the war? A I was kidnapped and carried out, I went with some soldiers to Missouri.
Q Was that during the war? A Well, at the commencement of the war.
Q When did you return to the Cherokee Nation? A Why in '66.
Q What time in '66? A Latter part of the summer, of '66.
Q Where have you resided since that time? A I have lived in Missouri and in the Cherokee Nation; I have been in and out.
Q After you came back from Missouri how long did you continue to reside in the Cherokee Nation? A Good part of my time, I married in the Cherokee Nation.
Q About how many years did you live here before you went away again? A I don't remember, I never kept track of the time.
Q Don't you have any idea at all? A No, I don't have no real idea at all.
Q How long did you live in Missouri before you went back? A I lived there longer than I did anywhere else after I married.
Q When did you actually come back to the Cherokee Nation the last time? A The last time was four years ago.

Q How long had you been living in Missouri then? A I don't know, my husband was a preacher and travelled around a heap.

Q Had you been living there as much as 15 years prior to the last time that you came to the Cherokee Nation? A Different times in and out.

Q No, I don't think I have lived there that long a time at any one time.

Q If I understand you correctly, since 1866 the larger part of the time you have been living in the State of Missouri? A Yes sir, in and out.

Q The major portion of the time you have been living in Missouri? A Yes sir.

Q Have you ever been recognized as a Cherokee freedman by the tribal authorities of the Cherokee Nation? A I don't know what you mean.

Q That is, have you been admitted? A No sir.

Q Have you ever drawn any money? A No sir.

Q Did you ever apply to the tribal authorities for admission?

A No sir.

Q Did you ever apply to this Commission for admission? A No sir.

By Commission: The tribal rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of the applicant does not appear there.

BY MR. MARRA:

Q Mrs. Smith, have you considered any place or country your home other than the Cherokee Nation?

COMMISSION: I don't think that is very material, Mr. Marra, let the Commission determine whether she has abandoned this her home.

BY MR. MARRA: I would think that a very material allegation, and should be set forth in the case, your honor.

BY COMMISSION: Well find out in a general way where she has been living and let the Commission determine what has been her home.

BY MR. MARRA:

Q What are the names of your children that are 21 years of age?

A The youngest one is 21 and the eldest one is 28.

Q Give their names? A The eldest one is Ida Taylor, and the next is Laura Smith, she is married, her married name is Smith, and the youngest one is 21, her name is Lawrence Hall.

BY MR. MARRA:

Q Where were you married? A In Chicago.

Q In Kansas? A Right on the line.

Q That was your first marriage? A Yes sir.

Q What year were you married in? A About '72.

Q How long old is your oldest child? A 28.

Q What is her name? A Ida.

Q Where was she born? A In Missouri.

Q What town? A Saint Louis.

Q How many children have you? A Three.

Q What is the next one? A Lawrence.

Q Where was she born? A In Saint Louis.

Q What is the next child's name? A Laura.

Q Where was she born? A Saint Louis.

Q Where did you come from before you came here? I came from Saint Louis.

Q How long ago? A Yes sir.

Q After the birth of your youngest child you lived there until four years ago, when you moved out in this country? A Well I lived in different places, different times, back and forth.

Q All these times in Missouri? A Yes sir, and then here in the Nation back and forth.

Q You never lived here? A No, never lived here, but we have been

Q I mean with the exception of that two years? A Just on preaching tours, my husband preached.

Q You never had a residence here until four years ago? A No sir. Not since I went away after the war.

Q You never had a residence here after the war? A Yes, I have been here since '66.

Q How where did you go to in '66? A Just went from place to place, I worked at Chetopa until I married my husband and then I went to Missouri, after I married him I didn't have anything to do but follow him.

Q Now before you married your husband how long had you known him at Chetopa? A Why just got acquainted with him.

Q How long did you live at Chetopa? A I don't live there but three or four weeks, I worked at the C. M. Allen house.

Q Where did you move from when you went to Chetopa where you met your husband? A Rolla, Missouri.

Q Where had you been before that? A I had been to Fort Gibson, and Tahlequah and I moved to Chetopa.

Q I want to know where you had been living about? A I don't just remember where I had been living.

Q Your memory is rather faulty at the crucial points? Well I was young; I am getting old and feeble and forgetful; I could have remembered these things, and I can't remember now.

Q How old are you? A I am between 45 and 50, I don't know my exact age.

Q When did your mother die? A I don't remember; she has been dead ever since I was a little thing.

Q Who raised you up? A I told you I belonged to Dr. Davis' wife and she raised me until I was going to school.

Q Who were you in the custody of immediately after the war? A I lived with a man I know at Dr. Davis.

Q White man? A Yes sir.

Q Where did you live with him at? A In Springfield, Missouri.

Q That was after the war? A Yes sir, during the war and after the war.

Q When did he die? A I don't know whether he is dead or not.

Q How long did you live with him after the war? A I don't remember.

Q Ten years? A No, I don't know as it was that long, I couldn't tell you.

Q Well, about how long? A I can't tell you.

Q How old were you? A I don't know exactly how old I was.

Q Well about how many years before you married? A Well I don't know how long that was either.

Q You know about when peace was made? A Yes sir.

Q Now how long after peace was made until you lived with this man whom you knew at Dr. Davis, in Springfield, Missouri? A I came back from Springfield here to Ft. Gibson and I couldn't find my people and I went on back to Springfield, and after this railroad came through here I came back.

Q That was the first time you came back? A Yes sir.

Q That was after the M. & T. Railroad came through here? A Yes sir.

Q How long before you went back up to Springfield when you could not find these your people? A I stayed there three or four weeks.

Q That was the only time you came until this railroad came through here? A I come through, I never come on the railroad.

Q Who did you stay with in Fort Gibson these three or four weeks?

A I stayed with Mr. some soldiers.

Q How old were you then? A I must have been 10 or 12 years old.

Q The did you come with? A This Mr. Davis, he brought me down in a wagon and I went back to Springfield with him; I came back by myself with him as well as I can remember and went to this place where the soldiers was. I told you before I came back with Jess Davis.

Q And this other white man took you back to Springfield? A No, I went to Fort Gibson, & to Tahlequah.

Q Who did you see at Tahlequah? A I saw a woman up there, I got acquainted with her, by the name of Big Jennie, and a man named Jim Ross.

Q Big Jennie was alive then? A Yes sir.

Q Was she a young or an old woman? A She was a big woman, I was a child then, I don't know.

Q Very small or very large woman? A She was a large woman.

Q That about four years ago? A No sir.

Q About how many years ago was it? A That was right after the war.

Q About how many years after the war? A Well you know how many years it has been.

Q As much as five years after the war, or six? A I don't know.

Q What is your best judgment about it? A Well I told you I was quite young.

Q I want to know about how long after the war it was? A It might have been six or seven years, I don't know.

Q That is your best judgment? A That is my best judgment.

Q Did you go up to Tahlequah from Fort Gibson a few years?

Q That is the time that this man that lived with Sister Davis took you back to Springfield that you mentioned awhile ago in your testimony? A As near as I can remember.

Q That's your best judgment? A Yes sir.

Q Some six or seven years after the war? A Yes sir.

BY MR. McREAR: I don't think the interrogatories promulgated to the applicant by the attorney for the Nation are clear.

BY COMMISSIONER: Well, if she don't understand the questions, she can say so, and they will be put so that she can understand them. To Witness: If you don't understand the questions, simply tell the gentleman so and he will put them in plain manner that you will understand them.

BY MR. EASTMAN:

Q As I understand you made a trip after the war down to Ft. Gibson, and you went from Fort Gibson to Tahlequah, while you were living here that some time? A I don't remember whether it was that some time or not, but I was there, and I went back to Springfield and I come back here after this railroad was through here, I know that much.

Q That is the second time you come back here? A Yes sir, and the last time.

Q Now the first time you come back was about 5 or 7 years after the war? A As well as I can remember, it might have been less than that.

Q What is your best judgment? A Well I am giving you my best judgment.

Q Well six or seven years after the war? A I don't think it was longer.

BY COMMISSIONER:

Q Do you think it was that long? A It might have been that long.

BY MR. McREAR:

Q Now Mrs. Smith, you stated in the commencement that you came here in the summer of '66, is that right? A Yes sir.

Q Well now, was that the time when you first came to Fort Gibson, and stayed three or four weeks, as you have stated, and went to Tahlequah? A Yes sir.

Q Was that in the same year of '66? A That I think was in the same year of '66.

Q Then are you positive now as to whether or not it was 5 or 7 years before the war commenced that you first came down to Fort Gibson and went from there to Tahlequah? A Before the war commenced.

Q Yes, six or seven years after the war commenced? A Well as near as I can remember it was about that time, because I was no scholar at the time, I couldn't remember anything; what I learned I have learned since I have been grown.

Q Now when you came down in '66 did you have any object in returning? A No, I came to make this my home, because it was my birth-place.

BY MR. HASTINGS:

- Q Did Dr. Davis have any children? A Yes sir.
- Q How many? A As near as I can remember he had five.
- Q What are their names? A Ophelia, Cynthia and John and Laura and William.
- Q Were you living there up until the war commenced? A Yes sir.
- Q You were freed his slave? A I was his slave.
- Q Now I will ask you, I asked you awhile ago about how long it was after the war was over, after peace was declared that you came back down here the first time from Springfield to Fort Gibson and then went up to Tahlequah, and you stated that you to your best judgment it was about 6 or 7 years? A First time I told you it was in '66 I come back here.
- Q Yes, but I am asking you how many years after the war? A Well I don't remember how many years it was, I said it might have been 5, it might have been 6 and it might have been 7, I couldn't tell you.
- Q That is your best judgment? A Yes sir.

BY COMMISSION (of applicant's attorney, Mr. McKee:

Do you desire to introduce any further testimony? A Yes sir.

State briefly where and when you wish to introduce that testimony? A We shall try to get the testimony for to-day week at farthest. We have information of the witnesses that they will be here at that time; I would ask for a continuance of the case until we shall have opportunity to introduce this testimony of our witnesses.

BY MR. HASTINGS: Comes now the Representative of the Cherokee Nation and objects to any further proceeding whatever in this case, because it is clearly within the injunction granted by the United States Court, and for the further reason that it is clearly apparent from the testimony of the witness herself that she has no case and is not entitled to be enrolled.

BY COMMISSION: By reason of the injunction recently prayed for by the Cherokee Nation, through its properly constituted authorities, and which injunction was granted, temporarily, by Judge Gill of the United States Court for the Northern District, Indian Territory, the objection of the Cherokee Nation above indicated as to the introduction of further testimony in this case will be sustained, for the reason that under the provisions of said injunction this Commission has no authority to receive, consider, or make any record of this application, for the reason that the applicant is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission, and it does not appear that she has ever been admitted to citizenship by the tribal authorities of the nation, the Commission to the Five Civilized Tribes as provided in the act of Congress approved June 10, 1896, or by the United States Court on appeal, and only a memorandum will be made of her application. A copy of the record of the proceedings will be forwarded to the Secretary of the Interior for his consideration and final approval, and the applicant will be notified at a later date of the action of the Executive Department as regards her application.

M. B. Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes 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 January 12, 1902

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Charlotte Smith

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

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Cher Memo 393

Cher Mem 393

MEMO

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 10, 1902.

In the matter of the application of Hiram David Webb for the enrollment of himself and two children as Cherokee Indian citizens by blood; being sworn and examined he testified as follows:

BY COMMISSIONER:

- Q What is your name? A Hiram David Webb.
- Q How old are you? A I am 37.
- Q What is your post-office address? A Poteau, Indian Territory.
- Q Is that in the Chickasaw Nation? A No, sir, it is in the Choctaw Nation.
- Q Do you make application for the enrollment of yourself as a Cherokee by blood? A Yes sir.
- Q What degree of Cherokee blood do you claim? A Well I don't know, I don't remember how.
- Q But you claim to be a Cherokee? A Yes sir.
- Q Do you apply for anyone besides yourself, any children? A Yes sir.
- Q How many children? A Two.
- Q Do you apply for your wife? A I don't remember, I think I did though; No, my wife wasn't a Cherokee.
- Q Do you make application for her enrollment at this time? A If it is right for me to I would; my wife is not a Cherokee by blood though.
- Q She is a white woman? A Yes sir.
- Q Then you don't apply for her? A No sir.
- Q Give me the name of your eldest child living at home with you? A Artis Steven Webb.
- Q How old is he? A He is eight years old.
- Q Give me the next one? A The other one is dead.
- Q Give me the next child that is living? A George Damon Webb.
- Q How old is this child? A One year old.
- Q Is that all, these two children? A Yes sir.
- Q Are they both alive? A Yes sir.
- Q And living with you? A Yes sir.
- Q Who is the mother of the children? A Rebecca Webb.
- Q Is she living? A Yes sir.
- Q Is she a Cherokee or a white woman? A She is a white woman.
- Q What is the name of your father? A Joseph.
- Q Is he living? A No sir, dead.
- Q Was he a Cherokee or a white man? A White man, I reckon.
- Q What is the name of your mother? A Lucinda Maline.
- Q How old is she living? A Yes sir.
- Q Is she a Cherokee? A Yes sir.
- Q You claim the right to enrollment through your mother? A Yes sir.
- Q Have you ever been recognized as a citizen of the Cherokee Nation by the tribal authorities? A Not that I know of.
- Q Did you ever apply to the tribal authorities for enrollment? A Yes sir.
- Q When? A 1896, believe it was.
- Q That was to this Commission? A Yes sir.
- Q I mean did you ever apply to the Cherokee National Council or Commission on Citizenship for admission? A Well just applied Maline to do that.
- Q That was in 1897? A Yes sir.
- Q But prior to that time, did you ever make application for enrollment? A No sir.
- Q You applied to this Commission for enrollment did you? A Yes sir.
- Q Was Artis S. Webb also included in that application? A Yes sir.
- Q Did the Commission reject you? A I can't tell.

1890 authenticated, roll of citizens of the Cherokee nation examined and applicant not found thereon; 1896 census roll and 1894 pay roll of citizens of the Cherokee Nation examined and neither applicant nor his children are identified thereon.

Docket A, 1896 records, page 84, No. 494, H. David Webb versus the Cherokee Nation, - filed September 7, 1896, - answer filed, application denied, Vinita, Indian Territory, October 16, 1896. No appeal.

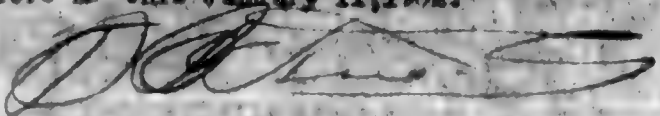
BY COMMISSIONER: Hiram David Webb applies for the enrollment of himself and his two children Artia S. Webb and George D. Webb as citizens by blood of the Cherokee nation. The applicant avers that he has never been recognized as a citizen of the Cherokee nation by the tribal authorities. His name is not found on any of the rolls of the Nation now in the possession of this Commission. It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that the applicant applied to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act; this his application was denied by the Commission, and no appeal taken therefrom. He avers that the name of his child Artia S. Webb was embraced in said application. By reason of the fact that neither the name of the applicant nor the names of his children can be found upon any of the tribal rolls, and for the further reason that he was denied citizenship by the Commission in 1896, he will be listed for rejection as a Cherokee by blood, his application coming within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully admitted or enrolled as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the records of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review and final decision, and the applicant will be notified at a later date of the action of the Department as regards his application.

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 thereon.

Subscribed and sworn to before me this January 11, 1902.

M. D. Green


Commissioner.

Cherokee N-393.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Hiram David Webb,

Petean, Indian Territory,

Sir:

On the 10 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Artie Steven Webb and George Damon Webb as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stats. 321).

The act of May 31, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission, has, therefore, on this day decided that you and your two minor children above named, are not citizens of the

K.S.V-1.

Therefore, it is not duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are instructed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

James B. Smith
Acting Registrar.

Act. R-22,
Registrar.

COMMISSIONERS
HENRY L. DAVIS,
TANS SIXBY,
THOMAS B. NEEDLES,
C. R. BRICKNIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES Muskogee, Indian Territory, May 20, 1902.

V. V. Hastings, Esq.,

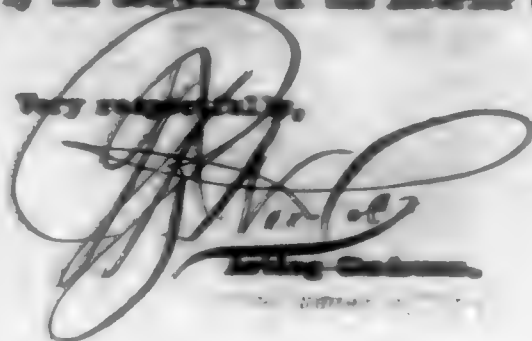
Attorney for the Cherokee Nation,

Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commissioner's decision of April 9, 1902, rejecting the application of Miss David Webb, Cherokee Memorandum No. 395, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Allison L. Aylesworth

IN THE MATTER OF THE APPLICATION OF

Hiram D. Webb et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS
REFUSED

ACT OF MAY
MEMOR.

Cher Memo 394

Cher Memo 394

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Approved and sworn to before me this January 11, 1905.

JAN 13 1905

[Signature]

[Signature]

Comptroller.

The very complete genealogical and genealogical notes of the
family of the Bishops in this case and that the records in a
connection to the Bishops should be preserved and recorded the
N.L. Green would like only such notes that are referred to the

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Department of the Interior,
Commission to the Five Civilized Tribes,
Chicago, I.T., January 10, 1902.

In the matter of the application of ^JSepta K. Webb for the enrollment of himself as a Cherokee Indian citizen by blood, being sworn and examined he test filed as follows:

BY COMMISSIONER:

- Q What is your name? A Septa K. Webb.
Q How old are you? A Thirty.
Q What is your post-office address? A Poteau.
Q In the Cherokee Nation? A Yes sir.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q What degree of Cherokee blood do you claim? A I don't know, sir.
Q Do you apply for any one besides yourself? A No sir.
Q What is the name of your father? A Joseph.
Q Is he living or dead? A Dead.
Q Was he a Cherokee or a white man? A White man.
Q What was the name of your mother? A Lucinda Meline.
Q Is she living? A Yes sir.
Q You claim the right to enrollment through your mother? A Yes sir.
Q Is she a Cherokee? A Yes sir.
Q Have you been recognized by the tribal authorities as a citizen, or was your name ever placed on the tribal rolls? A No sir not that I know of.
Q Have you ever drawn any money from the nation? A No sir.
Q Did you apply to this Commission for citizenship in the Cherokee Nation in 1896? A Yes sir, I sent my application in by Mullins.
Q That was about six years ago? A Yes sir.
Q Is that the first time you ever applied for citizenship in the Cherokee nation? A I reckon so.

1890 authenticated roll of citizens of the Cherokee Nation, 1896 census roll and 1898 pay roll of same, examined and applicant not identified thereon.

1896 Records, District A, page 36 No. 508-Jay K. Webb, versus Cherokee Nation, - filed September 7, 1896, answer filed, application denied, at Vinita, Indian Territory October 16, 1896. No appeal.

- Q Have you ever resided in the Cherokee nation? A Yes sir.
Q When? A '85, and '86 and '87 I believe.
Q That the only time? A Yes sir, that is the only time.

BY COMMISSIONER: Septa K. Webb applies for the enrollment of himself as a Cherokee citizen by blood. He is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission. He swears that he was never recognized in any manner by the authorities of the Nation as a citizen. It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that he was an applicant before the Commission for admission to citizenship in the Cherokee Nation under the provisions of that act, his application was denied by the Commission, and no appeal taken therefrom. The decision rendered. By reason of the fact that the name of the applicant is not found on the tribal rolls of the Cherokee Nation in the possession of the Commission and for the further reason that his application was denied under the provisions of the act of June 10th, 1896, it would appear that his present application comes within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the secretary of the Interior for his consideration and final review, and the applicant will be notified at a later date of the action of the Department as regards his application.

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 January 11, 1902.



Commissioner

of admitted as such, and that, pursuant to the provision of law

Washington,
March 11, 1902

M 394

THE COMMISSION TO THE NAVAL CHIEFTAINS INTERESTS

upon the same in more than one of the commissions.

The Government's first action will be duly communicated to you
for.

with a copy of the proceedings, for the consideration and final action
thereof a memorandum of the action of the Secretary of the Interior
will be enclosed. You will be pleased that the Commission has on this day
themselves to a matter of wide national
interest, or more any record of the application for the enjoyment of
where desired, the Commission is without exception to receive' con-

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RECEIVED
MAR 11 1902
BUREAU OF THE
NAVY
WASHINGTON

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Jephtha K. Webb,

Poteau, Indian Territory.

Sir:

On the 10 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stats. 321).

The act of May 31, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law

J.K.W-2.

above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

James B. ...
JAMES B. ...

Encl. N-304,
Register.

BR

COMMISSIONERS
HENRY L. DAWES
TAMM BIXBY
THOMAS B. WHEELER
C. R. BUCKENRIDGE

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Memo 394

ALLISON I. AVENUE
WASHINGTON, D. C.

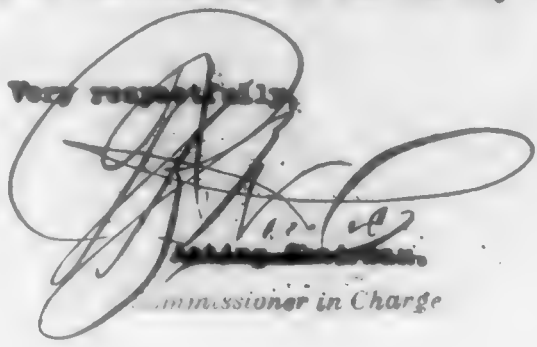
Muskogee, Indian Territory, May 20, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Jephtha K. Webb, Cherokee Memorandum No. 394, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Allison I. Avenue
Commissioner in Charge

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IN THE MATTER OF THE APPLICATION OF

Jeptha N. Webb

FOR ENROLLMENT AS

**CHEROKEE CITIZENS
REFUSED**

ACT OF MAY 31, 1908

MEMORANDUM.

Cher Memo 395

Cher Memo 395

A M 395.

Subscribed and sworn to before me this January 12, 1908.

Notary Public for the State of New York in and for the County of Albany.
M. J. Green, Notary Public for the State of New York in and for the County of Albany.

Commissioner.



Notary Public

EXHIBIT, 1883.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 13, 1902.

In the matter of the application of Maggie Boon for
the enrollment of herself and four children as Cherokee citizens;
being a sworn and examined, she testified as follows:

BY COMMISSION:

- Q What is your name? A Maggie Boon.
Q How old are you? A 34.
Q What is your post-office address? A Manard.
Q You make application for enrollment as a Cherokee by blood?
A Yes sir.
Q How much Cherokee blood do you claim? A One-sixteenth.
Q Do you apply for any one besides yourself? Any children? A
Yes sir.
Q How old is the eldest one? A 15.
Q Do you make application for your children? A Yes sir.
Q What is the name of that child? A Myrtle Adeline Kitchens.
Q What is the name of the next one? A Jesse James Kitchens.
How old is he? A 8 years old.
Q What is the name of the next one? A Bonnie Reen.
Q How old is that child? A Four years old.
Q What is the name of the next child? A Lurvernia.
Q How old is she? A Two years old.
Q Is that all the children? A Yes sir, that is all.
Q Are these children all alive? A Yes sir.
Q Are they all living with you? A Yes sir.
Q Who is the father of Myrtle and Jesse? A Charley Kitchens.
Q Is he living or dead? A He is dead.
Q Is he a Cherokee or a white man? A No sir, he is a white man.
Q When were you married to him? A '88.
Q Was he dead before you married your present husband? A Yes sir,
been dead three years.
Q What is the name of your present husband? A Noah Boon.
Q That your husband there? A Yes sir.
Q Is he a Cherokee or a white man? A White man.
Q What is the name of your father? A Jonas Punga.
Q Is he living or dead? A He is dead.
Q What is the name of your mother? A Susan Rowe was her maiden
name.
Q Is she living or dead? A She is dead.
Q You claim your right to enrollment through your mother or father?
A Father.
Q Was your mother a white woman? A Yes sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation?
A Yes sir.
Q When? A About '82.
Q Does your name appear upon any of the tribal rolls? A I don't
know, I don't know whether he ever had he enrolled or not.
Q Did you apply to the tribal authorities in '82 for admission
to citizenship? A No sir, I didn't apply.
Q To whom did you make application? A This is the first time
I made application.
Q Did you ever apply as a Cherokee? A Well in '82 the Cherokees
was talking to him, and Mess Whitney I guess he is on the roll.
Q How long were you living at that time? A In the Cherokee Nation.
Q How long have you lived here? A About eight years.
Q Have you lived here continuously since that time? A No sir,
not all the time.
Q How long have you actually resided in, been residing here? A Well
it has been about three months since we come back this last time.
Q How long had you been away? A Six years.

Q Then you hadn't been living in the Cherokee Nation for six years up until three months ago? A Yes sir, no sir.
Q Where were you living those six years? A In the Chickasaw.
Q Have you ever drawn any money from the Cherokee authorities?
A No sir.
Q Did you ever apply to the authorities for admission to citizenship, that is, yourself, not your father? A No sir.
Q Did you apply to this Commission in 1896 for admission to citizenship? A No sir.

1890 authenticated roll, 1896 census roll and 1894 pay roll examined for applicant and her children, and their names are not found thereon.

1896 citizenship Booklet, made in accordance with the act of Congress approved June 10, 1896, examined and it is not found that this applicant made application to this Commission for admission under the provisions of said act.

COMMISSIONER: Upon an examination of the records of the Cherokee Nation, of those persons admitted and re-admitted by acts of the Cherokee National Council or Commissions on citizenship, it does not appear that either the applicant or any of her children were ever admitted to citizenship by any of the tribal authorities.

BY COMMISSIONER: Maggie Boon applies for the enrollment of herself and four children, Myrtle A. Kitchens, Jesse J. Kitchens, Bonnie Boon and Lavernia Boon, as citizens by blood of the Cherokee Nation. Applicant avers that she has never been recognized by the tribal authorities of the Cherokee Nation as a citizen of that Nation. Her name does not appear upon any of the tribal rolls. She has not lived in the Cherokee Nation during the past six years, with the exception of the last three months. Neither the applicant nor her children are identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission, neither does it appear that they were ever admitted to citizenship by the tribal authorities of the Cherokee Nation, or the Commission to the Five Civilized Tribes, or the United States Court on appeal, under the act of June 10, 1896. It appears from the testimony that this application comes within the provisions of the Act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been recognized as such, and duly and lawfully enrolled or admitted as such, and its refusal of such applications will be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of the application of said Maggie Boon et al to be enrolled as Cherokee citizens will be forwarded to the Secretary of the Interior for consideration and review, and the applicant will be notified at a later date of the action of the Department as regards her application.

M. D. Green, being first duly sworn, states that the stenographer to the Commission to the Five Civilized Tribes has 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 January 11, 1908.

[Signature]

Notary Public.

EXHIBIT

10

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Maggie Boone,

Harard, Indian Territory,

Nations:

On the 13 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your four minor children, Myrtle Adeline Kitchens, Jesse James Kitchens, Bonnie Boone, and Laverna Boone, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stats. 321).

The act of May 31, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

M.B-2.

The Commission has, therefore, on this day decided that you and your four minor children above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

Encl. N-505,
Register.

88

COMMISSIONERS
HENRY L. DAVIS,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRACKINRIDGE.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Memo-395

ALLISON L. AYLESWORTH,
SECRETARY

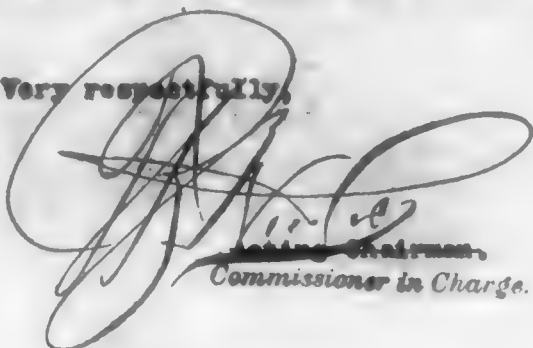
ADDRESS ONLY - MAIL TO THE CIVILIZED TRIBES
Muskogee, Indian Territory, May 20, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Maggie Doon et al, Cherokee Memorandum No. 395, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Acting Chairman,
Commissioner in Charge.

M/395

IN THE MATTER OF THE APPLICATION OF

Mazze Boone et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF

1900

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 396

Cher Memo 396

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., January 15, 1902.

In the matter of the Application of Eliza E. Brewer for enrollment as a citizen by blood of the Cherokee Nation; said Eliza E. Brewer being duly sworn and examined testified as follows:
Examination by the Commission:

- Q What is your name? A Eliza E. Brewer.
Q How old are you? A I am 55.
Q What is your post office address? A Home, Missouri.
Q Do you desire to make application for enrollment as a citizen by blood? A Yes, sir; my grandmother was Cherokee.
Q You claim to be a citizen by blood do you? A Yes, sir.
Q Have you ever been enrolled by the tribal authorities?
A I don't know whether I was enrolled when I was a child or not; I used to live here.
Q Do you want to apply for anyone besides yourself? A My brother.
Q How old is he? A 54.
Q He will have to apply in person? A He is in Missouri.
Q Have you any children? A No, sir.
Q Then you only apply for yourself? A Yes, sir.
Q What is the name of your father? A William Betts.
Q Is he living? A No, sir.
Q Was he a Cherokee? A Yes, sir.
Q What was the name of your mother? A Her maiden name was Bird.
Q Full name? A E. B.
Q Do you claim your right through your mother? A Yes, sir.
Q Did you ever draw any money? A No, sir.
Q Did you ever apply to the Cherokee Council for citizenship?
A No, sir.
Q Did you ever apply to this Commission? A No, sir.

The tribal rolls in the possession of the Commission have been examined and the name of applicant does not appear of record thereon.

The Commission records made in accordance with the Act of Congress approved June 10, 1898, examined and fail to disclose that the applicant made application for enrollment under the provisions of said act as a citizen of the Cherokee Nation.

The records of the Cherokee Nation now in the possession of the Commission have been examined and fail to disclose that the applicant was ever admitted to citizenship by an Act of the Cherokee Council.

- Q Have you ever lived in the Cherokee Nation? A Lived here when I-
Q Was that the year you were born? A No, sir; I was not born here.
Q Where were you born? A I was born in Arkansas.
Q How, when and where did you live here? A It must have been about 40 years ago.
Q Since that time you have never been here? A No, sir.

COMMISSION: Eliza E. Brewer applies for the enrollment of herself as a citizen by blood of the Cherokee Nation. She is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission. Neither does

It appears that she was ever admitted to citizenship by the legally constituted authorities of the Cherokee Nation, or by the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896, or by the United States Court on appeal. This application appears to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said commission shall continue to exercise all authority heretofore conferred on it by law: but it shall not receive, consider, or make any report on any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." A copy of the record of the proceedings had in the matter of the application of Eliza E. Brewer will be forwarded to the Secretary of the Interior for review and final administrative decision, and the applicant will be notified at a later date of the action of the Department as regards her application.

J. G. 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. G. Reason

Subscribed and sworn to before me this February 5, 1903.

[Signature]

Commissioner.

Cherokee N-896.

COPY.

Muskogee, Indian Territory, April 5, 1908.

Mrs. Eliza I. Brewer,

Muskogee, Indian Territory,

Madam:

On the 18 day of January, 1908, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1906, (34 Stat. 221)

The act of May 21, 1908, (35 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its records of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled

J. K. W. 98

above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of the action in the Secretary of the Interior, with a copy of the transcript, for the consideration of that official.

The Secretary's final action will be duly communicated to you when the same is made known to the Department.

Very respectfully,
The Commissioner of the Bureau of Indian Affairs

RECEIVED
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MAY 10 1908

22

COMMISSIONERS.

HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Comm. No. 220.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for Cherokee Nation,
Muskogee, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of EDGAR S. BOWEN, Cherokee Name No. 220, for citizenship as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,

Acting Chairman.

Memorandum 396

IN THE MATTER OF THE APPLICATION OF

Eliza C. Brewer

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 21, 1900

MEMORANDUM

Cher Memo 397

Cher Memo 397

EXHIBIT, 1892:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., January 18, 1902.

In the matter of the application of Wiley Jones, Jr.,
for the enrollment of himself as a Cherokee citizen by blood;
being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A Wiley Jones, Jr.
Q How old are you? A I am about 32.
Q What is your post-office address? A Muskegee.
Q Are you living in the Creek Nation? A Yes sir. I run this
hotel down here.
Q You apply for enrollment as a Cherokee by blood? A I do.
I thought our folks was enrolled.
Q How do you apply? A I don't apply at all if they aint on; I am
going under my mother.
Q How do you apply, as a Cherokee Freedman or as a Cherokee by
blood? A Cherokee by blood.
Q What is the name of your father? A Wiley Johnson.
Q Is he living or dead? A He is living.
Q You claim your right through your mother? A Yes sir.
Q You apply for any one besides yourself? A I do not.
Q Have you ever resided in the Cherokee Nation? A Yes sir, I have.
Q When? A It has been about eight years ago I lived there.
Q How long did you live there? A I stayed there about a couple of
years.
Q Have you ever been recognized as a citizen of the Cherokee Na-
tion? A Well I don't hardly think I have.
Q Have you ever drawn any money? A Never have.
Q Is your name on any of the tribal rolls? A I don't know.
Q Did you ever apply to this Commission for admission to citi-
zenship in the Cherokee Nation? A I never did, my first time, some
of my folks have.
Q Was your name included in the application? A Yes sir.

By Commission: It appears from the records of the Com-
mission made in accordance with the act of Congress approved
June 10, 1896, that the applicant's father, Wiley Jones,
(Docket B/ page 313, No. 4811), was an applicant before the
Commission to the Five Civilized Tribes for admission to
citizenship; that his application was denied by the Commis-
sion; an appeal was taken to the United States Court for the
Northern District of the Indian Territory and the decision
of the Commission was sustained.

1880 authenticated roll, 1894 pay roll and 1896 census
roll of citizens of the Cherokee Nation examined and applicant
not identified thereon.

COMMISSION: The records of the Cherokee Nation have
been examined and fail to disclose that the applicant has
ever been admitted to citizenship in the Cherokee Nation by
an act of the Cherokee National Council or Commissions on
citizenship.

BY COMMISSION: Wiley Jones, Jr., applies for the en-
rollment of himself as a citizen by blood of the Cherokee Na-
tion. He is not identified on any of the tribal rolls of the
Cherokee Nation now in the possession of the Commission,
nor does it appear that he was ever admitted to citizenship
in the Cherokee Nation by the Cherokee Council or by a commis-
sion on citizenship. He avers that his name was embraced
in an application made under the provisions of the Act of

Congress approved June 10, 1876, in the matter of the application of his father, Wiley James for admission to citizenship in the Cherokee Nation. His application was denied by the Commission; an appeal taken to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission was sustained.

The application which Wiley James, Jr., makes for enrollment as a citizen by blood of the Cherokee Nation appears to come within the provisions of the Act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof; and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his approval and final consideration; the applicant will be notified at a later date of the action of the Department as regards his application.

M. B. 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. B. Green

Subscribed and sworn to before me this January 25, 1902.

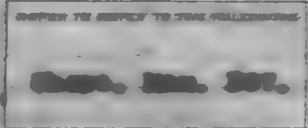
[Signature]

Commissioner.

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

ALLISON L. AYLESWORTH.
SECRETARY

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



Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,

Attorney for Cherokee Nation.

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Wiley Jones Jr., Cherokee Name, No. 107, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 20th day of May, 1902.

Very respectfully,



Acting Chairman.

M 397

IN THE MATTER OF THE APPLICATION OF

Wiley Jones Jr

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31

MEMORANDUM

Cher Memo 398

Cher Memo 398

Charles Freedman,
Dejected, Mo.,
(Injurious case.)

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D. C., January 20, 1902.

In the matter of the application of Bert Webber for enrollment
as a Cherokee Freedman; being sworn and examined he testified as
follows:

BY EXAMINATION:

- Q What is your name? A Bert Webber.
Q How old are you? A 25 years old.
Q What is your post-office address? A Longsaw.
Q What district are you living in? A Coconino.
Q Do you apply for enrollment as a Cherokee Freedman? A Freed-
man, yes sir.
Q Do you apply for any one besides yourself? A No sir.
Q What is the name of your father? A Isaac Webber.
Q Is he living? A No sir.
Q Was he a Freedman? A He was a state man.
Q What is the name of your mother? A Dollah Webber.
Q Is she living? A No sir.
Q Was she a Cherokee Freedman? A Yes sir.
Q Where were you born? A I was born up near Brushy I believe.
Q Cherokee Nation? A No sir, about three miles from Chouteau.
Q How long did you live there? A I don't know, I lived there
until my mother died, and she died when I was about five years old.
Q When did you go to there? Up on the Verdigris by in Coconino.
Q How long did you stay there? A I have been living there ever
since I came up there.
Q How much of your time have you spent in Arkansas? A I have
not been to Arkansas any to amount to anything.
Q Have you been there any at all? A I was there in '60, I was not
living there, I was there in jail, I never lived in Arkansas, to live
there.
Q Was that the last time you were there? A I was there along in
September this last September.
Q Living there? A No sir.
Q What were you doing? A Just over in Ft. Smith.
Q Were you married? A No sir.
Q Have you ever been married? A No sir.
Q Have you ever been recognized as a Cherokee Freedman? A I have
never been enrolled.
Q Have you any money? A No sir.
Q Do you have any of the rolls? A No sir, I don't think it is.
Q Did you ever apply for enrollment? A No sir, I never did.
Q Did your father ever apply for enrollment? A No sir, I don't
think he did.
Q Was your mother ever recognized? A Yes sir, I think she was on
the first roll.
Q Was she ever a slave? A Yes she, she never was out of the Nation

All the rolls of the Cherokee Nation in the possession
of this Commission have been examined and the applicant is
not found thereon.

Q Did you ever apply to the authorities for admission to citizen-
ship? A No sir.

Q Did you ever apply to the same Commission before? A Never did.

Records of the Commission have in accordance with the act of
Congress approved June 20, 1901, examined, and fail to disclose
that the applicant applied to the Commission for admission to
citizenship under the provisions of said act.

Records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship by action of the Cherokee National Council or Commission on Citizenship.

BY COMMISSION:

Hart Webber applies for the enrollment of himself as a Cherokee Freedman. He is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission, and neither does it appear that he was ever admitted to citizenship by the Cherokee Nation by act of the Cherokee National Council or Commission on Citizenship, or by the Commission to the Five Civilized Tribes under the provisions of the act of Congress approved June 10, 1896. This application appears to come under the provisions of the temporary injunction recently granted by Judge Hill of the United States Court for the Northern District of the Indian Territory which forbids the Commission to receive, consider or make any record of the applications of this character; consequently the application which Hart Webber makes for the enrollment of himself will be reported to the Commission for rejection under the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application of Hart Webber will be forwarded to the Secretary of the Interior for consideration and review, and the applicant will be notified at a later date of the action of the Department in the matter of his application.

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 January 28, 1902.

C. R. Beckwith

Commissioner.

APPROVED

RECORDED

m 396

IN THE MATTER OF THE APPLICATION OF

Bert Webber

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

4 m 8.

Cher Memo 399

Cher Memo 399

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 20, 1902.

Is the writer of the application of Ida Bahler for enrollment as a Cherokee freedman.

Applicant represented by A. S. McKay, Muskogee, I. T.

The said Ida Bahler being duly sworn, testified as follows:

By the Commission:

- Q What is your name? A Ida Bahler.
Q How old are you? A 22.
Q What is your present address? A Muskogee, I. T.
Q Are you living in the Cherokee Nation? A Yes, sir.
Q Do you apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Do you apply for enrollment besides yourself? A No, sir.
Q What is the name of your father? A Joseph Smith.
Q Is he living or dead? A Living.
Q Is your father a Cherokee or a state man? A State man.
Q What is the name of your mother? A Charlotte Smith.
Q Is she living? A Yes, sir.
Q Does your mother claim to be a Cherokee Freedman? A Yes, sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A No, sir.
Q Have you ever drawn any money from the tribal authorities? A No, sir.
Q Did you ever apply to this Commission for admission to citizenship? A No, sir.
Q How long have you been living in the Cherokee Nation? Have you ever lived there? A I have been there, yes, sir.
Q How long at one time? A No definite time.
Q Simply visited there? A Yes, sir.
Q How long have you lived in the Indian Territory? A Four years.
Q Where have you been? A St. Louis, Missouri.
Q Did you live there continuously up until the time you came here four years ago? A No, sir, I was at different places.
Q Had you ever been in the Territory prior to that time? A To four years ago.
Q Yes, sir? A No, sir.

The tribal rolls of the Cherokee Nation examined and the name of the applicant does not appear of record thereon.

- Q Did you ever draw any money from the tribal authorities? A No, sir.

The records of the Commission examined and fail to disclose that the applicant applied to the Commission for admission to citizenship in the Cherokee Nation under the provisions of the Act of Congress approved June 10, 1900.

The records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship in the Cherokee Nation by the tribal authorities.

Ida Bahler applies for the enrollment of herself as a Cherokee Freedman. She is not mentioned on any of the tribal rolls of the Cherokee Nation now in possession of the Commission, nor does it appear that she was ever admitted to citizenship in the Nation by the tribal authorities, the Commission to the Five Civilized Tribes, or by the United States Court at Muskogee. This application comes within the provision of the temporary injunction recently granted by Judge Gill of the United States Court for the Northern District of Indian Territory, which forbids this Commission to receive, consider, or make any record of applications of this character. Consequently the ap-

...the Secretary of the Interior...

A copy of the record had in the matter of this application will be forwarded to the Secretary of the Interior for his review and consideration.

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

Subscribed and sworn to before me this 31st day of January, 1902.



Commissioner

M 399

Revised
March 1928

Revised
Signed
L. J. Dixon

THE COMMISSION TO THE IAF CLAIMED RIGHTS.

After the same is made known to the Commission.

The Secretary, a final report will be sent transmitted to the
Commission.

After a number of the proceedings, for the consideration and final de-
cision. The same is referred to the Secretary of the Interior.

A copy of the record of the proceedings in this case is presented
to the said Nation.

Compared, on the same and record of the application for law, will be a
transfer made, the Commission is advised accordingly to receive.

W. J. - J.

COPY.

Muskogee, Indian Territory, April 9, 1900.

Mr. Wiley Jones, Jr.,

Muskogee, Indian Territory,

Sir:

On the 18 day of January, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Statv. 321)

The act of May 21, 1900, (31 Statv. 321), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully en-

V.J.-2.

called or admitted as such, and that, pursuant to the provision of
lawhere quoted, the Commission is without authority to receive,
consider, or make any record of the application for yourself as a cit-
izen of said Nation.

A copy of the record of the proceedings in this case is herewith
enclosed. You are informed that the Commission has on this day for-
warded a transcription of its action to the Secretary of the Interior,
with a copy of its proceedings, for his consideration and final de-
cision.

The Secretary of the Interior will advise you of the result of his
action on the application of the Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

[Illegible signature]

[Illegible text]

[Illegible stamp]

M 399

IN THE MATTER OF THE APPLICATION OF

Ida Kahler

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM

2
7

F M 9

Cher Memo 400

Cher Memo 400

Department of the Interior,
Commission to the Five Civilized Tribes,
Bartlesville, I.T., October 19, 1900.

In the matter of the application of Nancy Brown for enrollment as a Cherokee by blood; she appearing before the Commission, and being sworn and examined, he testified as follows:

- Q What is your name? A Nancy Brown.
- Q What is your age? A 60.
- Q What is your present office address? A Dewey.
- Q Are you a resident of the Cherokee Nation? A Yes, sir.
- Q How long have you resided in the Cherokee Nation? A Going on seven years.
- Q Have you maintained a continuous residence in the Cherokee Nation for the past six years? A Yes, sir.
- Q Have you been outside the Cherokee Nation for the past three years? A Only on short visits to see my relatives, not over a month and a half.
- Q Never made your residence elsewhere? A No, sir.
- Q Where did you live prior to your residence in the Cherokee Nation? A East Tennessee is where my ancestors came from.
- Q Have you ever been enrolled by the Cherokee authorities? A I went up to Washington and they sent back my affidavit that we were enrolled in 1895; I have an answer to the letter here about it in 1896.
- Q Do you have application for the enrollment of anyone besides yourself? A My daughter here, she is here with five children.
- Q She is of age? A Yes, sir, she is 31 years of age.
- Q Well, she will have to make application for herself. A I have no children under age.
- Q You are only making application on your own behalf? A Yes, sir.
- Q Is your name on any of the tribal rolls of the Cherokee Nation? A No, only since I came in.
- Q To what district in the Cherokee Nation do you belong? A I don't know, we live over here on Hogansister, seven miles from Dewey; I don't know what district it is.
- (The rolls of the Cherokee Nation in the possession of the Commission are examined, consisting of the 1886 authorized roll, the 1894 strip payment roll, and the 1896 census roll, and the name of the applicant is not found thereof.)
- Q Were you ever admitted to citizenship in the Cherokee Nation by the tribal authorities of the Cherokee Nation? A I went through all the Council but the Chief; they received the application before the Commission and then stopped it before the Chief.
- Q You made application in 1895? A Yes, sir.
- Q Were you ever admitted? A No, sir, it went through the National Council but the Chief put down a decision not to receive any more applicants.
- Q Did you or anyone in your behalf in 1896 make application to this Commission for citizenship in the Cherokee Nation under the act of Congress of June 10, 1896? A Yes, sir.
- (The record of cases presented to the Commission under the act of Congress June 10, 1896, examined, Citizenship Docket A., page 189, Cherokee Case No. 1000; Mrs. Nancy Brown v. Cherokee Nation; original application filed September 4, 1896, copy of the Cherokee Nation filed thereto, and on October 21, 1896, the Commission denied the application. There is no record of any appeal having been taken from the decision of the Commission.)
- Q Are you the Mrs. Nancy Brown who made application for citizenship in the Cherokee Nation in 1896? A I made application to the Bureau Commission, and then I applied to Washington that I wasn't able to take any appeal.

Mrs. Brown, the decision of the Commission in 1896 in regard

to your report of the same. The same was read and
dated of the Commission in the presence of the said
of June 10, 1890. It was explained that the same was
place of the Bureau of Indian Affairs, and the same was
missing at this time.

Witness my hand and seal, being duly sworn, says that as stated before 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.

W. H. Jones

Sworn to and subscribed before me this the 10th of October, 1890.

C. A. Meier
Commissioner.

M 400

Encl. N-100.

THE COMMISSIONER TO THE HAN CLAIMED ESTATE.

(SIGNED) **James Birney**

When the same is made known to the Commission.

The generalable that section will be duly communicated to you
quotation.

with a copy of the proceedings, for his consideration and reply

relating a memorandum of the contents of the general of the interest.

enjoyed. You are informed that the Commission has on this day for-

Section. A copy of the record of the proceedings in this case is hereby
Section.

order, or more and record of your objections as a matter of order
above stated, the Commission is almost entirely in possession, con-
of evidence on my, and they' judgment as the hearing of you
N.B.G.

COPY.
Muskogee, Indian Territory, April 9, 1902.

Mrs. Nancy Brown,
Dewey, Indian Territory,

Sir:

On October 10, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission, that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 20, 1900, (31 Stat., 321).

The act of May 21, 1902, (32 Stat., 321), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any report of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled.

N.B-1.

or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of your application as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a transcription of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE EXECUTIVE SECRETARY,

Tamir Blaby

Executive Secretary

Encl. N-200.
Registered.

RECEIVED
MAY 3 1918

COMMISSIONERS
HENRY L. DAWES,
TAMM DIXIE,
THOMAS B. NEEDLES
C. R. BRACKINRIDGE

ALLISON L. AVLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Chero. Mem. 400.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

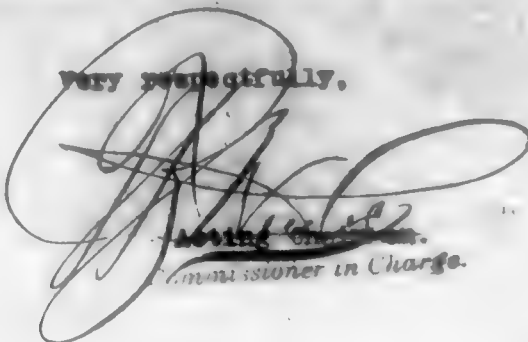
Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Nancy Brown, Cherokee Memorandum No. 400, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,



Allison L. Avlesworth,
Commissioner in Charge.

Chero. Mem. 400.

IN THE MATTER OF THE APPLICATION OF

Nancy Brown

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF 1855
M.F.

1-24-1881

Transferred from K. 243.

"

Cher Memo 401

Cher Memo 401

Department of the Interior,
Bureau of the Five Civilized Tribes,
Wartburg, I. T., October 10, 1900.

In the matter of the application of Galt Hartman for the enrollment of himself and children as Cherokee by blood; she appearing before the Commission, and being sworn and examined, testified as follows:

- Q What is your name? A Galt Hartman.
Q What is your age? A 31.
Q What is your present address? A Dewey.
Q Are you making application for enrollment as of Indian by blood of the Cherokee Nation? A Yes, sir.
Q Who are you applying to enroll besides yourself? A For my children.
Q What are the names and ages of your children for whom you desire to make application? A Minnie Hartman, 9 years old.
Q For next one? A Bessie, 8 years old.
Q For next one? A Ray, 6 years old.
Q The next child? A Leona, 4 years old.
Q The next one? A Willie, 11 months old.
Q Have you any more? A No, sir.
Q Does your name or the names of any of your minor children for whom you now make application appear on any of the tribal rolls of the Cherokee Nation? A They ought to be on the 1895 or 1896 roll, we registered in 1895 to the Dawes; they took the roll, didn't they, in 1895; my children were sent in to them.
Q What was your name in 1895? A Brown.
Q You made application in 1895 under the name of Hartman? A Yes, sir.
Q Did you make application yourself? A No, my mother sent mine for us, she applied for us.

(The tribal rolls of the Cherokee Nation in the possession of the Commission, including the 1894 authenticated roll, the 1894 strip payment roll, and the 1894 census roll, examined, and neither the name of the applicant nor her children appear thereon.)

- Q Did you ever make application to the tribal authorities for citizenship in the Cherokee Nation? A My mother did for me, for all her children.
Q What action was taken by the tribal authorities? A Before the National Council.
Q What action was taken by them, did they admit you? A I don't know whether they did or not, we didn't hear it either way, they didn't let us know either way whether they enrolled us or refused us or anything.
Q Did they take any action on your application? A Yes, sir, it went through the house all but the chief signing it.
Q Then there was no final action? A No, sir.
Q You were neither admitted nor rejected? A No, sir.
Q To my question now, if you were ever admitted to citizenship by the Cherokee authorities, your answer would be what; were you ever admitted to citizenship? A No, sir, not that I know of.
Q Did you or anyone in your behalf in 1895 make application to the Commission to the Five Civilized Tribes for citizenship in the Cherokee Nation under the Act of Congress of June 18, 1897? A My mother did.
Q What was your mother's name? A Nancy Brown.
Q Was your name included in the application made by Mrs. Nancy Brown to the Commission in 1897? A Yes, sir.
Q The names of your children included there? A Yes, sir.

(Records of the Commission examined, of cases heard by the Commission for citizenship in the Cherokee Nation under the act of Congress of June 18, 1897, and in Mississippi Books A, page 169, Cherokee Case 1899, Mrs. Nancy Brown v. Cherokee Nation, original application filed September 4, 1897, answer of the Cherokee Nation filed thereof, and on October 21, 1897, the Commission denied the application. There is no report of any appeal having been taken from the decision of the

Colia, Article 1 - 2.

Commission in the time prescribed by the Act of Congress of June 10, 1896, and the decision of the Court on appeal (the decision being final.)

The Commission will therefore at this time be compelled to refuse the application for the enrollment of persons and their minor children.

Brace G. Jones, being duly sworn, hereunto subscribed to the Commission to the Five Civilized Tribes has correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Brace G. Jones

Sworn to and subscribed before me this 15th day of October, 1900.

C. M. ...

Page 1
of 1

RECEIVED
FBI
MAY 10 1950

THE COMMISSION ON THE NINE GUARDED MINDS

When the news is now known to this Commission.

The Commission's first action will be to determine the
status.

M401

After a copy of the proceedings for the investigation and study be-
havior a number of its action in the interests of the Inspector
employed. For the purpose of the Commission has on this and in-
volved at the present of the proceedings in this case is present
some of said matter.

Application for the employment of persons and staff officers on a full-
time basis should be received directly at the office and records of the
staff members to the Director of the State Police. The Commission
has action and staff and financial matters in connection with the
and the nine officials should be in accordance with the
The Commission has' procedure' on this and decided that you are
of the Inspector's

D-1-1

Cherokee N-401.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Gelia Hartman,

Dewey, Indian Territory,

Madam:

On the 18 day of January, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, Minnie Hartman, Birdie Hartman, Kay Hartman, Leona Hartman, and Lillie Hartman, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of June 10, 1896, (29 Stats. 321).

The act of May 31, 1900, (31 Stats. 321), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary

C.N-2.

of the Interior.^o

The Commission has, therefore, on this day decided that you and your five minor children above named are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and said children as citizens of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By Tams Bixby,
Acting Chairman.

Form E-431.
Register.

Refer in reply
to the following:
Land
28526-1902
67629-1905

(C O P Y)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

September 25, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental reference of July 27, 1905
(I.T.D. 6693-1905) I have the honor to enclose a report from the
Commissioner to the Civilized Tribes, dated August 3, 1905, in
the Cherokee citizen enrollment case of Callie Hartman et al.

The record is also enclosed.

Very respectfully,

C. F. Harrabee,

Acting Commissioner

M.M.M.

D.C. 46326-1905
I.T.D. 12582-1905

(COPY)

Y.P.
L.L.B.

L R S

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

September 30, 1905.

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

Sir:

The Department is in receipt of your letter of August 3, 1905, reporting relative to the petition filed in the matter of the application of Celia Hartman et al. for enrollment as citizens of the Cherokee nation.

In accordance with your recommendation the petition, which is in the nature of a motion for rehearing, is hereby denied.

You will advise A. V. Sweet, of Tahlequah, of the action taken.

A copy of the Indian Office letter of September 25, 1905 submitting your report, is inclosed.

Respectfully,

Through the

Commissioner of Indian Affairs.

(Land 67629-1905)

1 inclosure.

(Signed)

THOS. HYAM
Acting Secretary.

REPORT IN REPLY TO THE FOLLOWING:
Cherokee Memo, 401.

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

SEP

Muskogee, Indian Territory, October 12, 1905.

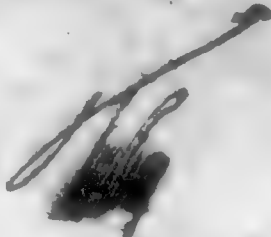
W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of Departmental letter of September 30, 1905 (I.T.D. 12582-1905), denying the motion for a rehearing in the Cherokee enrollment case of Celia Hartman, et al.

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

Respectfully,



Commissioner.

Incl. S-101

M. 401

IN THE MATTER OF THE APPLICATION OF

Celia Hartman Et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

AUG 11 1900

MEMORANDUM

Cher Memo 402

Cher Memo 402

REJECTED; RECORDED

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 22, 1902.

In the matter of the application of George V. Clark for
the enrollment of himself as a citizen by blood of the Cherokee
Nation; being sworn and examined by testified as follows:

BY COMMISSIONER

- Q What is your name? A George V. Clark.
- Q How old are you? A I am 34 years old.
- Q What is your post-office address? A Mullins.
- Q What district are you living in? A Flint, -Gingonake District.
- Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
- Q Do you apply for anyone besides yourself? A None only my family.
- Q What does your family consist of? A Son and daughter.
- Q How old are they? A He is 10.
- Q He must apply for himself; all children over 21 years of age
and married must apply for themselves. A They are all married.
- Q Then you apply for no one but yourself? A No one but my self.
- Q What is the name of your father? A William Clark.
- Q Is he living? A No sir, he is dead.
- Q What is the name of your mother? A Sarah Clark.
- Q Is she living? A No sir, she is dead.
- Q Through whom do you claim your Cherokee blood? A Through my
father.
- Q Was your mother a white woman? A Yes sir.
- Q Have you ever been recognized as a citizen of the Cherokee Nation?
A No sir.
- Q Is your name on any of the tribal rolls? A No sir, my father
is on the old settling roll.
- Q Have you ever applied to the Cherokee National Council or Com-
mission on Citizenship for admission to citizenship in the Cherokee
Nation? A I have been filing papers for the last 20 years, and
never have got a hearing.
- Q Then you really have never been admitted to citizenship? By
act of Council or a commission on citizenship? A No sir.
- Q Did you ever apply to this Commission for admission to citizen-
ship? A I came before it at Mullins.
- Q How long ago was that? A When you was at Mullins.
- Q Did you apply to this Commission in 1891 for admission to citi-
zenship in the Cherokee Nation, that is about six years ago now?
A No sir, I filed papers, my claim.
- Q At that time? A I think it was about that time.
- Q Did the Commission admit you or did they reject you? A I don't
know, I never could hear anything of it in any way.
- Q Have you ever drawn any money from the tribal authorities of
the Nation? A No sir.
- Q How long have you been in the Cherokee Nation? A I expect right
at 20 years.
- Q Living there now? A Yes sir.
- Q Who was your attorney in 1891? A J.P. Mullins.

1890 authenticated roll, 1891 census roll and 1894 pay roll
of citizens of the Cherokee Nation examined and applicant not
found thereon.

1896 Decket "A", page 12, No. 102, G.V. Clark, versus
the Cherokee Nation; filed September 7th, 1896; answer filed;
application denied at Mullins, October 15, 1896. No appeal.
J.P. Mullins, South Mullins, attorney.

Records of the Cherokee Nation have been examined and
fail to disclose that the applicant was ever admitted to citi-
zenship by act of the Cherokee National Council or commissions

on citizenship.

BY COMMISSION:-

George W. Clark applies for the enrollment of himself as a Cherokee by blood. He is not identified on the tribal rolls of the Cherokee Nation now in the possession of the Commission, neither does it appear that he was ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or Commissions on Citizenship.

It appears from the records of this same Commission made in accordance with the Act of Congress approved June 10, 1896, that George W. Clark was an applicant before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act. That the application was denied by the Commission, and no appeal taken from the decision rendered.

This application clearly comes within the provision of the act of Congress approved May 31, 1900, which act provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of the application of said George W. Clark for enrollment of himself as a citizen by blood of the Cherokee Nation will be forwarded to the Secretary of the Interior, and the applicant will be notified at a later date of the action of the Department as regards his application.

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 January 27, 1902.

C. R. Beckwith

Commissioner.

M 402

General.
Prof. H-100.

RECEIVED
E. D.
1902

THIS DOCUMENT IS NOW IN THE PUBLIC DOMAIN.

ACTING SECRETARY
JAMES P. HARRIS

When the same is made known to this Commission.

The Secretary's final action will be with communication to the
quarters.

With a copy of the proceedings, for his consideration and report.

Noted a memorandum of instruction to the Secretary of the Interior,
referred. For the interest that the Commission has in this case for.

A copy of the record of the proceedings in this case is hereby
sent to the Secretary of the Interior.

With the record of the proceedings for the appointment of himself
dated. The Commission is without authority to receive, consider, or
to acquire on any, and such business to the Secretary of the Interior
of the Secretary.

COPY.

Waukege, Indian Territory, April 9, 1902.

Mr. George W. Clark,

Ballisaw, Indian Territory,

Sir:

On the 22 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stat. 321).

The act of May 21, 1900, (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled

1.1.1.1.

or admitted as such, and that, pursuant to the provisions of law there
granted, the Commissioner of that authority to receive, transfer, or
sell any interest of the applicant for the development of projects
as a condition of such license.

It may be the intent of the Commission to the extent to which it
is possible, to give licensees the maximum benefit of the law by the
issuance of a license to the applicant for the development of projects
and to any of the provisions of the law thereunder.

The Commission's decision shall be final and unreviewable
and shall be binding on the applicant.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Commission, this 15th day of May, 1964.

[Handwritten signature]

[Handwritten signature]

1.1.1.1.

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

ALLISON L. AYLESWORTH,
SECRETARY

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

PLEASE IN REPLY TO THE FOLLOWING

Order, Mem. 402.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

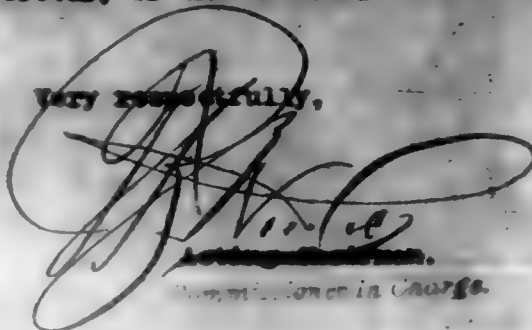
Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of George W. Clark, Cherokee Memorandum No. 402, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,



Allison L. Aylesworth,
Secretary

M 402

IN THE MATTER OF THE APPLICATION OF

George W. Clark

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 403

Cher Memo 403

Rejected, Memo:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 22, 1902.

In the matter of the application of William Clark for enrollment as a citizen by blood of the Cherokee Nation; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A William Clark.
Q How old are you? A Going on 27.
Q What is your post-office address? A Ballisaw.
Q What district do you live in? A Goingsmake.
Q Do you make application to be enrolled as a Cherokee by blood?
A Yes sir.
Q Do you apply for anyone besides yourself? A No sir.
Q What is the name of your father? A George W. Clark.
Q Is your father living? A Yes sir.
Q You claim your right to enrollment through your father? A Through my father's grandfather.
Q Is your father a Cherokee by blood or a white man? A He is a Cherokee by blood.
Q What is the name of your mother? A Rithie Story was her maiden name.
Q Is she living? A No sir.
Q Was she a Cherokee or a white woman? A White woman.
Q Have you ever drawn any money from the tribal authorities of the Cherokee Nation? A No sir.
Q Have you ever been recognized as a citizen by the tribal authorities in any manner? A No sir.
Q Have you ever applied for admission to citizenship in the Cherokee Nation by the National Council or Commission on Citizenship?
A No sir.
Q Does your name appear upon any of the tribal rolls of the Cherokee Nation? A No sir, I don't think it does.

COMMISSION:

Records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship by act of the Cherokee National Council or commission on citizenship.

All the tribal rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of the applicant does not appear of record thereon.

- Q Did you ever have a sister named Victoria Everidge? A Yes sir.
Q Is she living or dead? A Living.
Q Isn't it a fact that your name was included in the application which was made by your father through his attorney J.P. Mullin, to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A I don't know whether it was or not, I suppose so.

Booklet A., page 52, No. 306, G.W. Clark, vs. Cherokee Nation; filed September 7, 1896; answer filed; application denied at Vinita, October 28, 1896. No appeal. J.P. Mullin, South Mr. Alister, attorney.

BY COMMISSION: Upon an examination of the original papers filed with the Commission in the above styled case, it appears that the name of William Clark, son of the applicant, was embraced in said application, which was denied by the Commission, and no appeal taken.

BY COMMISSION: William Clark applies for the enrollment of himself as a citizen by blood of the Cherokee Nation.

He is not identified as any of the original members of the Cherokee Nation and in the proceedings of the Commission neither does it appear that he was ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or otherwise as a citizen. It appears from the original papers filed with the Commission under the provisions of the act of Congress approved June 10, 1906, in the matter of the application of the applicant's father, George W. Green, for admission to citizenship in the Cherokee Nation, that the provisions of that act that the name of the applicant was embodied in said application, which application was carried to the Commission at Yonkers, and an appeal taken from the decision rendered.

This application clearly comes within the provisions of the act of Congress approved May 21, 1908, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a permanent citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of the application of George W. Green for the enrollment of himself as a citizen by blood of the Cherokee Nation will be forwarded to the Secretary of the Interior for his review and the applicant will be notified as a later date of the action of the Department as regards his application.

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 January 27, 1908.

C. R. Medicus

Commissioner.

Washington, D. C.
March 11, 1911

U. S. DEPARTMENT OF JUSTICE
RECEIVED

THE SECRETARY OF THE COMMISSION ON THE MEXICAN QUESTION

When the same is made known to this Commission.

M 403

The Secretary's reply will be duly communicated to the
Commission.

With a copy of the proceedings for his information and that he
wishes a memorandum of his action in the Secretary of the Interior,
concerning. You are informed that the Commission upon this and the
other of said matter.

A copy of the record of the proceedings in this case is being
forwarded to you and a copy of your objection for submission to a
special committee of the Commission in respect thereto is likewise
referred to committee on such and that. Pursuant to the provisions of law

A. C. S.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. William Clark,

Sallisaw, Indian Territory,

Sir:

On the 23 day of January, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the locally constituted authorities of the Cherokee Nation, or by the United States Courts in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (31 Stats. 321)

The act of May 21, 1900, (31 Stats. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully en-

Page 2

rolled up admitted as such, and that, pursuant to the provisions of law above quoted, the Commission is without authority to receive, consider, or make any report of your application for enrollment as a citizen of said Nation.

A copy of the report of the proceedings in this case is herewith enclosed. You are informed that the Commission has previously forwarded a memorandum of its action to the Secretary of the Institution with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSIONER OF THE FIVE CIVILIZED TRIBES

Texas Blue

Enc. 2-100.
Enclosed.

RECORDED

100

CHIEF OF BUREAU
HENRY I. SAWYER
TAMM BROWN
THOMAS B. STUBBS
C. R. BUCHANAN
ALLISON L. STEVENSON
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Case No. 401.

Muskogee, Indian Territory, May 27, 1900.

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

SIR:

You are hereby advised that the Commission's decision of April 9, 1900, regarding the application of William Clark, Cherokee Case No. 401, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1900.

Very respectfully,



Acting Chairman.

07500 704 100

W/103

IN THE MATTER OF THE APPLICATION OF

William Clark

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM

Cher Memo 404

Cher Memo 404

M 101

IN THE MATTER OF THE APPLICATION OF

Millie White et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

g . 4 m 10

Cher Memo 405

Cher Memo 405

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T. SEPTEMBER 29th, 1900.

IN REPLY TO THE APPLICATION OF Hannah Flippins for enrollment as a citizen of the Cherokee Nation, and she being sworn and examined by Commissioner, G. R. Breckinridge, testified as follows:

- Q What is your full name? A Hannah Flippins.
Q How old are you? A I will be seventy seven by birth day, the first of February next.
Q What is your Postoffice? A Vinita.
Q In what District do you live? A Coconawawee.
Q Who is it you want to have put on the roll? A Myself and children.
Q You can apply for your children under twenty one years of age?
A Just myself then.
Q How long have you lived in the Cherokee Nation? A I came out to the Cherokee Nation in 1835.
Q 1835? A Yes sir.
Q Were you admitted by the Cherokee Commission or Council?
A Yes sir.
Q Have you a certificate of your admission? A I have papers, but I have not got them with me.

It appears from the Commission Records, Booklet B., Page 404, Commission No. 2543, that the applicant and others applied to the Dawes Commission, September 8th, 1896, for admission to Cherokee citizenship. The Commission admitted Hannah Flippins, and the record shows that the judgment of the Commission was reversed by the United States Court, 1848: That is final as regards the power of this Commission to enroll the applicant at this time, and therefore, her application for enrollment will be placed upon a Rejected Card, and it will be reported to the Secretary of the Interior for his final approval.

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

G. R. Breckinridge

Subscribed and sworn to before me
this second day of October, 1900.

G. R. Breckinridge

COMMISSIONER.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 20, 1902.

In the matter of the application of Hannah Flippins for enrollment as a citizen of the Cherokee Nation.

It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1898, that Hannah Flippin was admitted to citizenship in the Cherokee Nation by the Commission under the provisions of said act, that an appeal was taken to the United States Court for the Western District of Indian Territory, that the decision of the Commission was reversed.

It appears from the testimony in this case that the name of the applicant was erroneously placed upon a rejected card. Upon further consideration of this case it was determined that the Commission did not have jurisdiction over the application of the said Hannah Flippin, and that the application came within the provisions of the act of Congress approved May 31, 1900, which provides:

"The said Commission shall continue to exercise all authority heretofore exercised by it in law. But it shall not receive, consider, or make any record of the application of any person for enrollment as a member of the Cherokee Nation in Indian Territory who has not had a presidential election certificate and who has lawfully acquired or claimed by some other means a right to such citizenship, such as that now claimed by the Secretary of the Interior."

It is therefore directed that Cherokee Roll Card Field No. R. 186 be cancelled, and that the name of Hannah Flippins be reported to the Commission for rejection as a citizen of the Cherokee Nation under the provisions of the act above quoted.

Upon an examination of the tribal rolls of the Cherokee Nation now in possession of the Commission it is found that the name of the applicant does not appear of record thereon. Neither does it appear that she was ever admitted to citizenship in the Cherokee Nation by the tribal authorities. In the original papers filed with the Commission under the provisions of the act of Congress approved June 10, 1898, the name of this applicant appears as Hannah Flippin. She was duly identified as the applicant in this case, Hannah Flippins.

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.

M 405

Warrant
Subs to A. L. ...
Marty ...

THE DISTRICT OF COLUMBIA

upon the name in more known to ...

The Secretary's duty ...

with a copy of the ...

and ...

of ...

...
K-1-2

Cherokee N-805.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Hannah Flippins,
Vinita, Indian Territory,

Madam:

On the 19 day of September, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 16, 1900, (28 Stat. 211).

The act of May 21, 1900, (31 Stat. 211), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provisions of law above

H.F-2.

quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION ON THE 1956 CIVILIAN INDEX.

~~APPROVED: James B. ...~~
~~1956 ...~~

RECEIVED
U.S. DEPARTMENT OF THE INTERIOR
WASHINGTON, D.C.

405

GEORGE J. DODD
Treasurer
THOMAS B. WHEELER
C. R. BOWEN
WILLIAM L. BULLOCK
Secretary

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

REFER IN REPLY TO THE FOLLOWING
Chero. Mem. 405.

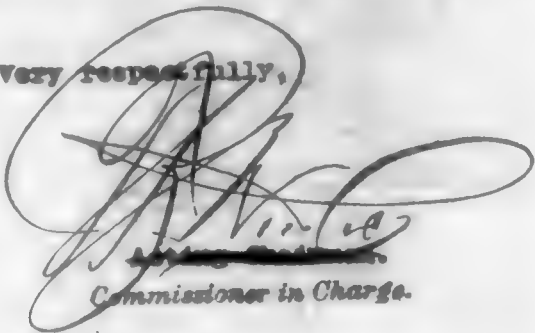
Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Hannah Flippins, Cherokee Memorandum No. 405, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Commissioner in Charge.

Chero. Mem. 405.

DEPARTMENT OF THE INTERIOR

J. M. H.
MLB

D.C. 18733-1906.
 I.T.D. 710, 969, 1035,
 2637, 2538, 2682,
 2694, 3578, 4004,
 4110, 5191, 7901-1902.
 1486, 3566-1905.

WASHINGTON

April 12, 1905.

LRS

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

Gentlemen:

April 6, 1905, the Indian Office transmitted a communication dated March 8, 1905, from William Henry White, attorney at law, of this city, transmitting petitions for review and rehearing in certain Cherokee cases, therein the applicants claim enrollment as citizens by blood of the Cherokee Nation. The names of the principal applicants, their file numbers, and the date of departmental action concerning each appear as follows:

Name.	File No.	Date
Hannah Flippin et al.	I. T. D. 2682-1902	May 12, 1902
Floie McCaskey et al.	696-1903	Feb. 7, "
Tennessee Ficklis et al.	" 5191-	Aug. 23, "
Jennie Ellis	" 710-	Feb. 7, "
Hattie B. Derricksen et al.	" 2638-	May 12, "
Mary Jane Skinner et al.	" 2694-	May 12, "
Mary L. Flippin for	"	"
William F. Flippin	" 2637-	May 12, "
Lula Freeman et al.	" 7901-	Jan. 5, 1903
Alice M. Tanner et al.	" 4110-	July 28, 1902
James H. Flippin	" 3578-	June 27, "
James F. Flippin	" 4004-	July 2, "

It appears that the principal applicants in the above entitled cases were denied enrollment under the act of June 10, 1896 (29 Stat., 321), either by the Commission to the Five Civilized Tribes, or by the United States court on appeal, or by both.

Subsequently, by virtue of the act of June 28, 1898 (30 Stat., 495), your Commission refused to enroll said applicants, basing its decision in some cases because of prior rejection by the said Commission or by the United States court, and in other cases for the further reason that your Commission deemed itself without jurisdiction in the matter in view of the act of May 31, 1900 (31 Stat., 221). These decisions, denying said applicants enrollment as Cherokees by blood, were affirmed by the Department. In one case, however, that of James F. Flippin, the right of enrollment by intermarriage was granted both by your Commission and by the Department. Inasmuch as he has been recognized by the tribal authorities as a citizen by blood, action will be taken herein concerning his request to present further testimony in support of such claim.

Upon further examination it appears that certain of the above-named applicants were admitted to Cherokee citizenship September 26, 1884, by the Spears Commission, and two years later were enrolled upon the 1886 tribal roll. Others of the applicants were admitted by said Commission in 1884, but their names do not appear on the 1886 roll. Such admission, however, was the legal

equivalent of enrollment. Still others of the applicants were minors when their parents were enrolled or admitted, or were born subsequent thereto, acquiring thereby the status of their parents.

Inasmuch, therefore, as said applicants were recognized citizens of the nation prior to the act of June 10, 1896, supra, your Commission and the courts under said act were without jurisdiction to pass upon their cases. Although the name of Agnes Dorsey does not appear in the list given above, it seems that she is the daughter of the said Tennessee Ficklin, and that testimony was taken concerning both September 29, 1900. As Agnes Dorsey's case in all material respects is the same as that of the other herein referred to, the same action will be taken in her case as in others.

It is requested on behalf of the applicants, in order that time and expense may be saved, that these cases be consolidated, and that for the convenience of all concerned, rehearing be had at the same time, such action to be taken as a part of the proceedings in connection with the rehearing directed February 15, 1905, by the Department in the case of Belle Z. Bowers.

Inasmuch as they claim with her a common ancestry and source of rights, a rehearing is accordingly granted concerning the case named above, and their consolidation is therefore directed.

In addition to the foregoing case the Indian Office

transmitted the record in the case of Sophia Bethel, concerning which see departmental letter of February 14, 1902, (I.T.D. 1033-1902). From the showing made it is evident that a rehearing should also be granted in her case in connection with the foregoing, and you will act accordingly.

In the motion filed by said attorney there was also a request that with the foregoing there be consolidated the applications in the following cases: Belle Z. Bowers, Maud Crutchfield et al., James C. Flippin, John C. Flippin, Bertha Ericksten et al., John F. Diamond et al., Emmett Skinner, and Heber Skinner. So far as the case of Belle Z. Bowers is concerned, this request is granted. The records, however, in the other cases last named above are not before the Department.

Accordingly at this time their consolidation with the foregoing will not be directed. The Department considers, nevertheless, that such action would be advisable if the applicants in these cases claim a common ancestry and source of rights with Belle Z. Bowers.

Respectfully,

56 inclosures.

(signed) THOS. RYAN,
Acting Secretary.

J. W. H.
MB.

DEPARTMENT OF THE INTERIOR,

D. C. 28825-1985.

WASHINGTON, April 20, 1965.

H. T. D. 28825-1985.

L. R. F.

Continuation to the New Civilized Tribes

Langhorne, Indian Territory.

Enclosure:

Referring to departmental letter of April 12, 1965, returning to you for reworking and consolidation the records in the Cherokee enrollment cases of Hannah Flippin et al., there are enclosed herewith motions for consolidation affecting Della L. Swartz et al., Bertha Erickson and Theodore Erickson, Edgar Skinner, Emmett Skinner, John G. Flippin, John F. Diamond et al., Ned Crutcher, et al., and James C. Flippin.

These motions were inadvertently omitted from departmental letter above referred to.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

3 enclosures.

COMMISSIONERS:
TAMM BIRBY,
THOMAS E. NEEDLES,
C. R. BRECKENRIDGE

WM. G. KEALL
Secretary

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

INDEXED BY SERIAL IN THE FOLLOWING: Cherokee Memo. 405,
et al.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 1, 1905.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

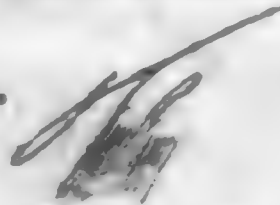
Dear Sir:

In the matter of the application for the enrollment of Hannah Flippin, et al., as citizens by blood of the Cherokee Nation, you are advised that the Commission is in receipt of departmental letter of April 12, 1905, remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, May 25, 1905, and introduce such testimony as they may desire in support of their said applications. 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.

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

Respectfully,



Incl. 3-7

Chairman.

M/407

IN THE MATTER OF THE APPLICATION OF

Hannah Flippins

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY • 1900

MEMO

~~11/18~~
M 415

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 18 1907

ATTEST: I. J. [illegible] 30-7-1907
SPECIAL AGENT IN CHARGE

[Illegible text, possibly a letter or report]

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[Illegible text, possibly a letter or report]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T. SEPTEMBER 29th, 1900.

IN THE MATTER OF HER APPLICATION OF Hannah Flippins for enrollment as a citizen of the Cherokee Nation, and she being sworn and examined by Commissioner, G. B. Breckinridge, testified as follows:

- Q What is your full name? A Hannah Flippins.
Q How old are you? A I shall be seventy seven my birth day, the first of February next.
Q What is your Postoffice? A Vinita.
Q In what district do you live? A Coocooscoocooe.
Q What is it you want to have put on the rolls? A Myself and children.
Q You can apply for your children under twenty one years of age?
A Just myself then.
Q How long have you lived in the Cherokee Nation? A I came out to the Cherokee Nation in 1885.
Q 1885? A Yes sir.
Q Were you admitted by the Cherokee Commission or Council?
A Yes sir.
Q Have you a certificate of your admission? A I have papers, but I have not got them with me.

It appears from the Commission Records, Docket B., Page 404, Commission No. 5343, that the applicant and others applied to the Dawes Commission, September 8th, 1896, for admission to Cherokee citizenship. The Commission admitted Hannah Flippins, and the record shows that the judgment of the Commission was reversed by the United States Court, 1905; that is final as regards the power of this Commission to enroll the applicant at this time, and therefore, her application for enrollment will be placed upon a Rejected Card, and it will be reported to the Secretary of the Interior for his final approval.

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

G. B. Breckinridge

Subscribed and sworn to before me
this second day of October, 1900.

[Signature]

COMMISSIONER.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 20, 1902.

In the matter of the application of Hannah Flippin for enrollment as a citizen of the Cherokee Nation.

It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that Hannah Flippin was admitted to citizenship in the Cherokee Nation by the Commission under the provisions of said act; that an appeal was taken to the United States Court for the Northern District of Indian Territory, where the decision of the Commission was reversed.

It appears from the testimony in this case that the name of the applicant was erroneously placed upon a rejected card. Upon further consideration of this case it seems that the Commission did not have jurisdiction over the application of the said Hannah Flippin, and that the application comes within the provisions of the act of Congress approved May 31, 1896, which provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and only and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

It is therefore directed that Cherokee Roll Card Field No. 8. 128 be cancelled, and that the name of Hannah Flippin be reported to the Commission for rejection as a citizen of the Cherokee Nation under the provisions of the act above quoted.

Upon an examination of the tribal rolls of the Cherokee Nation now in possession of the Commission it is found that the name of the applicant does not appear of record thereon. Neither does it appear that she was ever admitted to citizenship in the Cherokee Nation by the tribal authorities. In the original papers filed with the Commission under the provisions of the act of Congress approved June 10, 1896, the name of this applicant appears as Hannah Flippin. She was duly identified as the applicant in this case, Hannah Flippin.

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.

IN THE DEPARTMENT OF THE INTERIOR.

---000---

In re Application of)
Hannah Flippin, et al., for En-)
rollment as Cherokee citizens.)

---000---

MOTION FOR CONSOLIDATION.

Now comes the above named applicant by her attorney, William Henry White, and moves that the following cases, of which this is one, be consolidated and rejudicated by the Commission together, for the reason that questions common to all of them must be considered by the Commission and Department, and testimony on these points will have to be taken, and that, therefore, the consolidation will save expense and time in their consideration:

Fleeta McGlasson, et al.
Jennie Ellis, et al.
Tennessee Ficklin, et al.
Nettie B. Derickson, et al.
Mary Jane Skinner, et al.
Mary I. Flippin for William T. Flippin.
Lula Freeman, et al.
Alice E. Tanner, et al.
Hannah Flippin, et al.
James H. Flippin.
James F. Flippin.
Belle Z. Bowers, et al.
Maud Crutcherfield, et al.
James C. Flippin.
John C. Flippin.
Bertha Erickson, et al.
John F. Diamond, et al.
Sophia Bethel, et al.
Emmett Skinner.
Reber Skinner.

Respectfully submitted,

WM. HENRY WHITE,

Attorney for Applicants.

(Original Motion of which this is a copy filed in the Hannah Flippin case.)

IN THE DEPARTMENT OF THE INTERIOR,

-----000-----

In re Application of Fleda
McGlacken, et al., for En-
rollment as Cherokee citizens.)

-----000-----

MOTION FOR REVIEW.

And now come the above named applicants by their attorney, William Henry White, and move that the decisions of the Commission and Department herein be set aside and a new hearing granted and had for the following reasons:

1. In the letter of the Commission to the Five Civilized Tribes dated July 13, 1904, and filed with the Belle Z. Bowers case, the name of Fleda McGlacken (as Fleety) is shown to appear upon the 1866 roll, although the record shows her name does not appear thereon.

2. That she was rejected by the Commission and Department because of her rejection on appeal to the United States Court under the Act of June 15, 1894.

3. That in the Belle Z. Bowers case this decision of the Commission and Department is error.

4. It is particularly desirable that the new testimony in all of the cases involved in the Belle Z. Bowers case be taken at the same time, and as this case is exactly like the Bowers case it should be referred back for readjudication.

Respectfully submitted,

Wm Henry White
Attorney for Applicant.

IN THE DEPARTMENT OF THE INTERIOR.

-----000-----

In re Application of)
Jennie Ellis, et al., for)
Enrollment as Cherokee citizens.)

-----000-----

MOTION FOR REVIEW.

And now come the above named applicants by their attorney, William Henry White, and move that the decisions of the Commission and Department herein be set aside and a new hearing granted and had for the following reasons:

1. In the letter of the Commission of the Five Civilized Tribes dated July 13, 1904, and filed with the Belle Z. Bowers case the name of Jennie Ellis (as Jennie Skinner) is shown to appear upon the 1866 roll, although the record in this case says she is not identified on any roll; and she is further shown by the record to be the daughter of Mary J. Skinner, who, with her mother, Hannah Flippin, was admitted to citizenship in the Nation in 1864, as shown by the affidavit of Bruce O. Jones filed in the Belle Z. Bowers case.

2. That she was rejected by the Commission and Department because of her rejection by the United States Court on appeal under the Act of June 10, 1896.

3. That in the Belle Z. Bowers case this decision of the Commission and Department is error.

4. It has appeared desirable that the new testimony in all of the cases involved in the Belle Z. Bowers case be taken at the same time, and as Jennie Ellis' case is exactly like the Belle Z. Bowers case, it should be referred back for readjudication.

Respectfully submitted,

Wm Henry White
Attorney for Applicant

IN THE DEPARTMENT OF THE INTERIOR.

---000---

In re Application of Tennessee)
Picklin, et al., for Enrollment)
as Cherokee citizens:)

---000---

NOTICE FOR REVIEW.

For come the applicants by their attorney, William Henry White, and move that the decisions of the Commission and Department be set aside and a new hearing granted and had for the following reasons:

1. These applicants were rejected by the Commission which said:

"Upon an examination of the Cherokee tribal rolls now in the possession of the Commission it is found that none of the persons embraced in this application are identified thereon. Neither does it appear that they have ever been admitted to citizenship by the tribal authorities."

The Commission also said:

"It is found Docket B page 404 of the Dawes Commission No. 3343 that the present applicant applied September 8, 1896, with her mother and others for admission to citizenship in the Cherokee Nation. The Commission decided favorably in the matter of her application; this decision was reversed by the United States Court, case No. 205; this is final so far as the power of this Commission to enroll the applicant at the present time is concerned."

As shown by the record there were five applicants in 1896, four of whom were admitted by the Commission and the other was rejected, and that the United States Court on appeal rejected all of the applicants.

I am unable to say at the present time whether or not any of these applicants' names are upon any of the rolls of the Cherokee Nation.

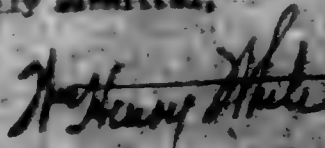
The finding of the Commission that they are not enrolled should not be taken against them in view of the fact that the Commission found that the record shows that none of the applicants are enrolled in the following cases, whereas the Commission later shows the facts to be that they were enrolled, namely, Jennie Ellis, Belle Z. Bowers, Mary J. Skinner, Ocheehee Skinner, and

Fleda McGlasson. In the James F. Flippin case he is shown to be on the 1886 roll as an intermarried white, whereas he is also enrolled as a Cherokee by blood on the 1886 roll. In the James H. Flippin case the record shows that he is, and also that he is not, enrolled. In the William F. Flippin case the Commission did not look for the father, though William F. was too young to be on the 1886 roll, and the record pointed out that his father should have been enrolled. In the Hannah Flippin case the Commission found her to be neither admitted nor enrolled, whereas the facts are she was both admitted and enrolled. In view of these errors in the cases of the descendants of Hannah Flippin, I submit that all of the Flippin cases should be remanded for readjudication together, as similar errors may in that way be avoided in the future.

I submit that this case should be remanded to the Commission for readjudication with the Belle Z. Bowers case for the reason that it was tried by the Commission and Department under a theory which has been set aside by the Assistant Attorney-General's opinion in the Bowers case. The finding of the Commission that none of them were admitted to citizenship in the Cherokee Nation by the tribal authorities is clearly error as shown by the affidavit of Bruce C. Jones filed in the Bowers case, which shows that Tennessee Picklin, nee Flippin, was admitted with her mother, Hannah Flippin, in 1881.

I also request that this case be remanded at once to be retried with the Belle Z. Bowers case, as the same questions are raised in both.

Respectfully submitted,


Attorney for Applicants

IN THE DEPARTMENT OF THE INTERIOR.

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In re Application of Nettie d.)
Derickson, et al., For Enroll- :
ment as Cherokee citizens.)

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MOTION FOR REVIEW.

Now come the above named applicants by their attorney, William Henry White, and move that the decisions of the Commission and Department herein be set aside and a new hearing granted and had for the following reasons:

The grounds for their rejection are thus stated in the record:

"It appears from the Commission's records, Packet B, page 404, Commission No. 5343, that the applicant and her family applied to the Daves Commission for admission in 1888 and the application was denied by the Commission. Appeal was taken to the U. S. Court. These cases are included in Court numbers 245 and 200. The decision of the Commission was sustained by the U. S. Court. In view of the evidence and record it does not appear that the applicant or her children have at this time any position which gives the Commission jurisdiction over an application for their enrollment. Therefore, only a memorandum will be made of the fact that they applied and that the application was not received for the reasons stated."

Under date of January 26, 1902, "Upon an examination of the tribal rolls of the Cherokee Nation now in possession of the Commission, it is found that none of the applicants embraced in this application appear thereon. It also appears that the name of the applicant was embraced in the application of Hannah Flippin for admission under the Act of June 10, 1886, which application was denied by the Commission and on appeal taken to the U. S. Court for the Northern District of Indian Territory where the Daves Commission was sustained."

I am unable to state at this time whether the names of these applicants appear upon the 1886 roll, but in all likelihood their names so appear, as Mrs. Derickson is the daughter of Giles Flippin who was admitted with his mother, Hannah Flippin, in 1884, as shown by the affidavit of Bruce C. Jones filed with the Belle Z. Bowers case, where the name is spelled "Giles". On this point the Commission say:

"There is also presented an official copy of an Act of the Cherokee Council approved December 6, 1886, relating to the admission of Giles Flippin and others, in which it is charged that the admission obtained in 1884 was obtained by

fraud and that the decree of the Commission granting them citizenship was so obtained, and an official investigation in regard to the same was ordered."

The finding of the Commission that they are ^{not} enrolled should not be taken against them in view of the fact that the Commission found that the record shows that none of the applicants are enrolled in the following cases, whereas the Commission later show the facts to be that they were enrolled, namely, Jennie Ellis, Belle E. Bowers, Mary J. Skinner, Ocheches Skinner, and Fleda McGlasson. In the James F. Flippin case he is shown to be on the 1886 roll as an intermarried white, whereas he is also enrolled as a Cherokee by blood on the 1886 roll. In the James H. Flippin case the record shows that he is, and also that he is not, enrolled. In the William T. Flippin case the Commission did not look for the father, though William T. was too young to be on the 1886 roll, and the record pointed out that his father would have been enrolled. In the Hannah Flippin case the Commission found her to be neither admitted nor enrolled, whereas the facts are, she was both admitted and enrolled. In view of these errors in the cases of the descendants of Hannah Flippin, I submit that all of the Flippin cases should be remanded for readjudication together, as similar errors may be in that way avoided in the future.

I submit that this case should be remanded to the Commission for readjudication under the decision in the Belle E. Bowers case as an entirely new method of procedure has, by the decision of the Assistant Attorney-General, been laid down; and for the further reason that all of the applicants are the descendants of Hannah Flippin, and most of them were born since 1886.

I also ask that this case be remanded at once in order that the applicant may be taken with the testimony in the Bowers case.

Respectfully submitted,

John Henry White
Attorney for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

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In re Application of Mary Jane)
Skinner, et al., for Enrollment :
as Cherokee citizens.)

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MOTION FOR REVIEW.

Now come the above named applicants by their attorney, William Henry White, and move that the decisions of the Department and Commission herein be set aside and a new hearing granted and had for the following reasons:

1. In the letter of the Commission to the Five Civilized Tribes dated July 13, 1904, and filed with the Belle Z. Bowers case, the names of Mary J. Skinner (formerly Mary Jane Flippin) and Ocheechee (as Oolushee) Skinner are shown to appear upon the 1886 roll, although the record in this case says:

"It is found upon an examination of the tribal rolls of the Cherokee Nation now in possession of the Commission that neither the name of Mary J. Skinner, or her child Ocheechee, or Baby Skinner, or grand child Charlie Skinner, can be found thereon."

The record shows Charlie Skinner's age to be 12 on September 29, 1900. Hence this child must have been born two years after the 1886 roll was made.

2. The Commission under the Act of June 10, 1896, admitted Mary Jane Skinner and rejected Charlie Skinner and Baby Skinner. On appeal all three applicants were rejected by the United States Court. The Commission and Department on April 9, 1902, and May 12, 1902, respectively, rejected all of these applicants because of their aforesaid rejection by the United States Court on appeal.

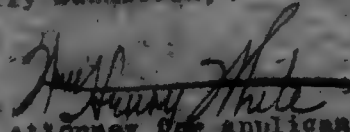
3. That in the Belle Z. Bowers case this decision of the Commission and Department is error.

4. It is particularly desirable that the new testimony in all of the cases involved in the Belle Z. Bowers case be taken

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at the same time, and as this case is exactly like the Bowers case it should be referred back for readjudication.

Respectfully submitted, .


Attorney for applicants.

IN THE DEPARTMENT OF THE INTERIOR.

---oCo---

In re Application of
Mary I. Flippin for her Minor
Son, William T. Flippin, for
Enrollment as a Cherokee citizen.

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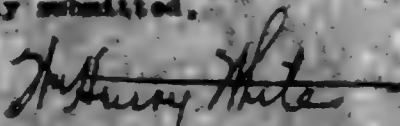
MEMORANDUM FOR REVIEW.

And now comes the applicant in the above entitled cause by her attorney, William Henry White, and moves that the decisions of the Commission and Department in this case be set aside and a new hearing granted and had for the following reasons:

William T. Flippin is the son of John C. Flippin, who, as shown by the affidavit of Bruce C. Jones filed in the Belle Z. Bowers case, was admitted to citizenship with his mother, Hannah Flippin, in 1884, and as shown by the letter of Commission to the Five Civilized Tribes, also filed in the Bowers case, is enrolled on the 1886 roll. From the Commission's records, as shown in the record in this case, application was made for William T. Flippin before the Commission in 1894, and admitted by the Commission, which admission was reversed by the United States Court on appeal. The attorney is testifying sworn to that William T. Flippin was enrolled in 1886, but the records of the Commission show him to be ten years of age in 1886, so that he was probably not here until after the 1886 roll was completed.

This applicant is the son (descendant) of John C. Flippin, whose name does appear on the 1886 roll as above shown, and his case is exactly like -- in fact, really a part of -- the Belle Z. Bowers case and should be referred to the Commission for re-adjudication with that case.

Respectfully submitted,


Attorney for Applicant.

IN THE DEPARTMENT OF THE INTERIOR.

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In re Application of)
Lula Freeman, et al., for En-)
rollment as Cherokee citizens.)


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NOTICE FOR REVIEW.

Now come the applicants in the above entitled case by their attorney, William Henry White, and move that the decisions of the Commission, dated May 20, 1902, and of the Department be set aside and a new hearing granted and had for the following reasons:

The principal applicant is the daughter of Mary J. Skinner, who, with her mother, Hannah Flynn, was admitted to citizenship in 1864; her name appears upon the 1886 roll; she applied to the Commission in 1896 for enrollment, was rejected, which rejection was on appeal affirmed by the United States Court under the Act of June 10, 1896; and the present decisions of the Commission and Department are based upon the contention that the Commission and Department were without jurisdiction to entertain her application under the Curtis Act, which, under the *Hewers* case, is error. The case is, therefore, exactly like the *Hewers* case -- is, in fact, properly a part thereof -- and should be remanded for readjudication by the Commission with that case.

Respectfully submitted,


Attorney for Applicant.

IN THE DEPARTMENT OF INTERIOR.

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In re Application of)
Alice B. Tanner, et al., for)
Enrollment as Cherokee citizens.)

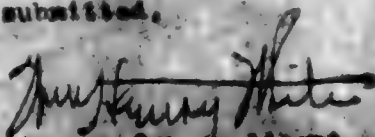
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NOTION FOR REVIEW.

Now come the applicants in the above entitled case by their attorney, William Henry White, and move that the decisions of the Commission, dated May 20, 1902, and of the Department, dated July 28, 1902, be set aside and a new hearing granted and had for the following reasons:

The principal applicant is the daughter of John C. Flippin, who, with his mother, Hannah Flippin, was admitted to citizenship in 1884; her name appears upon the 1890 roll; she applied to the Commission in 1896 for enrollment, was rejected, the which rejection was on appeal affirmed by the United States Court under the Act of June 10, 1896; and the present decisions of the Commission and Department are based upon the contention that the Commission and Department were without jurisdiction to entertain her application under the Curtis act, which, under the Bowers case, is error. The case is, therefore, exactly like the Bowers case -- is, in fact, properly a part thereof -- and should be remanded for readjudication by the Commission with that case.

Respectfully submitted,


Attorney for applicant.

IN THE DEPARTMENT OF THE INTERIOR.

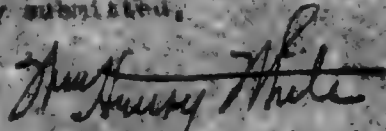
In re Application of
James H. Flippin as a
Cherokee citizen.

MOTION FOR REVIEW.

Now comes the said applicant by his attorney, William Henry White, and moves that the decisions of the Department and Commission be set aside and a new hearing granted and had for the following reasons:

1. That by the letter of the Commission to the Five Civilized Tribes dated July 13, 1864, filed with the Belle Z. Nevada case his name is shown to appear upon the 1863 roll.
2. That he was rejected by the Commission and Department because of his rejection by the United States Court on appeal under the act of June 10, 1866.
3. That in the Belle Z. Nevada case this decision of the Commission and Department is error.

Respectfully submitted,


Attorney for Applicant.

15 DEPARTMENT OF THE INTERIOR.

In re Application of)
James F. Flippin as a)
Cherokee citizen.)

MOTION FOR REVIEW.

Now comes the said applicant by his attorney, William Henry White, and moves that the decisions of the Department and Commission be set aside in so far as they affect the application of James F. Flippin as a Cherokee by blood, for the following reasons:

1. That his name is shown by the record to appear upon the 1836 roll.
2. That by the letter of the Commission dated July 13, 1834, filed in Belle Z. Bowers case his name appears upon the 1836 roll.
3. That he was rejected by the Commission and Department because of his rejection by the United States Court on appeal under the Act of June 10, 1896.
4. That in the Belle Z. Bowers case this admission of the Commission and Department is error.

This motion does not affect the rights of said James F. Flippin as an intermarried citizen. It is respectfully asked that his case be considered as a Cherokee by blood at this time without waiting for the decision of the United States Court of Claims in the intermarried whites' case, for the reason that all of the Flippin cases, of which this is one, should be rejudicated together.

Respectfully submitted,

William Henry White
Attorney for Applicant.

IN THE DEPARTMENT OF THE INTERIOR.

In re Application of)
Fannat Flippin, et al.,)
for Enrollment as Cherokee)
Citizens.)

MEMORANDUM FOR REVIEW.

Now comes the above named applicants by their attorney, William Henry White, and moves that the decisions of the Commission and Department be set aside and a new hearing granted and had for the following reasons:

1. In the letter of the Commission to the Five Civilized Tribes dated July 15, 1904, and filed with the Belle 2, Bowers case the name of Fannat Flippin is shown to appear upon the 1890 roll.

2. That she was rejected by the Commission and Department because of her rejection by the United States Court on appeal under the act of June 10, 1898.

3. That in the Belle 1, Bowers case this decision of the Commission and Department is error.

4. It is particularly desirable that the new testimony in all of the cases involved in the Belle 1, Bowers case be taken at the same time, and as Fannat Flippin's case is exactly like Belle 2, Bowers' case, it should be referred back for readjudication.

Respectfully submitted,


Attorney for Applicant.

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

In the matter of the application for the enrollment of
Hannah Flippin, et al., as citizens of the Cherokee Nation, con-
solidating the applications of:-

Hannah Flippin,	Cherokee	K	405 ✓
Fleda McGlasson, et al.	"	L	102 ✓
Tennessee Picklin, et al.	"	R	198 ✓
Jennie Ellis,	"	F	110 ✓
Nettie B. Dirickson, et al.	"	J	159 ✓
Mary J. Skinner, et al.	"	E	99 ✓
William T. Flippin,	"	M	156 ✓
Lula Fresman, et al.	"	R	629 ✓
Alice B. Tanner, et al.	"	R	586 ✓
James H. Flippin,	"	R-D	507 ✓
James F. Flippin,	"	D	667 ✓
Bella Z. Bowers, et al.	"	E	151 ✓
James C. Flippin Jr.	"	K	542 ✓
Sophy Rethell, et al.	"	MR	101 ✓
Klaud Cruthfield	"	"	3730 ✓
Ramett Skinner	"	H	543 ✓
Heber Skinner	"	L	544 ✓
John F. Diamond, et al.	"	H	545 ✓
Bertha Ericksten, et al.	"	K	546 ✓
Berna B. Boswell, et al.	"	H	120 ✓

DECISION.

THE RECORD IN THIS CASE SHOWS: That applications for enrollment as Cherokees by blood were made to the Commission to the Five Civilized Tribes by Hannah Flippin for herself; by Fleda McGlasson for herself and minor children, Lanny, Sam Goods and Georgia McGlasson, and her husband, George B. McGlasson by inter-marriage; by Tennessee Picklin for herself and minor children, Agnes Dorsey, Samuel, Eugene, Mary and Leo Mary Picklin; by Mary Jane Skinner for herself and minor child, Ochooshee or Baby Skinner

and minor grandchild, Charlie Skinner (female); by Lula Freeman for herself and minor children, Nina, Frances, Nettie and Helen Freeman; by Sophy Bethell for herself and minor children, E. Harrison and Charlie Oliver Bethell; by Jennie Ellis for herself by Belle Z. Bowers for herself and minor children, Lon F., Andy Houston, Milton C. Jr., and Corwin Blaine Bowers, and her husband, Milton C. Bowers, Sr., by intermarriage; by Berne B. Boswell for herself; by James F. Flippin for, among others, himself, by intermarriage; by Mary I. Flippin for her minor child William T. Flippin; by Nettie B. Dirickson for herself and minor children Callie, Dixie, Katie, Sugg, Blanche and Clabe Dirickson; by Alice B. Tanner for herself and minor children, Samuel Reed, Thomas James and Alice May Tanner; by James H. Flippin for himself and wife, Ella May Flippin; and by John K. Crutchfield for, among others, his wife, Maud Crutchfield, nee Flippin, by intermarriage. Such rights as certain applicants herein may have to Cherokee citizenship by virtue of their marriage to recognized citizens of the Cherokee Nation will not be considered in this decision. The rights of the said James F. Flippin and Maud Crutchfield to citizenship by blood in the Cherokee Nation, being identical with the other claimants herein, will be adjudicated in this decision. The "others" included in the applications of James F. Flippin, and John K. Crutchfield, and the said Ella May Flippin, having been heretofore enrolled their rights to Cherokee citizenship will not be considered.

The record further shows that, among others, the said Hannah Flippin, Fleda, Lunay, Sam Goode and Georgia McGlasson, Tennessee, Samuel, Eugene, Mary and Leo Nancy Picklin and Agnes Dorset, Mary Jane, Oohoochee or Baby, and Charlie Skinner, Lula Nina, Frances, Nettie and Helen Freeman, Sophy, E. Harrison and Charlie Oliver Bethell, Jennie Ellis, Belle Z., Lon F., Andy Houston, Milton C. Jr., and Corwin Blaine Bowers, Berne B. Boswell, William T. Flippin, Nettie B., Callie, Dixie, Katie, Sugg, Blanche and Clabe Dirickson, Alice B., Samuel Reed, Thomas James and Alice May Tanner, and James H. Flippin have been heretofore denied the right to enrollment as citizens of the Cherokee Nation by the Commission to the Five Civilized Tribes, and that its action in such instance was subsequently affirmed by the Department.

The record further shows that thereafter, to-wit: on February 15, April 12 and 20, 1905 (I.T.N. 1483-3566-05), on motions of the applicants the cases of all those named in the first paragraph of this decision were reopened, consolidated, and remanded by the Department, and the Commission to the Five Civilized Tribes directed to hear and decide said cases upon their merits, "hearing any other competent testimony and considering any other competent evidence that the parties may offer, necessary fully to present their contentions;" and that, in compliance therewith, further proceedings in the matter of said applications were had on April 13, and May 25, 1905, at Muskogee, Indian Territory, and on the latter date the following names, viz: Gladys Boswell, Berny McGlasson, Clarence F. and Dez Ellis, Theodore and

Bertha Erickson, Roy F., John F., Bena and Bertha Diamond, Emmett and Heber Skinner, and James C. Flippin Jr., were submitted to the Commission as those of persons entitled to Cherokee citizenship as descendants of the applicant Hannah Flippin.

It further appears that, on request of the parties hereto, the following exhibits were filed with and made a part of the record in this case, to-wit: Affidavits of Berne B. Boswell and John P. Subberth, showing the birth of Gladys Boswell on September 9, 1901 (p.p. 197-8), certified copy of Spears Commission admitting Hannah Flippin et al. to citizenship in the Cherokee Nation (p. 199), letter of Commissioner Bixby to William Henry White, dated July 13, 1904 (p.200), certified copy of certain proceedings had before, and papers filed with, the Dawes Commission in 1896 in re application for Cherokee citizenship of Hannah Flippin, et al. which also includes copies of proceedings had before the Spears and Adair Courts and before C. C. Dinean, U. S. Special Agent, together with his report, dated July 29, 1892 (p.p. 202 to 256 incl.), copy of appeal taken from decision of Dawes Commission in case of Hannah Flippin et al. to U. S. District Court (p. 204), copy of an Act of the Cherokee Council approved December 1, 1886 (p. 266) copy of decision of Adair Commission in re Cherokee citizenship of Hannah Flippin, et al. (p. 272), opinion of William F. Springer, Judge, of the U.S. Court for the Northern District of the Indian Territory, in re rights to Cherokee citizenship of Hannah Flippin et al. (p. 275), opinion of the Supreme Court of the United States in the case of Stephens et al. v Cherokee Nation, 43 L. Ed. 1041 (p. 284), answer of Hannah Flippin and her children filed with the Adair Commission April 21, 1887 (p. 310), motion of J. H. Bryan attorney for Hannah Flippin and her children, filed with said Commission May 23, 1887 (p.312), notice of R. F. Wyly, attorney for Cherokee Nation, served on J. H. Bryan, attorney for Hannah Flippin and her children (p. 313), opinion of Acting Attorney-General W. A. Day rendered December 7, 1904 (p.314), letter from Pension Department to William Henry White, (p.316), dated June 15, 1905, certified copies of mittimus of one John F. Taylor convicted of perjury and of presenting false claims against the Government, (p.319), of Campbell H. Taylor, convicted of violating the Postal law (p.321), and of one John Ward, convicted of introducing liquor (p.322), and the opinion of the Assistant Attorney-General, John I. Hall, rendered July 16, 1894, in the case of John O. Cobb, et al., v Cherokee Nation (p.257).

The following certified copies of certain records in the custody of this office were ordered filed with, and made a part of the record in this case, to-wit:- Copy of Act of Cherokee Council approved December 3, 1869 (p.324) copy of decision rendered by the Ross Commission on Cherokee citizenship, on March 16, 1889, in the cases of Aaron Bales, et al., v Cherokee Nation (p.327), copy of register of "Lucy Briant", et al., under Treaty of July 8, 1817 with the Cherokee Nation (p. 341), and report of J. T. Adair, Chairman Citizenship Commission, to D. W. Bushyhead Principal Chief of the Cherokee Nation, dated Tahlequah, Indian Territory, November 14, 1887 (p. 342).

Several motions, briefs and arguments in behalf of the applicants and the Cherokee Nation are filed herewith and made a part of the record herein (p.p. 111, 118, 147, 182, 348 and 384).

The record further shows that on September 8, 1884, at Tahlequah, Indian Territory, Hannah Flippin and her children filed with the Commission on Cherokee citizenship commonly known as the "Spears Court", their petition praying that they be admitted to citizenship in the Cherokee Nation as descendants of one John Bryant, deceased, who, they alleged, was a Cherokee by blood and at one time a member of the old Cherokee Nation; and that on September 26, 1884, they were admitted by that Court to all the rights of native born Cherokees (p.199); that subsequently, to-wit: on December 8, 1886, an Act of the Cherokee Council was approved, which provided for the creation of a Commission on Cherokee citizenship with authority to summon before it certain parties, among others, the said Hannah Flippin and family, who, it was charged, had obtained their admission to Cherokee citizenship through fraud and bribery, and required them to show cause why the decree so admitting them should not be declared null and void (p.p. 265-270), and that, thereafter, to-wit: on August 29, 1887, the Commission created by this Act commonly known as the "Adair Court" declared the decree of the former Commission ("Spears Court") admitting Hannah Flippin et al., to Cherokee citizenship null and void to all intents and purposes (p.272).

Other proceedings relative to the right of Hannah Flippin and her descendants, to Cherokee citizenship, were thereafter had, viz.: Investigation and report by C. C. Duncan, decree of the Dawes Commission under Act of June 10, 1896, and judgments of the United States Court for the Northern District, Indian Territory, and of the Supreme Court of the United States, on appeal ("Exhibits 4, C. and D"), but under the ruling of the Department (I.T.D.1486-05), supra., it is not considered necessary to at this time set them out in detail.

The following points are fully established by the evidence, to-wit:-

- (1) That Hannah Flippin, now deceased, was the granddaughter of one John Bryant, deceased, who for many years prior to his death in 1855, at the age of eighty, lived in Gibson County Tennessee, is the common ancestor of all the other applicants herein, and that none of the applicants in this case possess any Cherokee blood other than such as they may have obtained as descendants of the said John Bryant, deceased?
- (2) That certain of the applicants together with the deceased ancestors of others herein, are identified on the Cherokee pay roll of 1886 ("Exhibit 3" p. 200), but that none of said applicants, except James F. Flippin, who is identified on the Cherokee census roll of 1896 as an intermarried Cherokee citizen, nor any ancestor through

show by any possibility they might obtain rights to Cherokee citizenship, can be identified on any other roll of the Cherokee Nation in the custody of this office.

In an opinion rendered by the Assistant Attorney-General on October 5, 1903, in the case of Harry Still, Departmental letter of October 13, 1903 (I.T.D. 7638-04, 8208-05), wherein was considered the weight to be given a decree of the Cherokee Supreme Court by the Commissioner to the Five Civilized Tribes, of a matter coming within the jurisdiction of both, respectively, he said, *inter alia*:

"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, 1898 (29 Stat. 321, 329), 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 appear 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.

In view of the record in this consolidated case which shows that the cases included therein were remanded for the purpose of being readjudicated "upon their merits", together with the ruling of the Department in the case of Harry Still, *supra*, it is considered that, in accordance therewith, two questions are presented to this office for determination, *viz*:

First: Is it established that the applicants herein possess Cherokee blood? and

Second: Has the action of the Cherokee authorities in dealing with the petition for Cherokee citizenship of Hannah Flippin, et al., been such that the applicants herein are now entitled to Cherokee citizenship irrespective of whether or not they possess Cherokee blood?

In re applicants' Cherokee blood:

The proper disposition of this question depends upon whether or not John Bryant, deceased, possessed Cherokee blood

and all evidence within the reach of this office, bearing upon that point, will be here considered.

Before the Speare Court on September 12, 1884, Aaron Bales (brother of Hannah Flippin), and S. H. Wilburn, in behalf of the petitioners, Hannah Flippin and her eight children, testified as follows:

AARON BALEW: John Bryant was one-fourth Cherokee and three-fourths white. He lived in South Carolina, Indian District, and moved from there to Tennessee, where he died. In both states he was known and regarded as a Cherokee, and said himself he was part Cherokee.

S. H. WILBURN: I am about 50 or 55 years old and my occupation is farming. I was raised near John Bryant - in west Tennessee, Gibson County. I do not recollect that he was recognized as a Cherokee. I was told by my parents he was part Indian. He was so regarded by the neighbors. I do not know that the applicant (Hannah Flippin) is a Cherokee, but have always been taught that John Bryant was part Indian.

The petitioners also filed in support of their claim the ex parte affidavits of J. H. Edwards, A. J. Smith, G. Green, L. V. Frazier, James I. Walker and G. G. Walker.

J. H. EDWARDS, stated: I knew John Bryant in Gibson County Tennessee. He was from South Carolina. I knew him to be part Cherokee Indian, the same as I knew him to be part white man. He was generally known to be part Cherokee Indian. Subscribed and sworn to on August 2, 1884, before W. A. Williams, Clerk County Court, Montague County, Texas.

A. J. SMITH, G. GREEN and L. V. FRAZIER, stated: We know Aaron Bales, Gov. Bales and Hannah Flippin, also know John Bryant of Gibson County, Tennessee, and know that the three first named are grandchildren of the said John Bryant. Subscribed and sworn to August 4, 1884, before J. D. Crane, Clerk of Gibson County, Tennessee.

JAMES F. and G. G. WALKER, stated: We know John Bryant of Gibson County, Tennessee. He was from South Carolina. We, and his neighbors generally, knew him to be part Indian the same as we knew him to be part white man. Subscribed and sworn to July 31, 1884, before Sam J. House, Clerk of the Chancery Court of Tate County, Mississippi.

Under the showing above indicated the Speare Court, in its decree rendered on September 20, 1884, admitted the petitioners to all the rights of native Cherokees.

In accordance with a notice dated June 27, 1887, addressed to and served upon J. M. Bryan, Esq., attorney for Hannah Flippin, et al., the depositions of Zach Bryant and George Robinson, of Gibson County, Tennessee, to be used by the Cherokee Nation in the proceedings then pending before the Adair Court in re charges against Hannah Flippin and family, were taken on July 15, 1887.

ZACH BRYANT deposed as follows: I am 67 years old, was born in Union District, South Carolina, and except from 1855 to 1856, have lived in Gibson County, Tennessee for about sixty-two years. My father was named Zachariah Bryant, but was called Rial Bryant, and was the son of John Bryant. John Bryant had fourteen children. He came to Tennessee from Alabama about 1825, was originally from South Carolina, where he had married, but I don't think he was born there. I don't know who John Bryant's parents were and have no recollection of any of the Bryant families ever having been enrolled as Cherokees or drawing any money as such from Alfred Chapman, Special Agent for the United States Government to make payments to the Cherokee Indians in 1852. About the year 1828 John Bryant went as he said, to the Cherokee Nation, from there to South Carolina, and then back home. In the spring of 1835 I spent several months at his house; he had heard there was liable to be trouble between the United States Government and the Cherokee Indians, and was fearful the Cherokees, who he said were his people, would be wronged. His wife was a white woman, and I have often heard her scold her children and say "You Indians, you Indians". John Bryant was never a citizen of the Cherokee Nation to my knowledge. He came to South Carolina from the Cherokee country, a straggler. I know nothing of J. H. Edwards and if such a man was living in the neighborhood of my grandfather since my day I think I would have known him. There were Edwards's there, but got with that initial that I know of. Subscribed and sworn to July 15, 1887, before J. D. Crane, Clerk of Gibson County Court, Tennessee.

GEORGE W. ROBINSON deposed as follows: I am 57 years old and have lived in Gibson County, Tennessee, during the past fifty-three years. I knew JOHN BRYANT from my boyhood to his death in '55 or '56. I know nothing of his Cherokee blood except from hearsay. My father and mother knew him in South Carolina and I have heard them say there was Cherokee blood in him. I have no knowledge of the father and mother of John Bryant and never knew of John Bryant or any member of his family being enrolled as Cherokees or drawing per capita payments as such. Subscribed and sworn to on July 15th, 1887, before J. D. Crane, Clerk of Gibson County Court, Tennessee.

The ex parte affidavits of one Sampson Browning and the said S. H. Wilburn were filed by the defendants, Hannah Flippin et al. Said affidavits swore as follows:

SAMPSON BROWNING: I am 69 years old, was born and have

lived in the state of South Carolina near the Carroll and Gibson County line since about the year 1838. I have been acquainted with John Bryant and his family for about fifty-two years, and from an undoubted authority the said John Bryant was part Cherokee Indian. I have been personally acquainted with many Cherokee Indians as well as with the said John Bryant, and do not believe that I can be deceived about him being a Cherokee Indian. Subscribed and sworn to on March 24, 1887, before N. J. Hawthorn, Notary Public, Gibson County, Tennessee.

S. H. WILBURN: I am about fifty years old and my postoffice is Pilot Point, Denton County, Texas. I have been personally acquainted with Aaron Bolew, brother of Hannah Flippin, for about fifty years, and he has been considered a Cherokee by blood ever since I knew him. Subscribed and sworn to on June 29, 1887, before Ben Moss, J. P. and ex officio N.P., Precinct No. 2, Denton County, Texas.

Attention is here directed to the testimony of this same witness before the Spears Court on September 19, 1886, where in he testified that he did not recollect that John Bryant or Hannah Flippin, grandfather and sister of Aaron Bolew, were ever recognized as Cherokees. (p. 409, supra.)

For the reason that the two foregoing affidavits were taken and filed contrary to the rules of practice the Adair Court refused to consider them as evidence.

In re charges of bribery and fraud investigated by the Adair Court, H. L. Baird, Jesse Cochran, William Shellenberger, Thomas Brewert, John Ward, John M. Taylor, B. C. Boudinot Jr., C. H. Tallerman John S. Harnage testified in behalf of the Cherokee Nation, and Hannah, E. J. and J. C. Flippin, testified in behalf of the defendants, but as their testimony is not relevant to applicants' Cherokee blood it will not be considered at this time.

On August 29, 1887, the Adair Court found that the charges of bribery and fraud made against Hannah Flippin and family in procuring admission to Cherokee citizenship had been established, and declared the decree of the Spears Court "admitting Hannah Flippin et al. to Cherokee citizenship null and void to all intents and purposes". (p. 272).

Subsequently there was filed with the Commissioner of Indian Affairs and the Department, numerous letters from the several applicants, protesting against the decision of the Adair Court, supra., which resulted in the dispatch of one C. C. Duncan to the Cherokee Nation for the purpose of investigating the rights of the Flippins to Cherokee citizenship, but as his investigation and report dated July 29, 1892, did not embrace the question of applicant's Cherokee blood, and for other reasons below indicated, the proceedings had before him will not be discussed in detail.

Under the Act of June 16, 1896 (29 Stat., 231), there

applicants herein in being at that time filed with the Dawes Commission their petition for Cherokee citizenship, and in support thereof submitted in proof of their Cherokee blood the ex parte affidavit of one D. J. Edleman, who stated: I am sixty-two years old and have known Mrs. Hannah Flippin since 1852 (the year she removed from Tennessee to Texas) and have always understood her to possess Cherokee blood and such was the understanding of her neighbors in Denton County, Texas. Subscribed and sworn to August 11, 1896, before Pearl Edleman, N.P. (p. 219).

The affidavits of the petitioners and copies of the proceedings had before the Special and Adair Courts, and before G. C. Dawes were also filed with the Dawes Commission by the respective parties to said proceedings.

From the decision of the Dawes Commission an appeal was taken to the United States Court, Northern District, Indian Territory, and in an opinion rendered by that Court on 1897, all of said petitioners were denied the right to Cherokee citizenship, from which an appeal was taken to the Supreme Court of the United States on the ground that certain Acts of Congress conferring jurisdiction on the United States Courts to review questions of citizenship, formerly passed upon by the tribal authorities and the Dawes Commission were unconstitutional, but that Court declared the Acts constitutional and affirmed the decision of the lower Court. *Stephens v Cherokee Nation et al.* (No. 567 *Flippin et al. v Sano*) 43 U. S. 1041,

Subsequent to the decision of the Adair Court (August 29, 1887) supra, there was filed with said Court, presumably by the applicants, the ex parte affidavit of the said Zach Bryant who swore, in part, as follows: "The said John Bryant was borned in the Cherokee Nation now known as the State of Georgia,..... he was part Cherokee Indian." Subscribed and sworn to September 5th, 1887, before N. G. Heathcock, N.P. Gibson County, Tennessee (p. 222).

On October 3, 1887, there was filed with the Cherokee Commission on Citizenship, the petitions of Giles D. Belew et al., Anna Belew et al., Brinkley Bryant et al., William C. Bryant, et al., Giles K. Bryant et al., George W. Bryant et al., Charles Bryant et al., Mary G. Bryant et al., David Boyd Bryant et al., Zach Bryant et al., and Governor Belew et al., including in all fifty-four persons, praying that they be admitted to Cherokee citizenship as descendants of the said John Bryant, deceased, of Gibson County, Tennessee (p. p. 327-340 incl.)

In these cases it was alleged that John Bryant was either the father or brother of one Lucy Bryant (Briant) and that the said Lucy Bryant (Briant) was a member of the old Cherokee Nation residing alone at a place called "Chu-nan-nee," on the Georgia side, and in 1838 appeared to be about seventy years old. (In this connection attention is invited to Exhibit p. 341).

On March 26, 1889, the Commission denied these petitioners the rights of Cherokee citizenship on the ground that the evidence

of the two bloods back to a more distant generation, and in the case under discussion make the doubt as to John Bryant's Cherokee blood the stronger.

No particular inquiry can be attached to the allegations of relatives that at one time John Bryant lived in Union District South Carolina, subsequently in Alabama, and later moved to Western Tennessee, except that, in each instance, he became further removed from the Cherokee Indians, the tribe of which it is now claimed he was a member by blood.

It is satisfactorily established that John Bryant lived in Gibson County, Tennessee, from 1825 till his death in 1856, a period of thirty years. His grandson, Zach Bryant, testifies that in the spring of 1835 "He said the Cherokee Indians were his people"; but neither this witness nor any of the others introduced, some of whom had been intimately associated with John Bryant, for years, were able to give the name of either one of his parents, or how he derived his Cherokee blood. Several state they know him to be part Indian the same as they know him to be part white man; some that they know him to be part Cherokee Indian the same as they know him to be part white man, while one (S. H. Wilburn) states that he does not recollect that he was recognized as a Cherokee, but has been taught that John Bryant was part Indian.

In further support of their right to Cherokee citizenship, Hannah Flippin et al., filed with the Adair Commission, on August 22, 1887, a notice calling the Commission's attention to a reservation made under Article 6, Treaty of July 8, 1817, to one "Lucy Bryant" who, they alleged, was the daughter of John Bryant.

Subsequently, before the same Commission of Citizenship in the cases of Aaron Haley et al., supra, the petitioners attempted to prove that this same reservee was either the mother or the sister of the said John Bryant.

In connection with these allegations attention is invited to a certified copy of the reservation made to one Lucy Bryant (p. 342).

Section 6, Treaty of July 8, 1817, reads, in part as follows:

"And to each and every head of any Indian family residing on the east side of the Mississippi river, on the lands that are now, or may hereafter be surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of 40 acres of land, in a square, to include their improvements, which are to be as near the centre thereof as practicable, in which they will have a life estate, with a reversion to fee simple to their children, reserving to the said Indians, for ever, etc."

Indian Affairs Laws & Treaties, p. 90, Kupperer edition.

Referring to the certified copy of reservation, supra, it will be seen that on May 20, 1818, Lucy Bryant was a widow whose

family numbered seven. In view of the provisions of Section 8, supra., it would seem most probable that this family was composed of the mother and six children, that the children were all under age, and that the name "Briant" was the name acquired by her marriage to her husband, since deceased.

Referring to the deposition of Zach Bryant it will be seen that the said John Bryant had fourteen children among them a daughter named "Lucy". Whether or not she married does not appear, but this deponent asserts that she "left no heirs" and from his testimony it is inferred that this daughter was born, lived and died in Gibson County, Tennessee. Besides, it is highly probable that in 1818 John Bryant, who himself was born about 1775, could have had a daughter and six grandchildren living on Chu-nan-nee river, Georgia, in the old Cherokee Nation.

If the above theory is correct, and it is submitted that it is the most probable, than it would further appear that the reservee, Lucy Briant, was not old enough to be the mother of John Bryant. In addition, the fact that one set of John Bryant's descendants claim that the said Lucy Briant was his daughter and another that she was either his mother or his sister is, in itself, sufficient to destroy the probability of their claims. If she had been related to John Bryant in any one of the three ways alleged, it was a matter capable of positive proof, which should have been produced by the applicants, otherwise both claims fail.

In 1835, for the purpose of determining, among other things, the number of Cherokees living east of the Mississippi river, the United States Government made a roll enumerating all such Indians, a certified copy of which is in the custody of this office.

The territory of the Cherokees was divided into districts and the work of taking the census apportioned among five men. The roll, as prepared, is arranged under the following heads, viz:

"Census of Cherokees in the limits of Tennessee in 1835 as taken by Daniel Henderson, Esq." (Roll pp. 1 to 10, inclusive.)

"Census of Cherokees in the limits of Alabama in 1835 as taken by Rezin Rawlings, Esq." (Ib. pp. 12 to 17 inclusive).

"Census of Cherokees in the limits of North Carolina in 1835, as taken by Nathaniel Smith." (Ib. pp. 19 to 33 inclusive).

"Census of Cherokees in the limits of Georgia in 1835, as taken by C. H. Nelson, Esq." (Ib. pp. 35 to 49 inclusive), and by George H. Underwood, Esq. (Ib. pp. 46 to 66 inclusive).

Following the list made by each census taker is a certificate which reads as follows:

"I do hereby certify upon honor that the foregoing is a correct census of the Cherokees residing in the limits (as to Alabama, "Chartered limits") of Tennessee,

North Carolina, Alabama and Georgia, composing the District assigned by the Superintendent of Cherokee removals, and that the other items of information, under their appropriate heads are as correctly stated as practicable without a precise and thorough examination of each subject, respectively."

After a careful examination of this roll the name "Bryant" can not be identified thereon.

Under authority of Section 4, Act of Congress approved July 29, 1848, a roll giving the names and number of the Cherokees who remained in the state of North Carolina after the treaty of New Echota (December 29, 1835) was made. This roll was prepared by Special Agent J. C. Mully, and is commonly known as the "Mully Roll" (a certified copy of the same is now in the custody of this office,) but after a careful examination of the 1517 names of persons enumerated thereon, and of many of the ancestors living and deceased of the persons so enumerated, some of whom were traced to Georgia, others to Arkansas, and many to the Indian Territory, the name "Bryant" can not be identified thereon.

In 1851 a census of the Cherokees living east of the Mississippi river was taken by Special Agent D. W. Siler. The roll prepared in conformity with this census is commonly known as the "Siler Roll" and was made preliminary to the payment of a large amount of money to those Cherokees residing east of the river. A certified copy of this roll is now in the custody of this office. The names of 2345 Cherokee claimants appear thereon the first 1961 of whom resided within the limits of the old Nation in the states of North Carolina, Tennessee, Alabama and Georgia. A majority of the others resided within the limits of said states, some as far north as Nashville, Tennessee, but in some instances the census taker, having heard of Cherokees who had removed from the old Nation, traced them to northern Kentucky, Arkansas, California, and to remote districts of the four states first above named. An examination of this roll indicates that the maker thereof must have been very painstaking in running down all clues that would locate Cherokees entitled to be placed thereon, but such examination fails to disclose the name "Bryant" so enrolled or in any way referred to.

In his letter submitting this census to the Commissioner of Indian Affairs, Mr. Siler comments on the scattered condition of the Cherokees, and adds: "I think, however, very few indeed, have been omitted (from the roll) if there are any".

Under Acts of Congress approved September 30, 1850, and February 27, 1851 (9 Stats. 556 and 574), making appropriation of a large amount of money to the Cherokee Indians residing east of the Mississippi River, a roll of those entitled to share in the per capita payment of \$25.00 a head, was made by one Alfred Chapman. This roll includes the names of 2133 persons residing in the states of North Carolina, Tennessee, Alabama, Georgia and Kentucky, and in Washington D. C., to whom

payments were made amounting in all to \$193,283.09, but after a careful examination the name Bryant can not be identified thereon.

When the 1851 and 1852 rolls were made John Bryant and many of his descendants were living within the limits of the state of Tennessee. They knew that a large amount of money was being paid to those Cherokees east of the Mississippi river by one Alfred Chapman (see deposition of Zach Bryant, p. 213) and that several thousand dollars of this money would have been their share had they been able to establish their Cherokee blood, but it is not recorded that they ever made an attempt to secure ^{that} ~~what~~ it is now claimed they were entitled to.

which It is also worthy of note that from the earliest period of which we have any authentic record of this family, till the year 1865, their migrations have always been away from the Cherokee people. This was particularly noticeable in 1868 when, while living less than three hundred and twenty-five miles from the country of the Western Cherokees, and about the same distance from the Eastern band, they passed the Cherokee Nation (Indian Territory), and traveled over five hundred miles to reach Denton County Texas.

In re action of Cherokee authorities in dealing with the petition for Cherokee citizenship of Hannah Flippin et al.

An Act of the Cherokee Council approved November 26, 1879, made provision for, inter alia, the creation of a special commission to be designated "The Commission on Citizenship."

The first Commission sitting under authority of this Act was composed of Roach Young, William Harnage, and G. W. Hayes, which held regular terms during the period beginning January 6, 1880 and ending October 3, 1881, which was followed by the Commission commonly known as the "Tehee Court", composed of Thomas Tehee, Alex Wolfe and B. T. Thompson, which sat in turn time from January 30, 1882 till September 27, 1883, and in turn, was succeeded by the Commission commonly known as the "Spears Court", composed of Eli Spears, John Lee and Andrew Young, alias Snake Puppy, which held regular terms during the interval commencing January 1, 1884 and ending September 26, 1884.

The Act of Cherokee Council, supra., reads, in part, as follows:

"The Commission on Citizenship may admit as evidence in any of the cases herein named, the oral testimony of witnesses under oath, the decisions reports or other papers or certified copies thereof in the Clerk's office of the National Council or of the Supreme Court of the Cherokee Nation, duly authenticated, pertaining to any case brought before it under this Act, and shall give such weight in making up their judgment thereon as they may deem it entitled to." (p. 325)

In conformity with this provision said citizenship Commission on February 1, 1882, adopted, among others, the following rule of practice, viz:-

"9. All witnesses giving testimony will be required to appear in person and make their statements in open court. The deposition, or affidavits, of witnesses taken out of court will not be accepted as competent evidence in any case." Docket Cherokee Citizenship Commission.

The only witness appearing before the Spears Court in behalf of the applicants were Hannah Flippin's brother, Aaron Belaw, and one S. H. Wilburn, a relative. The ex parte affidavits filed with the Spears Commission by the applicants are not only intrinsically valueless on the question at issue, as an examination of them will show, and should not have been admitted under the most liberal construction of the rules of evidence, but, in fact, were admitted in open violation of the Act creating said Commission, and directly contrary to the rule of procedure adopted by the court which declared that such instruments would "not be accepted as competent evidence in any case." Hence the only competent evidence before the Commission was the testimony of the witnesses Aaron Belaw and S. H. Wilburn, to which attention is respectfully invited. (pp. 228, 229)

In a brief filed in this case by the attorney for the applicants, he says "The Spears Commission had before it the following testimony: The deposition of Zach Bryant, who testified, etc".- This is clearly error, as the deposition of Zach Bryant was not taken till nearly three years after the Spears Commission rendered its decision.

The record further shows that at the close of the proceedings before the Spears Court, the attorney for the Cherokee Nation, J. K. Smith, not having cross-examined the two witnesses introduced, remarked "There was very little testimony in the case, but it was all to the point. That woman (Hannah Flippin) is a Cherokee and I am not going to argue the case." The position assumed by the Nation's attorney, in view of the showing made by the applicants, and his oath of office prescribed by the Act creating the Commission (p. 324), was a most flagrant breach of duty and in effect amounted to a non-feasance of office. For comments on like conduct see opinion of the Assistant Attorney General rendered in the Colman case, on March 19, 1906 (I. T. D. 9871-05).

What the motive was that prompted the Spears Court to admit the ex-parte affidavits of persons residing in Texas and Tennessee, wholly incompetent from any point they may be considered, and enter a decree admitting applicants to Cherokee citizenship under the meager, unsatisfactory, and conflicting testimony of interested parties, or the motive that prompted the Nation's Attorney to wholly disregard his duty in the premises, is not

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necessary to omit for here, and can be dispensed with the remark that the issuing notice in such instance was certainly not due to any meritorious show, made by the applicants of their Cherokee blood. That the evidence before the Spears Court was not sufficient to sustain a decree admitting Hannah Flippin and her children to Cherokee citizenship, is obvious, and under authority of the ruling of the Department in the Harry Still case, supra., this office is of the opinion that said decree should have been, as it later was, set aside and held for naught.

The authority of the Cherokee Council to pass the Acts of November 21, 1874, and December 3, 1880, supra., or the jurisdiction of the Spears Court over said parties, is not questioned, but objection is made that the Adair Court did not obtain jurisdiction of the Flippin family and if it did it subsequently lost the same, hence its judgment setting aside the decrees of the Spears Court was null and void.

Section 22 of the Act of December 3, 1880, authorized the investigation of the charges of fraud made against, among others, Hannah Flippin and family, in procuring admission to Cherokee citizenship and in pursuance of this authority the following proceedings relative thereto were had before the Adair Court.

On April 21, 1887, in answer to the summons theretofore issued by said Court, Hannah Flippin et al., appeared and the following proceedings were had, to-wit: Two answers filed, one by Hannah Flippin and her children and one by Hannah Flippin and children by their attorney, J. E. Bryan, also argument of J. E. Bryan.

On the dates below mentioned further proceedings were had in this case as hereinafter recited, to-wit:

May 3, 1887, notice duly served on attorney for applicants that the Cherokee Nation would attempt to show that John Bryant was not of Cherokee blood.

May 20, 1887, notice from E. F. Wiley to J. E. Bryan, attorney for applicants, that on May 23, 1887, the Cherokee Nation would ask for a continuance in the Flippin case.

May 23, 1887, motion so dismissed the case for want of jurisdiction filed by attorney for applicants. Motion for continuance filed.

June 27, 1887, notice served on attorney for applicants that on July 13, 14 and 15, 1887, the Cherokee Nation would take the depositions of certain persons residing in Gibson County Tennessee.

depositions of John Bryant and G. W. Robinson taken on July 13, 14, 1887, at Trenton, Gibson County, Tennessee, filed by the Cherokee Nation.

August 18, 1887, motion filed by J. E. Bryan praying that the Court reverse its hearing testimony in the Flippin case. Overruled.

August 18, 20 and 21, 1887, testimony of ten witnesses taken in behalf of the Cherokee Nation, all of whom were cross-examined.

August 20, 1887, affidavit as to good character of Eli Spears filed by the defendants.

August 22, 1887, Request filed by J. M. Bryan asking for certified copies of all proceedings had in case to date and Notice calling the Court's attention to one Lucy Bryant, a reservee under the treaty of 1817, who it was claimed, was the daughter of John Bryant.

testimony of John B. Harnage taken by Cherokee Nation.

Brief filed by attorney for applicants in which he discussed in detail the depositions and testimony of witnesses introduced by the Cherokee Nation, also the evidence introduced by the defendants.

August 25, 1887, second brief filed by attorney for applicants in which the unconstitutionality of Section 16 Act of Cherokee Council approved December 8, 1828, is alleged and the depositions and testimony of witnesses for Cherokee Nation recited and discussed fully, to which was added "Evidence closed by the Nation" and then a summary of the evidence introduced by the defendants set out in full.

August 29, 1887, Court rendered its decision in the case.

Thereafter the Commission received a letter from Hannah Flippin and her children (written by her attorney) dated September 25, 1887, requesting the Commission to advise what disposition had been made of their case and if disposed of the date of decision, whether its finding was for or against defendants and if against them that a copy of the Commission's opinion be forwarded to them.

Subsequently Mr. Bryan filed with the Interior Department a protest against the decision of the Adair Court which declared the Flippin family to be intruders on the Cherokee domain and nearly five years later, after much correspondence between the Flippins, their attorney, and the Department, Mr. Driscoll was dispatched to the Cherokee Nation to investigate and report.

The proceedings before the Adair Court have been set out in full in order that the contentions of applicants may be more fully examined.

It is contended on behalf of applicants that if the Adair Court ever had jurisdiction of the Flippins it was lost in two ways, to-wit:

(1) "In proceeding to judgment while there was in the record a disposed of motion to dismiss the case for want of jurisdiction of the Commission. This motion was entered on the back 'No action of this motion by Commission', and this endorsement dated and signed by the Clerk of the Commission". p. 356.

(2) That on May 23, 1887, the Commission continued the case until such time as it could be agreed upon

by the attorneys in said case, and that there is nothing in the record to indicate that an time was ever agreed upon by said attorneys. p. 357".

From an examination of the record of proceedings had before the Commission on May 23, 1887, it can not be ascertained in what order they were had; but whatever may have been the order it is apparent that the final ruling of the Court was that the case should be continued. This, in effect, overruled applicants' motion to dismiss the case, and that the applicants so understood it is apparent from subsequent proceedings. An entry on the Court's docket (p. 167), undated, in the Clerk's handwriting, reads as follows: "Case called and continued until August 13th, 1887", and that the applicants understood their case was continued till that date is also apparent from subsequent events.

The endorsement on back of motion referred to by applicants, is written in pencil, and was evidently made by one of the attorneys representing the Flippins before the Dawes Commission in 1896. That it was not made by any member of the Adair Commission is evident from a comparison of the handwriting, and the assertion that this endorsement is dated and signed by the Clerk of the Commission is manifestly error, at the most casual examination will show. There is this endorsement, however, stamped on said motion, to-wit: "Filed Feb'y 26, 1897, Jas. A. Winston, Clerk." This was the filing stamp of the clerk of the U. S. District Court, Northern District, Indian Territory, evidently placed there on when the case came before that Court on appeal. The following also appears thereon, viz: "This motion should of dismissed the case." Mr. J. M. Bryan, attorney for applicants, before the Adair Court was the author of this endorsement--likewise of many others found on papers filed in the case in which he gave vent to not only his legal opinion but quite often to his feelings in the matter.

In support of the second reason advanced to show that the Adair Court lost jurisdiction of the Flippin case, Attorney for applicants says: "There is from this time (May 23, 1887) forward no appearance of any attorney for the applicants before the Commission and the presumption is that this Commission simply passed upon the case without any notice to Hannah Flippin or her children or their attorney of record." (p. 357). As in applicants' allegations are contradicted by the record. The Court's docket shows that at some stage of the proceedings, date unknown, the case was continued till August 18, 1887, and the record shows that on that date Mr. Bryan appeared before the Court and filed a motion requesting that no hearsay testimony be received as evidence in said case, that it is reasonable to presume that it was he who cross-examined the ten witnesses introduced by the Cherokee Nation on August 19, 20, and 23, 1887. This presumption

is strengthened by the fact that subsequent to the introduction of these witnesses and prior to the Court's decision, the attorney for applicants filed briefs and arguments in which he discussed fully all proceedings had to date in the case.

An examination of the brief and argument filed by Mr. Bryan indicates that he considered the case closed and ready for a decision. This theory is also strengthened by the fact that under date of September 26, 1887, in a letter (Mr. Bryan's handwriting) signed "Nannah Flippin for herself and children, J. M. Bryan, Attorney for Flippins," the Commission was requested to advise the applicants whether or not a decision had been rendered in their case, and if so, was it favorable or unfavorable.

In view of the record of proceedings had before the Adair Court in the Flippin case it is believed that the Court obtained jurisdiction of the parties thereto and retained the same until its decision was rendered on August 29, 1887, and that said decision was rendered after both sides had closed their case. It is not considered that the validity of said decision is affected by the fact that the parties were not present in Court when it was rendered.

With reference to the Duncan report, two objections can be made, to-wit:

First: It is not in harmony with the facts, in this, namely, it wholly misrepresents the proceedings had before the Adair Court; and

Second: Mr. Duncan had no authority to determine or pass upon matters he presumed to adjudicate and report to the Department from Vinita, on July 29, 1892, and the Assistant Attorney General so ruled in his opinion rendered on July 16, 1894, in the case of John G. Cobb et al. v. the Cherokee Nation (p. 267).

Mr. Duncan in his report says that the Adair Court had no regular terms. That said Court had regular terms attention is invited to Section 8 of the Act creating it (p. 267), and to the report of J. T. Adair, Chairman, under date of November 14, 1887, (p. 342). He further says in his report that the applicants were not represented when the case was tried. That this is clearly error see record of proceedings had before said Court supra.

Without setting out in full or discussing the evidence introduced before the Adair Court in the Flippin case it is considered, after a careful examination of the same, that it was sufficient to warrant the decision rendered, and under the ruling of the Department in the case of Harry Still, supra, and Richard B. Coleman et al. (I.T.D. 12436-04 and 4220-06), said decision should be affirmed by this office. It is not considered that the proceedings had before the Commission to the Five Civilized Tribes on May 25, 1905, are sufficient to impeach the testimony of certain witnesses appearing before the Adair Court in 1887, or to affect the decision rendered by that Court in the

Flippin case.

It is further shown that the applicant, Hannah Flippin died prior to September 1, 1902.

FINDINGS OF FACT AND CONCLUSIONS: It is considered that the evidence in this case fails to show that the said John Bryant, deceased, was possessed of Cherokee blood, or ever was a citizen of the old Cherokee nation, or that the applicants herein possess any rights to enrollment as citizens by blood of the Cherokee Nation other than as his descendants, hence the applications for their enrollment as such citizens 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), James Looney et al (I. T. D. 6410-12888-04), Florence Fletcher (I. T. D. 12692-04) Moses Ross (I. T. D. 6058-04) and Frankie Grimsitt (I. T. D. 17002-1908).

And that the evidence shows that on September 25, 1884, Hannah Flippin and her children were admitted to citizenship in the Cherokee Nation by the duly constituted authorities thereof; that in 1886 certain of them were duly enrolled as such citizens; and that on August 29, 1887, they were legally deprived of their Cherokee citizenship and have not since acquired citizenship in said Nation. *Roff v Burney*, 42 L. Ed. 442.

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), Flada, Lunay, Sam Goods and Georgia McGlasson, Tennessee Ficklin, Agnes Dorsey, Samuel Rogers, Mary and Leo Mary Ficklin, Mary Jane, Ochesches or Ruby and Charlie Skinner, Lula, Wina, Frances, Kettie and Helen Freeman, Sophy, W. Harrison and Charlie Oliver Bethall, Jennie Ellis, Della Z., Len W., Andy Houston, Milton C. Jr., and Corwin Blaine, Rogers, Berna W. Boswell, James F. and William T. Flippin, Nettie B., Gillis, Dixie, Katie, Sugg, Blanche and Clara Dirickson, Alice E., Sarah Reed, Thomas James and Alice May Tanner, James H. Flippin and Paul Crutchfield, Glays Rowell, Henry McGlasson, Clarence F. and Ber Ellis, Theodore and Bertha Brickston, Roy W., John T., Sam and Bertha Diamond, Emmett and Reber Skinner and James C. Flippin Jr., are not entitled by virtue of either claim considered in this decision to enrollment as citizens of the Cherokee Nation, and their applications for enrollment as such are accordingly denied. And that, under the provisions of Section Twenty-five of an Act of Congress approved July 1, 1902 (32 Stat., 719), the application for the enrollment of Hannah Flippin should be, and the same is, hereby dismissed.

WITNESSED,

Tame Dixby

Commissioner.

Chief of Bureaus, Indian Territory,

this JAN 10 1904

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

In re application of HANNAH FLIPPIN, Et AL., for enrollment as citizens of the Cherokee Nation.

Brief on behalf of the Cherokee Nation.

On the 26th day of September, 1884, Hannah Flippin and eight children were admitted to citizenship in the Cherokee Nation by what was known as the Spears Citizenship Commission. Immediately thereafter it came to light that this family had been admitted by fraud and bribery and the Cherokee national council on December 8, 1886, passed an act creating what is known as the Adair Court. Section 18 of this act was as follows:

"Whereas it has been charged that certain parties, to-wit: A. Barker and family, E. H. Payne and family, John O. Cobb and family, Samuel Dollykate and family, E. A. Prather and family, Angelina Kelly and family, Moses Ball and family, Hannah Flippin and Louisa Flippin, John O. Flippin, Gills Flippin, Bell E. Flippin, Mary Jane Flippin, Caroline Flippin, Virginia Flippin, Tennessee Flippin, admitted to Cherokee citizenship by former commissions did obtain by fraud and bribery the decrees of the Commissioners of Courts granting them citizenship in the Cherokee Nation, the Commission herein provided for are hereby directed to summons said persons above mentioned to appear before it and show cause why the decrees of the said Commissions or Courts shall not be declared null and void on account of such fraud practiced, and upon investigation should such fraud be proven the Commission is hereby directed to declare said decrees null and void and the above named parties shall be by the Principal Chief declared intruders and be removed from the limits of the Cherokee Nation."

Under this act the Court was organized of which John Thompson Adair was Chairman and the Court was afterwards known as the Adair Court.

The records in the case shows that J. H. Bryan was one of the attorneys of record for the Flippin family when it was admitted in 1884, and the record also shows that he was the attorney of record for the Flippin family when it was summoned to appear before the Adair Court under Section 18 of the act of December 8, 1886, herein above quoted, and show cause why the decrees of the Commission should not be set aside on account of fraud having been practiced in obtaining the judgment admitting the Flippin family. The judgment of the Adair Court is a complete review of the case and is dated August 29, 1887. This judgment recites the act giving them jurisdiction to investigate this particular case, and it also recites that "Hannah Flippin, et al., were duly summoned to appear before the Commission as provided" in said act. The judgment of the Adair Court goes into the question of fact and reviews the Flippin testimony upon which the Spears Court originally admitted the Flippin family, and this judgment recites the fact that the defense rested mainly upon the decrees of the Spears Commission and the non-jurisdiction of the Adair Commission, which the judgment recites was overruled. The Adair Court then goes into the testimony taken in Gibson County, Tennessee,

and in fact exhaustively reviews the case and conclusively shows that the decision of the Spears Court admitting the Flippin family could not have been an honest one upon the testimony introduced. Finally the court concludes its judgment in the following language:

"The corrupt methods resorted to by John Flippin, a son of Hannah, Joe Bowers and Geo Skinner, sons-in-law of said Hannah, at and preceding the decree of the Spears commission as overwhelmingly established by every witness for the Nation, this Commission has no hesitancy in coming to the conclusion that the decree of the former commission in favor of Hannah Flippin, et al., was obtained in the midst of debauchery, bribery and corruption in which one member of the commission was originally implicated and the Clerk of said Commission was participant. Therefore, the Commission agree and declare the decree of the former Commission admitting Hannah Flippin et al., to Cherokee citizenship null and void to all intents and purposes, to-wit: Hannah Flippin, Louisa Flippin, John O. Flippin, Gills Flippin, Bell Z. Flippin, Mary Jane Flippin, Caroline Flippin, Virginia Flippin and Tennessee Flippin."

Just here let us again call attention to the fact that this judgment shows upon its face that J. M. Bryan was entered attorney of record for the Flippin family and the judgment recites that the members of the Flippin family were duly summoned as provided in said Section 18, and the judgment further recites the fact that the "defense rested mainly upon the decree of the Spears commission and the non-jurisdiction of this Commission, which was overruled." This shows that there is nothing in the contention of counsel for the applicants when he now urges, on the bottom of page 26, as one of his reasons that the decision of the Adair Commission is absolutely void, that:

"1st. The decision was rendered while there was a motion pending to dismiss the case for want of jurisdiction without first passing on the motion."

Now the judgment itself recites that this was overruled, and this is the very highest of evidence, the judgment itself. The second point urged against the jurisdiction of the Adair Court by counsel for applicants is:

"Secondly, the case was continued until an indefinite time on the motion of the Nation and no notice was ever given to the Flippins or their attorney again calling up the case."

This is contradicted by the record. As above observed, the record shows that J. M. Bryan was entered as the attorney for the Flippin family. On April 21, 1867, an affidavit was filed before the commission signed by Hannah Flippin and J. C. Flippin, denying that they had practiced any fraud or bribery before the Spears Court; on May 20, 1867, J. M. Bryan as the attorney for the Flippin family was notified that a motion for continuance would be filed on May 23, 1867, in said case; on May 23, 1867, this motion to continue was sustained; on August 19, 1867, we find the case of Cherokee Nation versus Hannah Flippin called and N. L. Baird sworn and examined, and following N. L. Baird, Jesse Cochran upon the same date was introduced on behalf of the Cherokee Nation and the record-~~say~~ shows that he was cross-examined, which completely refutes the contention of the present counsel for the Flippin family, when he says that the attorney for the applicants did not know when the case was recalled.

It is true that the commission on May 23, 1867, continued the case until some time to be agreed upon by the attorneys, and from the record August 19, must have been agreed upon between the attorneys, because we find attorneys there representing both sides, examining and cross-examining the witnesses. On August 19, 1867, we find William Shellenbarger introduced on behalf of the Cherokee Nation, and the record shows that he was cross-examined by an

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attorney representing the defendants. Following this we find Thomas Brevort introduced by the Nation. He was cross-examined by the attorney representing the Whippin family, and he was re-called and the record shows "Re-cross-examined by the defense," all on August 19, 1887.

In the light of this record we do not see how the present attorney for the applicants can hope to successfully contend that this judgment was rendered without their having an ample opportunity to examine and cross-examine the witnesses and to introduce such testimony in support of their case as they might desire. On August 19, following Thomas Brevort, we find John Ward called as witness for the Cherokee Nation, and we find also that he was cross-examined; after being released from the stand he was re-called and again cross-examined. After he was excused Thomas Brevort was again called by the Cherokee Nation and cross-examined at length. Following this witness John M. Taylor was called as a witness for the Nation and, the records show that he was cross-examined, which was on August 20, 1887. E. C. Boudinot, on August 20, 1887, was called as a witness on behalf of the Cherokee Nation and cross-examined at length. Just here we desire to call attention to the fact that following the testimony of E. C. Boudinot before the Adair Commission on August 20, 1887, John Taylor, the record shows, was re-called by defense, which shows that the Whippin family had him re-called, and was therefore there either in person or by counsel. Following this testimony is the statement of G. H. Taylor who testified on behalf of the Cherokee Nation on August 20, 1887, and was cross-examined at length. Right here we desire to call the attention of the commissioner to the fact that the record shows that, following the introduction of G. H. Taylor, the nation's attorney offered the affidavits of ten parties, marked from A to L inclusive, which were evidently taken in Gibson County, Tennessee, under the notice given to J. K. Bryan elsewhere shown in the testimony. In addition to these affidavits the rolls of 1835, 1848, 1851 and 1852 were introduced by the Cherokee Nation as evidence so that the court might examine them and see whether in fact and in truth the names of the ancestors of the Whippin family really appeared thereon as indicated by them. But what we desire to call special attention to is that the record shows the following:

"Defense offers the decision of the Spears Court, marked Document 'A.'"

How does the present attorney for the Whippin family account for the defense offering testimony if it were not present either in person or by attorney? The next line as shown by the record after the above quotation is as follows:

"Defense offers Register of persons who wish Reservations under the Treaty of July 8th, 1817, agreed to by the Prosecution."

Following this, on the same page of the record, which was on August 23, 1887, William McGracken was called by the defense and testified. There is nothing in the record to show that the defense desired to introduce any further testimony or asked for a continuance of the same. It will be noted that the decision recites that, "The defense rested mainly upon the decree of the Spears Court and the non-jurisdiction of this Commission, which was overruled."

Now we see that the defense was present and cross-examined the witnesses introduced on behalf of the Cherokee Nation, and after the ten affidavits were introduced at the conclusion and the rolls introduced, then the defense offers the decision of the Spears Court and the register of certain persons who desired Reservations under the Treaty of July 8, 1817.

As was above observed the defense rested mainly upon two points; the decision of the Spears Court, which it introduced, and upon the other contention that the Adair Court had no jurisdiction.

and this the court overruled. The defense had no other testimony to introduce; it made no attempt to offer any more; it rested its case upon these two points alone, and after hearing all of the testimony, after considering all of the testimony, the Adair court found that,

"This commission has no hesitancy in coming to the conclusion that the decree of the former commission in favor of Hannah Flippin, et al. (which was the judgment of the Speers Court), was obtained in the midst of debauchery, bribery and corruption in which one member of the Commission was originally implicated and the Clerk of said Commission was participator criminis. Therefore, the commission agree and declare the decree of the former Commission admitting Hannah Flippin, et al., to Cherokee citizenship null and void to all intents and purposes."

Now it will be noted that this decision was rendered on August 29, 1887, or just six days after the conclusion of the taking of the testimony, as shown by the record hereinabove, and six days after the defense was present and offered in evidence the decision of the Speers Court, the Register of persons who wish Reservations under the Treaty of July 8, 1817, and William McTrasken, besides cross-examining all of the witnesses introduced on behalf of the Cherokee Nation.

Did the Adair Commission have jurisdiction over the persons and subject matter of the citizenship of the Flippin family? This is not disputed by the present counsel representing the applicants, but he insists only that it lost jurisdiction when the case was continued. The Adair Commission certainly had jurisdiction, because Section 18 of the act of the Cherokee National Council approved December 8, 1866, specially gave the Court created under the whole act the authority and charged it with the responsibility of investigating, among others, this particular case, and the judgment of the Commission dated August 29, 1887, recites the fact that the members of the Flippin family were summoned, and the judgment further says that the defense rested its case upon the decree of the Speers Court and upon the jurisdictional question, which was overruled. That the Adair Commission had jurisdiction no one can gainsay. That questions of citizenship can be investigated and that decrees granting citizenship by one of the five civilized Tribes can be annulled by a subsequent tribunal has been settled by the Supreme Court in the case of Roff versus Burney (168 U. S. page 218). In that case A. B. Roff had married Matilda Bourland and become and intermarried citizen of the Chickasaw Nation. His wife was admitted by an act of the Chickasaw Legislature October 7, 1876, and without assigning any cause the Chickasaw Legislature on October 11, 1883, repealed the former act and declared them not citizens of the Chickasaw Nation. In passing upon this case the Supreme Court of the United States said:

"The citizenship which the Chickasaw Legislature could confer it could withdraw."

Now in that case the Chickasaw Legislature was the means of conferring citizenship and the Legislature some seven years afterwards withdrew it. In the case at bar a citizenship court empowered by the Cherokee Legislature admitted the Flippin family in 1884, and in 1887 another commission, specially authorized by the act of December 18, 1866, after an exhaustive investigation, annulled the first decree admitting them and declared it null and void. It will be noted that the Chickasaw Legislature, without assigning any reason, repealed the former act admitting Roff's wife to citizenship; the act of the Legislature could not be inquired into; the sufficiency of its reasons could not be investigated; why it acted was not a matter of investigation, but the Supreme Court of the United States held in that case:

"The validity of the act withdrawing citizenship from the

wife of the plaintiff and the consequent withdrawal from the plaintiff of all the rights and privileges of citizenship in the Chickasaw Nation has been practically determined by the authorities of that Nation, and that determination is not subject to correction by any direct appeal from the judgment of the Chickasaw Courts."

In other words, the decision of the Chickasaw Legislature could not be reviewed; just as we contend that the decision of the Adair Court, dated August 29, 1887, cannot now be reviewed. In the case of *Hobbs versus Lee* (56 Fed Rep. 12) the circuit court of Appeals said:

"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."

This decision has collected a great number of authorities along the same line some of which are from the Supreme Court of the United States. *Stanley versus Roberts* (58 Fed Rep. 836); *Barber versus Shannon* (40 B.V. 824); *Exandine versus Pare* (56 Fed. Rep. 777).

The record further shows that under the act of June 10, 1886, the *Whippin* family, being aggrieved by the action of the Cherokee authorities in investigating their former admission and in rendering a decree making the same null and void, applied to the Commission to the Five Civilized Tribes, and from the decision of the Commission to the Five Civilized Tribes appeals were taken by both parties to the United States Court for the Northern District of the Indian Territory. Here for the first time an exhaustive review was had of this important case by a disinterested United States Judge, Honorable William M. Springer. We commend his decision to the careful reading of the Commissioner. He recites all of the facts necessary to have been recited in this case; he quotes the decision of the Speers Court and quotes in full the decision of the Adair Commission and recites the fact that the plaintiffs appeared before the Adair Commission and filed their answer, denying all of the allegations alleged on behalf of the Cherokee Nation and had their evidence and their witnesses and documentary evidence submitted and considered. Judge Springer then proceeds to analyze the decision and makes this one important observation:

"This Court is not clothed with authority to determine whether or not the testimony before the Adair Commission was sufficient to justify the Commission in reaching the conclusion it did reach."

This is the law everywhere. The sufficiency of the evidence by which a court reaches its conclusion and renders judgment can never be questioned, except it be upon a motion for a new trial made in the same court. Following this Judge Springer refers to the report of C. C. Dugan as much relied upon by counsel for applicants and upon this Judge Springer said:

"Mr. Dugan was evidently of the opinion that it was a matter of indifference as to whether one of the judges of the court was bribed. If he, the agent, concluded that the decision was just, the bribery would be excusable. This Court does not agree to the foregoing opinion of Agent Dugan. The question is whether there was bribery and corruption in securing the opinion and decision of the Speers Commission was a question solely within the judgment of the Adair Commission. That Commission found that the evidence was sufficient to establish bribery and corruption, and that judgment is conclusive and binding upon this Court. But a careful reading of all the testimony in the case will convince fully a fair and impartial mind that the testimony before the Adair Court overwhelmingly established the facts found by the court. The Commission of *Tahlequah* was impregnated with fraud and corruption. Agent the Justice *Shabepoxy* spent the whole night preparing the alleged proceedings of the Speers Commission in a

Franker abstained with the relations of the claimants and their agents and attorneys, and was so drunk at the time the decision was rendered that he did not understand what was being done. A son of Eli Spore, chairman of the commission, was an attorney for the claimants. It was positively shown that the clerk of the commission receives pay for his alleged services. One of the witnesses before the Adair Commission testified that associate justice Suckewy admitted in the presence of Wm. Stephens, when they were all in a hack on their way from Gibson to Muskogee, that he had received five hundred dollars for deciding in favor of the Flippin.

Following this the court adds:

"There was positive evidence that large sums of money were expended at Muskogee while the Spore Commission was in session and at the time the decision was rendered in the Flippin case, and that whisky was purchased and freely distributed by the friends and attorneys of the claimants, and that gambling and debauchery were practiced every night at the hotel where the parties were stopping."

Now, here let us note that the Court follows the above with this significant sentence:

"There is ample evidence in the record to sustain the finding and decision of the Adair Commission."

Further on the court finds:

"This Court is of the opinion that the Adair Commission was clothed with authority by the Council of the Cherokee Nation to render the decision which was made by said Commission, and that the judgment of said commission being the last judgment in the case made by a competent tribunal having jurisdiction of the subject matter and of the parties, is final and conclusive upon this court."

This last quotation from the opinion of Judge Springer, then United States Judge for the Northern District of the Indian Territory, in our judgment correctly states the law in the case. The Adair Commission had jurisdiction "of the subject matter and of the parties;" they were summoned before them; they were represented by counsel; they had an opportunity to present their defense; they introduced that testimony they desired and the decision of the Adair Court was adverse to them, and the sufficiency of the evidence upon which the Adair Commission made its findings cannot be inquired into. If the sufficiency of the evidence could be inquired into, then, as argued in the case *U. S. vs. Frank Norton*, page 61, there would be no conclusiveness to a judgment, and this decision of the Supreme Court of the United States exhaustively treats of this subject and lays down the rule that the sufficiency of the evidence cannot be inquired into.

Again, it is held by many authorities:

"If the evidence is sufficient to satisfy the mind and conscience of the existence of the fraud, it will suffice, although it does not lead to conviction of an absolute certainty," 11 Illinois 337; 14 Ga. 237; 21 Penn. St. 257; 19 Mich. 287.

The authorities also hold:

"To establish fraud it is not necessary to prove it by direct and positive evidence. Circumstantial evidence is not only sufficient, but in most cases it is the only proof that can be adduced."

17 Wall. (U.S.) 541; 63 Ala. 341; 2nd Cal. 157; 25 Mo. 201.

But it is certainly an elementary principle of law, and will certainly not be contradicted, that the sufficiency of the evidence which moved the Adair Commission to find that the slaves of the Spore Court was obtained by fraud and bribery could not be inquired into. This, when the language of a trained lawyer, Judge Springer,

held as hereinabove quoted.

From this decision of the United States Court in the Indian Territory, the Flippin family appealed their case to the Supreme Court, that case being consolidated with the case of William Stephens, et al., and that decision affirmed all of the decisions of the United States Court and affirmed the decision of the United States Court for the Northern District of the Indian Territory, rejecting the Flippin family. Assistant Attorney General Frank L. Campbell on February 18, 1904 (I.T.D. 7442-1904), in reviewing the Dawson case referred to him held:

"The general rule is that judgments of every tribunal having jurisdiction, while remaining in force and not reversed or vacated, are conclusive upon the matters adjudged and not open to question in a collateral proceeding. This rule was fully sustained by the court in *United States v. Throckmorton* (98 U. S. 61) wherein the United States sought to cancel the patent to lands issued upon a decree of confirmation of a Mexican land grant, obtained as it was charged by a fraudulently antedated grant."

Now it is our contention that the decree of the Adair Commission, vacating and annulling the decree of the Speers Commission, is conclusive upon the matters adjudged by the Adair Court, which was that the Flippin family had been admitted through fraud and bribery by the Speers Court and not entitled to citizenship in the Cherokee nation. Further on the Assistant Attorney General holds that:

"Nothing in the act in question indicates the rule of law so wholesome, so essential to the stability of judgments, and to the peace of society was intended by Congress to be abrogated. I am therefore of opinion that judgments of the Indian tribal courts upon the question of Cherokee blood, left for years in force, unquestioned, and which have never been vacated, should be held conclusive upon the Nation."

In the case at bar the decision of the Speers Court was vacated and the Cherokee Council, within two years after its rendition, passed an act creating a tribunal and charged it with the responsibility of investigating, among others, this particular case. Mention is made of the fact that the names of certain members of this family appear upon the pay roll made in 1886, but it will be noted that this family was admitted by the Speers Court in 1884 and the act of the Cherokee Council creating the Adair Commission charged with investigating the method of the admission of the Flippin family, was not passed until December 6, 1886, and the decision of the Adair Commission was not rendered until August 25, 1887. Therefore, the decision of the Speers Court was not annulled when the names of the members of this family were placed upon the pay roll of 1886, but we hold that when the Adair Court, having jurisdiction of the subject matter and of the parties, declared on August 29, 1887, that the decree of the Speers Court was obtained by fraud and bribery, that it had the effect of vacating the enrollment of all of the members of this family whose names appear upon the 1886 pay roll. It was for this very reason that Congress provided by the Curtis Bill that the Commission investigate the names of all persons whose names were found upon any other than the roll of 1886 and to reject those that had been enrolled by fraud or bribery. Now the Adair Court judicially found that the members of the Flippin family had been enrolled by fraud and bribery. The United States Court for the Northern District of the Indian Territory, with no bias or prejudice, found the same thing and fully sustained the decision of the Adair Court, and the Supreme Court of the United States affirmed the decision of the United States Court for the Northern District of the Indian Territory. If any other holding could be had, then the action of the Chickasaw Legislature in repealing the act

which admitted the wife of Hoff would amount to nothing; she was admitted in 1876; the act was repealed in 1883; she was quite likely enrolled between said acts, but the Supreme Court of the United States held:

"The citizenship which the Chickasaw Legislature could confer it could withdraw."

There has been much space given by counsel for applicants as to the character of the testimony introduced on behalf of the Cherokee Nation before the Adair Commission. We do not deem it necessary to go at length into an analysis of this testimony. Instead of our analyzing it, we prefer to cite the Commissioner to the analysis of Judge Springer who as a painstaking and an unprejudiced judge, having wide experience in citizenship matters, being regarded as a splendid authority upon that subject, carefully, but concisely reviews the testimony introduced before the Adair Court. Counsel for applicants, eighteen years after the testimony before the Adair Court was taken, for the first time on behalf of the applicants seeks to impeach the credit of witnesses who testified on behalf of the Cherokee Nation. This would not be allowed in any court of record on earth, but the Commission holds that it is powerless to exclude testimony and, therefore, was compelled to receive it. If, as held by every court without exception, the sufficiency of the evidence upon which a judgment was based cannot be inquired into, certainly then it was not admissible to introduce testimony eighteen years thereafter to show that some of the witnesses acquired a bad reputation subsequent to the giving of their testimony. We have no fear that it will be held that this testimony will be held to be admissible. Aside, however, from the two or three witnesses sought to be impeached counsel for applicants says not a word against a great number of other witnesses upon whose testimony alone the Adair Court would have been justified in reaching the conclusion arrived at on August 29, 1887. Just here it will be noted that there is introduced before the Adair Court the affidavits of some ten persons taken in Gibson County, Tennessee. It will also be noted that there is also introduced H. L. Baird, Jesse Cochran, William Shallerberger, Thomas Everett, W. G. Headnot, in addition to the two Taylors and John Ward, whom applicants sought to show had acquired a bad reputation subsequent to the giving of their testimony. Their impeaching testimony would have been admissible had it been offered before the Adair Commission, but it is certainly not admissible now.

Again, if the scenes were enacted about Tahlequah in 1884 and the hotel at which they boarded, as were depicted in the testimony, we submit that much of this drunkenness and bribery and corruption would have been known only to men not of the highest grade of morals, but we further submit that when within three years thereafter, when every statement made by every one of those witnesses was capable of full corroboration, that the applicants and their attorney, J. M. Bryan, dared not to attempt to refute these statements, but preferred, as is recited in the judgment of the Adair Court, to rely upon the decision of the Speers Court and the non-jurisdiction of the Adair Commission.

Reference is made to the ruling of the Department in re-opening the Bell E. Bowers case and remanding it for an investigation to see whether or not Bell E. Bowers and the other members of the Flippin family were in truth and in fact placed upon the 1884 roll by fraud and bribery. We submit, however, that the attention of the Commissioner of Indian Affairs and of the Secretary of the Interior and of the Assistant Attorney General had not then been called to the fact that subsequent to their enrollment in 1884 the Adair Court rendered its decision of August 29, 1887; that the United States court under the act of Congress dated June 10, 1886, declared these persons not entitled to citizenship in the Cherokee Nation; and the Supreme Court of the United States in the William Stephens case, it being consolidated with this case, affirmed the decision of the United States

Court for the Indian Territory.

All through the taking of the testimony in these consolidated cases, where no application was made for any party, we have insisted that the Commission had no authority to receive any testimony as to the person for whom no application was made prior to October 31, 1902, and upon this contention we satisfied ourselves by referring to Section 30 of the Act of Congress approved July 1, 1902, and ratified by the Cherokee people August 7, 1902, commonly known as the Cherokee Agreement, which provides:

".....the application of no person whatsoever for enrollment shall be received after the thirty-first day of October, nineteen hundred and two."

Now it is not contended that application was made for a number of the persons whose names are mentioned in this consolidated case, and as to all of these we contend and insisted at the time that the Commission was without authority to receive said applications, had no jurisdiction over the same, and that no testimony should be taken relative to them.

We submit for the reasons hereinabove shown, that the applicants are not entitled to be enrolled as citizens of the Cherokee Nation.

Respectfully submitted,

Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,

Commissioner to the Five Civilized Tribes.

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In re Application of HANNAH FLIPPIN, ET AL., for enrollment as Cherokee citizens.

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BRIEF FOR APPLICANTS.

History of the Case.

Hannah Flippin and her children were admitted to citizenship in the Cherokee Nation by the Special Court or Commission on September 25, 1864. All of the applicants herein are those persons and their descendants, and are, of course, descendants of Hannah Flippin. In 1866 Hannah Flippin and such of her descendants as were then living and had removed to the Cherokee Nation were enrolled upon what is known as the Grass Roll of that year, and each received something more than fifteen dollars as citizens of the Cherokee Nation.

On December 7, 1866, the Cherokee National Council passed an act creating a commission (known as the Adair Commission) and section 10 of that act is as follows:

"Sec. 10 --- Whereas, it has been charged that certain parties, to-wit: A. Barker, and family, E. H. Payne and family, John O. Cobb and family, Samuel Dollywhite and family, E. A. Frather and family, Angelina Kelly and family, Moses Ball and family, Hannah Flippin and Louise Flippin, John O. Flippin, Jilla Flippin, Saml. B. Flippin, Mary Jane Flippin, Caroline Flippin, Virginia Flippin, Tennessee Flippin, admitted to Cherokee citizenship by former Commissioners did obtain by fraud and bribery the decrees of the Commissioners of Courts granting them citizenship in the Cherokee Nation, the Commission heretofore provided for are hereby directed to summon said persons above mentioned to appear before it and show cause why the decrees of the said Commission or Courts shall not be declared null and void on account of such fraud practiced, and upon investigation should such fraud be proven, the Commission is hereby directed to declare said decrees null and void, and the above named parties shall be, by the principal chief, declared intruders and be removed from the lands of the Cherokee Nation."

Presumably sometime before April 21, 1867, a complaint in some form was filed before the Adair Commission against Hannah

Flippin and her children, as we find in the record an answer to the complaint purporting to be signed "Hannah Flippin & her children, J. Q. Bryant Atty for defendants," and an affidavit by Hannah Flippin, H. J. Flippin and J. C. Flippin, in which fraud and bribery are most emphatically denied. There is in the record a motion signed by R. P. Tully, attorney for the Cherokee Nation, with notice directed to J. H. Bryant, Esq., "that the Nation would on May 23, 1867, ask a continuance for the purpose of taking testimony in said case in Gibson County in the State of Tennessee." On May 23, 1867, a motion was filed by J. H. Bryant as attorney for Hannah Flippin and her children to dismiss the proceeding for want of jurisdiction, on the back of which was ordered "May 23, 67. Motion to Dismiss the Case. Cherokee Nation vs. Hannah Flippin and children. No action on this motion by Commission. No. 6. This motion should be dismissed the case. Filed Feb. 25, 67. James A. Finston, Clerk."

On May 23, 1867, action was taken upon the motion of the Cherokee Nation for a continuance as follows:

"Salsquad Ind. Ter. May 23rd 1867.

That the Commission of Citizenship after deliberating on the motions submitted, decide that the case of Hannah Flippin, et al, was continued by mutual consent of both attorneys and that we sustain the motion of the Nation's attorney for a continuance of said case until a time agreed upon by the attorney in the said case, on statement as alleged in motion of Nation's attorney.

J. T. ADAIR, Chairman Com.

A true copy of original.

Henry Riffart, Clerk Com. on Citizenship."

Testimony was taken before the Clerk of the Commission on August 10, 1867, August 19, 1867, August 20, 1867, and August 23, 1867. There was no cross-examination of witnesses on August 10, 1867, and the deposition of John G. Barnage is undated and there seems to have been no cross-examination. Notwithstanding the case was continued to a time to be agreed to by attorney for defendant, as shown by the record and the testimony of Hannah Flippin, page 34 Exhibit 4, the case was decided in the absence of either parties or their attorneys on August 20, 1867, in which it was held that Hannah Flippin and her children had secured

their admission by fraud practiced upon the Spears Commission.

The Nation next undertook to have these parties ejected from the Nation as intruders, which resulted in the Department's sending Mr. C. C. Duncan as a special agent of the Department to the Cherokee Nation to investigate and report. This Mr. Duncan did under date of July 29, 1892, and his report was entirely favorable to the applicants and against the Cherokee Nation. The said report with the testimony in support thereof will be found in Exhibit 4, pages 25 et seq. He not only found there had been no fraud or bribery practiced upon the Spears Commission, but that the evidence on the part of the Nation before the Adair Commission did not establish fraud. He held, first, that there was a discontinuance of the case against the Flippins in the Adair Court. Second. "There was no such proof before the (Adair) Commission as would justify it in finding that the Spears Court had been bribed to render this decision in favor of Flippins." Third. That "all of the testimony before the Adair Court upon which they base their judgment was merely the opinion and sworn of witnesses, and all of it given after the party charged with bribery was dead." Fourth. That the "right of the Flippins to have the judgment as rendered (by the Spears Commission) was not questioned." Fifth. That the utmost established by the evidence for the Nation before the Adair Court was that certain officials had led Skinner, the manager of the Flippins, to believe that if they could receive money the case should be brought up and that the evidence of the Nation goes no further than to establish that fact, and falls far short of establishing the fact that the judgment was obtained by bribery. Sixth. That the Flippins after securing admission returned to Texas, disposed of their property, which was large, and moved to their present homes in the Nation. Several of the family have married in the Nation children have been born, attachments formed, and in view of all these facts he thinks they should not be held to be intruders.

As a result of this investigation and report by Duncan the Flippins were not ejected from the Nation as intruders, but

continued to reside there.

In 1896 under the Act of June 10, 1896, the applicants then living applied to the Commission for admission to citizenship. Certain of them were admitted and certain of them were rejected. The Nation appealed to the United States Court for the Northern District of Indian Territory and Judge Springer seems to have had very little difficulty in finding fraud and bribery, and decided against the claims of the applicants.

Under the Curtis Act of June 28, 1898, applicants again applied to the Commission but this time for enrollment as citizens of the Cherokee Nation and were rejected on the ground that having been rejected by decision of the United States Court for the Northern District of Indian Territory under the Act of June 10, 1896, the Commission was without jurisdiction to consider their applications. This decision of the Commission was approved by the Secretary of the Interior.

This decision of the Department in the Belle Z. Bowers case was dated February 7, 1902, and on February 18, 1903, it was set aside by the Secretary of the Interior in accordance with the opinion of the Assistant Attorney General of February 10, 1903, and this case was remanded to the Commission, which was directed "to hear and decide the case on its merits, hearing any further testimony and considering any other competent evidence that the parties may offer, necessary to fully present their contentions."

On April 12, 1905, the Department set aside its own decision and referred back to the Commission for readjustment the other cases now consolidated with the Belle Z. Bowers and Hannah Philip case, in which decision the following language appears:

Upon further examination it appears that certain of the above named applicants were admitted to Cherokee citizenship September 26, 1884, by the Spear's Commission and two years later were enrolled upon the 1886 tribal roll. Others of the applicants were admitted by said Commission in 1884, but their names do not appear upon the 1886 roll. Such admission, however, was the legal equivalent of enrollment. Still others of the applicants were minors when their parents were enrolled or admitted or were born subsequent thereto, acquiring thereby the status of their parents.

Inasmuch, therefore, as said applicants were recognized citizens of the Nation prior to the Act of June 10, 1896, supra, your Commission and the courts under said Act were

without jurisdiction to pass upon their cases."

Under this express direction to the Department we have, therefore, to eliminate from consideration in this case the action by the Commission and by the United States Court on appeal under the Act of June 10, 1880. The first and only question, therefore, common to all of these applicants is the question of fraud in the admission of Hannah Flippin and her children by the Spears Commission on September 26, 1884. To believe there can scarcely be a doubt as to this statement and yet to make assurance doubly sure, we quote from the opinion of the Assistant Attorney General, *supra*:

"And (4) 'They shall investigate the right of all other persons whose names are found on any other rolls and omit such as may have been placed thereon by fraud or without authority of law.' This provision in terms required the Commission to consider and to investigate all cases of claims made by any one borne on any other than the roll of 1880, and to proceed as to persons on other rolls to make a new roll by exclusion therefrom of those found to be entered thereon by fraud or without authority of law. That this, in terms, would include the applicants can not admit of doubt, for those then living were on the roll of 1880. This construction is not only the natural one, but is borne out by the history of the case of Stephens and others against the Cherokee Nation."

X X X X X
"in directing investigation of the right of 'all other persons whose names are found on any other rolls,' Congress directly approved the ruling principle that when citizenship in the nation was lost, it could only be regained by consent of the nation, but saved the right of all persons on any roll, subject to investigation by the Commission and proof of the fraudulent or illegal admission of such person. This was merely re-affirmed by the Act of May 31, 1900, which provided:

That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such."

We, therefore, lay down the proposition affecting all of the applicants in this case, namely, that if Hannah Flippin and her children were admitted to citizenship by fraud or bribery none of the applicants are now entitled to be enrolled, whereas if there was no fraud or bribery, then that they are entitled to enrollment, and we take up first the question of fraud.

LEAD.

If Hannah Flippin had not had any Cherokee blood we concede that her admission to citizenship would have been fraudulent even if the court had not been bribed. If, however, she did have Cherokee blood she was absolutely entitled to admission to citizenship under the Cherokee law. This right was a valuable and inalienable one. To deprive her of her right to citizenship would have been as great a wrong as for her to secure that right by fraud and bribery if she did not have Cherokee blood. These are statements no one will attempt to controvert. The great importance that in this case of her Cherokee blood is self-evident. Mr. Dutton was duly impressed with it and even went so far as to hold that even if bribery had been practiced the court was, like Lord Bacon, merely bribed "to render a just decision." We do not for one minute admit bribery or attempted bribery, but we do want the importance of this question of the Cherokee blood of Hannah Flippin to be appreciated.

Witnesses of Cherokee Blood.

The Special Commission had before it the following testimony: The deposition of Zack Bryant, who testified (page 10, Exhibit 4) that he was the grandson of John Bryant who was the grandfather of Hannah Flippin; that John Bryant was born in the Cherokee Nation, in what is now the State of Georgia, and removed to South Carolina, where he married the grandmother of Zack Bryant; that there was much opposition to the marriage by the grandmother's family, because John Bryant was a Cherokee Indian; that after the marriage the family removed to Alabama, and thereafter in 1822 John Bryant and family removed to Tennessee, settling in Gibson County, where he remained until he died. Zack Bryant was born in 1820 and spent a good deal of his time at the house of John Bryant in a secluded section of Gibson County known as Skull Bend. (page 18), and that about the year 1835 John Bryant said that there was liable to be some trouble between the United States Government and the Cherokee Indians and claimed the Cherokee Indians were his people; that John Bryant's wife always

spoke of her children as "You Indians, you Indians."

S. H. Wilburn testified (page 13) June 29, 1867, that he had known Aaron Boley for fifty years, during all of which time Boley was considered to be part Cherokee Indian by blood.

Twenty persons testified (page 14) that the reputation of S. H. Wilburn in his community for truth and veracity "is excellent — none better." The testimony of Jack Bryant shows that Aaron Boley is the grandson of John Bryant, grandfather of Hannah Flippin.

H. J. Millman testified August 11, 1866, (page 15) that he had been well acquainted with Aaron Boley, J. B. Boley and Mrs. Hannah Flippin since 1856,

"and that during all of the time he has been acquainted with them it had been his understanding that they were people of Cherokee blood. That they were so regarded by their neighbors where they were living when he first became acquainted with them and afterwards. That he has often heard it said of them by those who knew them and it was a matter of common statement and acknowledgment among the various members of the Boley family, both by Aaron and his children, that they were of Cherokee blood, that for a considerable portion of the time when the said people so acknowledged themselves to be of Cherokee Indian blood, it was at the time and in the community where it was not at all popular to be known or regarded as an Indian, but living under such circumstances the Boley family made no hesitancy in owning their Cherokee Indian blood."

Severus Boley testified August 7, 1866, (page 17) that he was a brother of Aaron Boley and Hannah Flippin and that all of them are of Cherokee blood.

Hannah Flippin herself testified (page 19):

"I knew John Bryant as soon as I did my own father. I do not recollect the date of his death. He died about 1850 in Tennessee. I have always heard that he was part Cherokee, and he looked like me, and was always considered me."

The above testimony in the record establishes beyond doubt that Hannah Flippin was of Cherokee blood. The witnesses are unimpeached and there is not a scintilla of evidence opposing it. It is of the utmost importance to bear this question in mind in considering the more or less technical questions involved in her admission by the Agents Commission, her enrollment by the Nation in 1866, and her rejection by the Adair Commission in 1867, for Hannah Flippin being Cherokee blood was morally entitled to share, and her descendants are now morally entitled to share.

with the other people of Cherokee blood in the common property of the Cherokee people. We now come to the

Evidence before the Special Commission of Cherokee Blood.

Aaron Boles testified September 12, 1884, Exhibit 4, (page 28) that John Bryant was the grandfather of Emmet Flippin; that he lived in South Carolina; that he moved from South Carolina to Tennessee, where he died; that in both of these States he was known and regarded as a Cherokee; that he was about one-fourth Cherokee; that he always claimed to be part Cherokee; that his neighbors all regarded him as a Cherokee.

S. H. Wilburn on the same date testified (page 28) that he was about 36 years old; that he was raised near where John Bryant lived in west Tennessee, and that while he does not recollect that John Bryant was recognized as a Cherokee Indian, yet that he was always told by his parents that John Bryant was part Indian; that Bryant was so regarded by the neighbors and that witness had always been taught that John Bryant was part Indian. The knowledge of this witness extended back fifty years before 1864, or until about 1834. He is the same person of whom some thirty persons in Texas testified that his reputation for truth and veracity was very high and "good better." The testimony of this witness alone should have been sufficient to establish Indian blood.

J. H. Edwards' testimony (page 28) in answer to interrogatories was that he knew John Bryant to be part Cherokee Indian just the same as he knew him to be part white man; that he was generally known in Tennessee to be part Cherokee and that Bryant came from South Carolina to Tennessee. There is nothing to show that Edwards was in any way interested in this case, nor anything in the record to indicate that his statements are not absolutely true.

A. J. Smith, G. Greer, and L. V. Frontier testified August 4, 1884, (page 30) that Emmet Flippin was the granddaughter of John Bryant.

James P. Walker and G. S. Walker testified July 31,

1884, in answer to interrogatories that they knew John Bryant of Gibson County, Tennessee, who came there from South Carolina, and that they know him to be part Indian; that he was recognized by his neighbors as part Indian and that Mary Balow, the mother of Hannah Flippin, was the daughter of said John Bryant.

Zack Bryant testified (page 32) that he was then 69 years of age and must, therefore, have been born about 1820 and was the grandson of John Bryant, who was born in the Cherokee Nation, now known as the State of Georgia, and that Bryant came to South Carolina, married witness grandmother "in the face of much opposition owing to his Cherokee Indian blood," that he was part Cherokee; that he removed to Alabama and thereafter in 1825 went to Tennessee and settled in Gibson County; that he was the father of Mary Balow; that in witness' boyhood days he was with Bryant much of the time.

Here, then, is the testimony which the Spears Commission had before it as shown by the record. There were five witnesses who testified positively to the Indian blood of John Bryant and Hannah Flippin, and all but three of them positively testified that this Indian blood was Cherokee Indian blood. It also appears that, at the bottom of page 18, the Spears Commission had before it the "Registration Regulations of July 8, 1898, which are not set out in the record and we do not know what they contain.

This evidence is conclusive that Hannah Flippin was a Cherokee. That was the one fact necessary to be proved to the satisfaction of the Spears Commission. That was the need of more witnesses when there was absolutely nothing to indicate that any of the witnesses were speaking falsely. We find from the record (page 24, Exhibit 4) that

"Jim Smith, attorney for the Nation was there, and was present from the beginning to the end of the trial and after the conclusion of the testimony made this remark

"There was very little testimony in the case, but it was all to the point. That woman (Hannah Flippin) is a Cherokee, and I am not going to argue the case."

We submit that from the record before the Spears Commission that Attorney Smith was right. There is no doubt that

he used these words and assumed that attitude, and he was justified in so doing. It is significant also that nowhere in the record is it even intimated that any bribery or improper influence was used or attempted to be used upon Attorney Smith. His attitude as attorney for the Nation is commendable. He believed, no doubt, that it was as much his duty to see that people entitled to admission were admitted as it was to see that those not entitled were not admitted.

EFFECT OF ENROLLMENT IN 1884.

A great many of these applicants were enrolled in 1884. As pointed out in the Assistant Attorney General's decision it is now the duty of the Commission and Department to ascertain whether or not their enrollment in 1884 was fraudulent and without authority of law. There is no question as to the authority of law. Their enrollment was based upon their admission to citizenship and there never has been in question, and it is not now in question, the authority of the Spear's Commission to admit Hannah Flippin and her children to citizenship. There is ample authority of law for the admission and enrollment.

The decision of the Secretary of the Interior in these cases dated April 12, 1905, in relation to such of the applicants as were admitted and who were not enrolled in 1884 is as follows:

"Such admission, however, was the legal equivalent of enrollment."

The only question left, then, is as to whether or not fraud and bribery were perpetrated by the applicants in securing their admission in 1884. Bearing in mind that the applicants, as shown by all of the testimony, are Cherokee by blood and that there is not a line of evidence from beginning to end of this record even intimating that they are not Cherokees by blood, while responsible, truth witnesses testify positively to the Cherokee blood, there could have been no fraud practiced upon the Spear's Commission, except it be shown that the Spear's Commission was bribed. If bribed, it could have been merely to render a decision, and since any just decision must have been to admit the

applicants, the purpose and result of any possible bribery would have been merely to give to Hannah Flippin and her children that which was their due. We call attention to this condition to show the improbability of any bribery. Presuming that the Cherokee Nation, its judges and its attorney were honest, and conceding that the record absolutely establishes that Hannah Flippin and her children were Cherokees and entitled to admission by the court, there was no incentive for bribery. For the applicants under such circumstances to offer a bribe would be foolishness from a practical point of view.

Certainly it is the presumption that the Nation, its court and attorney were all honest, and there is likewise the presumption that the applicants were law abiding citizens. Every presumption is that there was no bribery, and when the facts as above shown show the utter futility from a practical point of view of the offer of a bribe, certainly the Commission and Department will require that the Nation now must establish bribery by the great preponderance of the evidence and will most carefully consider the evidence itself and the persons who testified, together with the circumstances under which they testified.

Claiming, therefore, as our right these presumptions and insisting that the burden be upon the Nation to establish by a clear preponderance of the proof, by competent witnesses and competent evidence that there was fraud and bribery, we ask consideration of the jurisdiction of the Adair Commission, its decision and the evidence on which it is based, and first of the

JURISDICTION OF THE ADAIR COMMISSION.

At the taking of the testimony in this case the attorney for the Nation made numerous objections based upon the argument that the Commission and secretary now have no authority to go behind the decision of the Adair Commission in this case. To contend, first, that the Adair Commission was without jurisdiction in this case; and, secondly, that under the opinion of V. A. Day, Acting Attorney General of the United States, dated December 7, 1904, in the Robert B. Coleman case, and the opinion of the

Assistant Attorney General in the Dowd's case, it is the duty of the Commission and Department to now inquire into the fact of fraud — to ascertain de novo whether or not Hannah Flippin's name appears upon the roll of 1884 by fraud or without authority of law.

And first of our right to attack the jurisdiction of the Adair Commission:

"If X X X a court does not have jurisdiction it is wholly unimportant how precisely certain and technically correct its proceedings may have been; its judgments and orders are mere nullities and may not only be set aside at any time by the court in which they were rendered, but they may be declared to be void by every court in which they are presented." — A. & E. Ency. Law, 2d Ed., Vol. 17, p. 1046, and about one thousand cases cited.

The rule that a court must have jurisdiction of both the subject matter and the parties is so well known and established as to not need authorities to support it. We do not think it necessary at this time to question the jurisdiction of the Adair Commission as to the subject matter, neither do we admit that jurisdiction. We rely on this point, on the fact that if the Adair Commission ever had jurisdiction in this case, that jurisdiction was lost before the decision adverse to Hannah Flippin was rendered.

It was lost in two ways, either of which was fatal to the jurisdiction of the Commission.

The first of these ways was in proceeding to judgment while there was in the record undisposed of a motion to dismiss the case for want of jurisdiction of the Commission. This motion was entered on the back: "Be notice of this motion by Commission," and this endorsement dated and signed by the clerk of the Commission. While it may be true that if there were nothing in the record to show what disposition was made of this motion, there would be a presumption that the Commission had overruled the motion, yet that presumption is overcome by the record of the Commission itself, which shows affirmatively that the Commission did not act upon this motion.

The second way is shown in the record as follows:

As a part of the proceedings before the Adair Commission:

a motion Dated May 20, 1887, by the attorney for the Nation for a continuance in said cause from May 23, 1887, at which time the case seems to have been set. On May 23, 1887, the Commission passed the following order:

"Tablequah, Ind. Ter., May 23rd, 1887.

We the Commission on Citizenship after deliberating on the motions submitted, decide that the case of Hannah Flippin, et al, was continued by mutual consent of both Attorneys. And that we sustain the motion of the Nation's Attorney for a continuance of said case until a time agreed upon by the Attorney in the said case, on statement as alleged in motion of Nation's Attorney,

J. T. Adair, Chairman Com.

A true copy of original.

Henry Biffert, Clerk Com. on Citizenship.

There can be no doubt that the case was continued from May 23, 1887, until such time as might be "agreed upon by the attorney in the said case." There is absolutely nothing in the record to show that any time was ever "agreed upon by the attorney" or even suggested or fixed by the attorney or Commission to take up this case. There is from this time forward no appearance of any attorney for the applicants before the Commission and the presumption is that the Commission simply passed upon the case without any notice to Hannah Flippin and her children or their attorney of record. There is positive testimony in the record that this is true. Hannah Flippin testified (page 18, Exhibit 4) that she was not present at the time she was adjudged not to be a citizen; that she was present the first time the case was called, went home and returned the second time; that the case was not tried, but was put off by the Cherokee Nation; that she was ready for trial the first time and the second time, but having no knowledge of the third time when the case was decided, she was, of course, not ready. On page 24 she said:

"I was in court the second time our case was called for the purpose of setting aside our citizenship, and the case was continued by the Nation. The court adjourned no time for the hearing. Told Mr. Bryant they would leave it to him. The next thing I heard they turned us out."

"A continuance of the cause precludes any order therein until the former order for continuance has expired." — Eacy, Pleading & Practice, Vol. 4, p. 692.

It is error for the court to set aside the order granting the continuance, and dismiss the suit for want of prosecution, or render judgment by default, or such the writs, without reasonable notice to the party at whose instance the continuance was granted, and a fair opportunity given to prepare for trial. - Ency. Pleading & Practice, Vol. 4, p. 891, and notes.

The record of the Adair Commission itself, therefore, shows the discontinuance and any presumption which might arise as to the regularity of the proceedings is successfully rebutted by the positive, undisputed testimony of Mrs. Flippin that after this continuance of May 23, 1867, she was never again notified. The case is as to her and her children as if she had never been brought into court. Without again bringing her into court and giving her an opportunity to be heard, the case is just as if she had never been brought into court at all. What would be the need of a rule requiring notice to a defendant of the proceedings against him if a continuance in this form could be taken to an indefinite time, and if the court could at its pleasure take up the case and dispose of it in the absence of its parties?

The attorneys for the Nation commenced some length in their questions and objections on the fact that no effort was made by Hannah Flippin and her children or their attorney to impeach any of the witnesses who testified against them in this case. Here is a very simple answer to those objections. The testimony of the Nation on its charge against these applicants had been taken and notice served upon the defendants by the Nation that the Nation had not yet finished taking its witnesses in the case, but intended to take the testimony of certain witnesses in Tennessee. This is shown in the record in this case both in the motion for continuance dated May 20, 1867, and in the notification of E. P. Wily, attorney for the Nation, dated June 27, 1867, fixing July 13, 14 and 15, 1867, and Gibson County, Tennessee, Town of Trenton, as the time and place of taking testimony. Both of these are from the record itself.

At this point a continuance in the case was taken to an indefinite time. The attorney for defendants was apparently waiting for the Nation to take the remainder of its testimony and announce its case closed, when, and not until then, he could offer

such evidence for the defendants as he saw fit. There can be little question that one of the things he would have done would have been to impeach all of the witnesses which we have now impeached and perhaps others. — Certainly he could easily have offered any number of witnesses to the good character of Hannah Flippin and her descendants, and no doubt would have done so, and their reputations had been attacked. He was lulled into fancied security by this indefinite continuance, and it is a most remarkable fact that this case was decided by the Adair Commission upon the testimony of the Nation alone, without any opportunity to the defendant to offer one word of proof when charged with this serious offense, and remarkable also that the Adair Commission should have rendered its decision without any notice to any of the defendants or their attorney, or opportunity for them to be heard.

We do not believe either the Commission or Department will give very serious consideration to the decision of the Adair Commission rendered as it was under the above circumstances. After reciting some of the above facts, Mr. Dorman said in his report:

"There being no regular term of this court it is very doubtful to my mind whether under the circumstances this case should have been called and heard without a day summons, even though the attorney for the Flippins had been authorized by the court to set the day for the hearing."

The above from the record is enough to condemn the decision of the Adair Commission even if the testimony before it on the part of the Nation had been sufficient upon which to base its decision. The character of this testimony is such, however, as to make the decision of the Adair Commission even more remarkable. That testimony was in its entirety this:

EVIDENCE BEFORE ADAIR COMMISSION.

H. L. Baird testified August 12, 1887, that he knew Hannah Flippin, some of her children, and John Roberts, who died about 1856 or 7; that witness was raised in Gibson County, Tennessee, but did not know a man by the name of J. R. Edwards. He does not undertake to say that he knew all the people in Gibson

George J. Lawrence, now that there was no such man in that County
as J. E. Edwards.

Jessie Cochran's testimony taken August 19, 1887, is
scarcely from beginning to end. The only thing related by this
witness is what a certain man named Mayben said and what Mrs.
Mayben said. Mr. and Mrs. Mayben have absolutely nothing to do
with this case, they are not parties, nor is it shown anywhere
that they are even related in the remotest degree to any of the
applicants. To fail to see how these statements of Jessie
Cochran as to what some third party said can have any bearing on
this case, and an examination of the testimony will show that
these statements are absolutely immaterial even if Hannah Flippin
had extorted Mrs. Mayben out of \$50., which is the worst possible
construction and more than is even hinted. It certainly does
not tend to prove that Hannah Flippin bribed the Speers Commis-
sion.

William Shallenberger related a conversation with Bowers
which, stripped of immaterial things, is this:

"I asked him if they had any difficulty in getting
their rights through. He laughed and said "No, not in the
court." He spoke of one Giles Flippin and remarked that
he was a very wealthy man and that he was able to do what
he wanted to."

Now what is there in that? Does that even tend to
prove fraud or bribery, and yet that is all the witness knew?
And is all that he said which can be considered as evidence. It
is true that the witness undertook to give his impression from
the conversation, as follows:

"My impression from the conversation that he used money
to get his right through, but he did not state that he pecu-
liarily did. The impression left on my mind by the whole
conversation was that he had taken a very active part in the
whole matter and that he had bought the court or judges."

The impression which this witness got may have been an
entirely improper one. It was certainly for the Adair Commission
to get its own impression from the facts as related by the witness
and not to take from the witness merely the "impression" which
the witness had. This is secondary evidence of the weakest
sort. Will this Commission or the Department now consider the
impression which somebody has, or will the Commission and Depart-

ment, now consider the facts and get an impression from the facts rather than second-hand impressions from the witness? Now the facts as related by witness Jullienberger are that Bowers

"laughed and said 'No, not in the court.' He spoke of one Giles Filippa and remarked that he was a very wealthy man and that he was able to do what he wanted to."

Even these facts come to us at second-hand. Bowers was not a party to the suit before the Spear Commission or before the Speare Commission. Since what he is inadmissible for Belle X. Bowers' husband to make admission for her. This witness' entire testimony is, therefore, hearsay.

Thomas Brewert testified that while the Speare Commission was in session that Albert Speare, son of Judge Speare, told witness "to go over to John Taylor's and see these men over there and tell them that if they could get up money enough that he would insure them their rights through the citizenship court." This witness thus admits that he willingly became a party to what he supposed was attempted bribery of the court and discrediting his statements in the minds of honest men, all as he was directed and was introduced to a man named Bowers, but it is to be here noted that his own statement of what he told Bowers is not at all improper:

"I told him that there was a man sent me over to him to make a proposition to him in the Filippa case."

Witness then took Bowers over and introduced him to Speare. Speare and Bowers then went into a room and shut the door, and that is all the witness knows. If we concede, which we do not, that Speare, who is now dead, made an improper proposition to Bowers, that is not any evidence tending to prove that Bowers accepted any such proposition. Again we note that Bowers was not a party to the suit, and it will hereafter be noted that Bowers absolutely denies the statements of Brewert in toto. The whole argument of this testimony, and it is argumentative entirely, was that young Speare might be able to influence his father improperly. The witness, however, knew Judge Speare for twenty years, lived within a mile and a half of him, and testified to his good character. We discuss this witness' statement as to the

common report as mere hearsay. This witness also testified to the statement of one C. O. Fry, who was not a party to this cause and whose declarations may in no sense be used as against the parties to the cause. His statement, if any such were made, are purely hearsay, and the extent of those statements are merely that Fry said "that the boys had bought the Filipinos for their little wed before they left." Who the boys were, we does not say, and we believe that the Commission and Department will not construe the expression "the boys" to mean the Speers Commission.

Revert also testified to an arrangement between him and C. O. Fry, which had no relation on earth to the Filipino case. He says that it was generally believed and currently reported that "they had paid or used money to secure their citizenship through the court, but I did not know of it of my own personal knowledge."

"I mean by this that the money was used fraudulently or corruptly in securing their citizenship. I do not know X X X of my own knowledge of the Filipinos or anyone else paying money or anything else to bribe the court to make the decision. I heard John Taylor say that the Filipinos bought their way through. I also heard Campbell Taylor say the same. The Taylors above referred to told me that the Filipinos had paid money to the court to get their citizenship through the Speers Court. No other persons except the above named persons told me that the Filipinos had paid money to the court."

So here is the origin of this rumor which was "generally believed and currently reported," and which was "common report through the country." We will pay our respects to the Taylors presently. Notice, however, that there is not a line in this witness' testimony which even intimates any knowledge of any sort on his part of any wrongdoing by any of the applicants, or even by Bowers, about whom his whole testimony is directed and as to whom his whole knowledge begins and ends.

R. C. Bowdoin, Jr., said that he was in a game (that not specified) preceding the decision of the Commission with Ben Skinner and others; that Skinner "had an envelope in his pocket

"addressed to him and addressed to him at Hattogee. It has the express company's address on the envelope on it and had the amount in figures which read \$1700 and signature over that amount. He showed the envelope containing not over \$100, and remarked that this is all I have left out of that

package and he remarked that he had some here with a lot of money besides this and he had used it all in getting his citizenship through the court."

Sam Skinner was not a party to the suit in the Spears Commission and his declarations are not admissible in evidence as a matter of course. One of the elementary rules of evidence prohibits hearsay, and while the declarations of interest are an exception to the rule, yet the declarations which are admissible are the declarations of the party. If Sam Skinner were being tried for bribing the court, his declarations would be admissible for what they are worth in his own case, but just as Bowers' declarations are not admissible against Mrs. Bowers, so Skinner's declarations are not admissible against Mrs. Skinner. Even if Bowers were telling the truth it is evident that Sam Skinner was simply indulging in some big talk while engaged in a poker game with the witness. It will be noted that the witness

"did not count the money that came in the express package referred to. I did not see the \$1700. when it came. The envelope contained less than \$100, when I saw it. I do not know of the Flippins or any person bribing the court, nor any other person, to get the Flippins' citizenship case through the court of my own knowledge. All I know is what I have stated. I don't recollect whether I played cards with Skinner before this night or not but from his talk I supposed him to be a sport."

The above is every bit of the testimony offered by the Gheroson Nation before the Adair Commission with the exception of that of three jail birds whose testimony we now have to consider. These jail birds are John Ward, John H. Taylor, and Campbell H. Taylor, the same John Taylor and Campbell Taylor who were the authors of the rumors above mentioned by the witness Bowers.

John Ward testified that Skinner and Bowers, John Lee and Snakeguppy boarded at Taylor's Boarding House; that Fry, a clerk of the court, boarded at Campbell Taylor's; that the members of the court and the Flippins were at the hotel together the night before the case was decided playing poker; that next morning he saw Drew, attorney for the Flippins, who said that he had received \$40. to present their case; that the night before a committee had been organized composed of Albert Spears, Snakeguppy, C. O. Fry, Sam Skinner and Joe Bowers, with Albert Spears as

"president of the committee;" that the "object of this committee was to furnish whiskey. I let them have more than ten gallons myself. There was another party that furnished more than I did." According to this witness these five men, seven including Drew and John Flippin, must have drunk more than twenty gallons of whisky that night. Witness after the decision saw a letter and draft, which was found on the porch of the hotel and which had dropped out of Fry's pocket; that it was made payable to G. O. Fry; that the letter was from Henrietta, Texas, and from Sam Skinner; that the draft was for \$250.; that G. O. Fry did not play cards with them the night of the debauch; that G. O. Fry took fees in other cases before that court in connection with Tom Brevort. Comment on this testimony is certainly needless. In addition to the fact as appears of record that this witness was subsequently sent to the penitentiary, where he unquestionably belonged, his testimony is ridiculous. So anxious was he to make out a strong case against the Flippins that he had seven men drink about three gallons of whisky each in one night.

John H. Taylor begins by testifying that Bowers had nothing to do with the whisky, thus contradicting Ward. "He was a very quiet sober man." That there was a heap of whisky in the house that night before the case was decided. John Ward, Joe Bowers, John Flippin, Sam Skinner, G. O. Fry, John Drew, Albert Spears, and Snakepappy were up there drinking heavily, thus contradicting himself, when he said that Bowers did not drink; that the drinking was kept up two nights before the decision of the court was had, thus contradicting Ward, who named only one night. That John Ward came down to get some sugar to mix some drinks the night before the decision was rendered and said "that there was a Hell of a trade going on upstairs. He did not intimate to me what the trade was but that it was a damn shame." We do not know either what this jail bird would consider to be a "damn shame." If any have been merely that he, as one of "the boys" was not getting his full share of the "Flippin's" little red." This witness also said that a letter was found in his

same addressed to Fry enclosing a check for \$250. When Ward spoke of this it was a draft. This was the same John Taylor who defrauded the Government out of \$17,000. by committing perjury as to his sickness.

Campbell H. Taylor testified to a statement by Snake-Jump made in a mail box near Fort Gibson in regard to a conversation between him and a man named Stephens.

"After leaving Gibson Stephens said to Judge Young, 'My in is is that you passed against my (Stephens) claim, all my witnesses are bona fide Shermons.' Judge Young remarked, 'Because you did not get a five hundred dollar check in it, like there was in the Flipper case.'"

In addition to the improbability of this Judge making any such remark in the presence of the witness, it will be noticed that this is the same G. H. Taylor who later took up his abode in the penitentiary, where he belongs. Of course he testified as to what Charlie Starr told him that Sam Skinner had told Starr, etc.

Proper certified copies will be found in the record showing the conviction and sentence to the penitentiary of John Ward, Campbell H. Taylor, and John M. Taylor, together with a letter addressed to our Mr. White by the Commissioner of Pensions showing that John M. Taylor defrauded the Government out of \$17,000. by way of pension.

In the record will also be found, beginning at page 23, the testimony of D. W. Light (Lips) identifying John Ward, John M. Taylor and Campbell H. Taylor. The testimony of Edward Bates Frayer, a graduate in medicine, banker and cattle man, impeaching the character of John M. Taylor of Tahlequah for truth and veracity, and also Campbell H. Taylor. The testimony of D. L. Bandy, a cattle man and prominent citizen of Claremore, to the good character and reputation of Belle Z. Bowers and Giles Willard and his sons, and the Richmens, and to the bad reputation of Campbell H. Taylor, John M. Taylor and John Ward. The testimony of William C. Chamberlain of Vinita as to the good character of Mary J. Skinner, the Skinner, and the bad reputation of John M. Taylor and Campbell Taylor. F. B. Fife, a prominent physician

and surgeon in the Cherokee Nation since 1846, officially connected with the banking institutions of Muskogee and the society of his profession, and the Mayor of Muskogee, testified to the bad reputation of John H. Taylor and Campbell H. Taylor. John C. Foot of Muskogee, Chief of the Indian Police, testified to the bad reputation of John H. Taylor and Campbell H. Taylor. Charles F. Godfrey, a banker of Claremore, testified to the bad reputation of John Ward, to the good reputation of John C. Flippin, James F. Flippin, Mary J. Skinner and her children, and Tennessee Picklin.

Here, then, is the case as made out in the evidence. Several witnesses testified as to rumors of what occurred at Tahlequah when Hannah Flippin was admitted to citizenship. Those witnesses knew none of the facts themselves and undertook to testify to nothing but rumors and what some one said who was not a party to the game. These witnesses, none of whom undertook to say of their own knowledge that any improper influence was exercised or attempted to be exercised upon any member of the Commission, testified to certain facts that occurred at about that time. These three witnesses have since been sent to the penitentiary, and some of the best people in the Cherokee Nation have testified to their bad reputation. We were aware of the fact that some of these witnesses first knew of the bad reputation of the Taylors and Ward at about the time of their conviction, but others knew of their bad reputation for many years. John H. Taylor at the time he was testifying against the Flippins was drawing a pension by virtue of his false oath, for which he was subsequently convicted. The day he testified against these applicants he was paid for by the United States Government, and that day's pay constituted a part of the \$17,000, out of which he defrauded the Government. It may be that a man may have a good reputation and tell the truth for a while and then be sent to the penitentiary, but we believe the Department will believe Mr. Moore, Mrs. Flippin and the applicants, who have never been in the penitentiary, rather than these jail birds. We submit that there is no evidence of bribery which would be sufficient in any

reputable court on which to even submit the case to the jury, and we do not believe that the Commission and Department will consider this class of testimony even seriously.

Before calling attention to the positive trials of these applicants we would impress upon the Commission and Department that the burden is upon the Nation to prove that Emma Flippin and her children bribed this court.

The denials of the parties were subsequently made at the first opportunity, as follows:

Attached to the report of E. C. Jensen dated July 27, 1902, and made a part of that report, is the deposition of H. C. Moore showing that he was not able to be present before Mr. Jensen; that his attention had been called to the testimony of Thomas Brovert above referred to and he says that:

"is absolutely without foundation and untrue and affiant says that he never had any conversation with the said Alvin Speers at any time or at any place with reference to the said Flippin case." -- Exhibit 4, page 34.

That he recalls a conversation that Shallenbarger had denied speaking slightingly of Snakejumpy as a judge and denies having any difficulty in getting their rights through the court, and denies the conversation in regard to Flippin being a wealthy man, etc., or saying anything that could possibly give the impression that any one used money as therein indicated, but says that at this time Giles Flippin was practically without means; that James Smith was present in 1904 when affiant's wife was admitted and denies the statement of Ward that Smith was not present that affiant did not play poker as testified to by said Ward and further that affiant never played a game of poker in his life; that affiant did not buy any whisky and has no knowledge of any being used or furnished to Snakejumpy, and has no knowledge of Snakejumpy being drunk. That he has no knowledge of any committee to furnish whisky, and the statements of said Ward are absolutely without foundation and untrue in relation to said committee. That affiant was at the hotel on the night mentioned, but had no knowledge of any debauch in which the Flippins or Snakejumpy were engaged or any drinking whatsoever; that affiant also

denies in toto the statements of John H. Taylor in regard to the drinking. This affiant further says that the decision of the Speers Court was rendered in open court; that after testimony of applicants was heard by the court the case was laid over for two weeks for the purpose of allowing the Nation time to present any proof which it desired to offer to the court, and after the expiration of the two weeks the case was submitted in open court, the Nation's attorney being present, and was taken under advisement, and was decided the following day.

Under date of July 27, 1905, there is the testimony, page 18 et seq. Exhibit 4, of Hannah Flippin, John O. Flippin and S. H. Skinner, denying absolutely any bribery or fraud, or attempted fraud or bribery; denying the statements of every witness for the Nation who testified to any fact purporting to be within his own knowledge, but not undertaking to deny any rumors, of which affiants know nothing and which are certainly immaterial. We ask a careful reading of these depositions and again call attention to the fact that these denials and facts were complete statements of facts were given by these parties at the very first opportunity that was afforded to them, as they were, as above shown, deprived of any opportunity to make any defense to the proceedings against them before the Adair Commission.

CONCLUSION ON THE QUESTION OF FRAUD AND BRIBERY.

The following conclusions from the record are inevitable:

1. That a large number of the applicants were enrolled in 1886; that the admission of others was the "legal equivalent of enrollment," and that the only question before the department is as to whether or not they were enrolled "by fraud or without authority of law."

2. That there is no question that if they were legally admitted they were lawfully enrolled, and that the Speers Commission had ample authority to admit the applicants and did admit them September 26, 1886, or two years before their enrollment.

which eliminates from consideration everything but the charge that their admission was procured by fraud and bribery.

3. That under the decision of the Acting Attorney General of the United States, the Assistant Attorney General for the Interior Department, and the numerous decisions of the Department itself, it is the duty of the Commission and Department to investigate de novo the fact of fraud independently of the decision of the Adair Commission, giving, however, to the decision of the Adair Commission such consideration as the circumstances of its rendition and the evidence on which it is based entitle it.

4. Fraud and bribery being the only charges, the evidence is conclusive, uncontradicted and certainly sufficient to establish that Hannah Flippin and her children were and are Cherokee by blood. As such they were entitled to the decision as rendered by the Spears Commission. In the language of Mr. Dimsen,

"The right of the Flippins to have the judgment as rendered was not questioned. In fact to use the language of Jim Smith attorney for the Nation at the trial, 'There was very little testimony in the case, but it was all to the point. That woman is a Cherokee and I am not going to argue the case.'"

The condition then is the condition now. There is not a line of testimony which even remotely questions "the right of the Flippins to have the judgment as rendered." No matter how the judgment was procured the result did not operate a fraud upon the Nation. At the most, the Flippins secured no more than what must now on the record be admitted to be their due, and this decision of the Spears Commission must stand unless it be shown that the Commission was actually bribed to render the decision. There is even yet not the slightest doubt cast upon the testimony of witnesses before the Spears Commission. There was no fraud in the testimony, in the application, or in anything which established the right to the decision. We have, therefore, to consider nothing but the question of bribery.

5. The decision of the Adair Commission is absolutely void for two reasons:

First, the decision was rendered while there was a

motion pending to dismiss the case for want of jurisdiction with-
out first passing on the motion.

Secondly, the case was continued until an indefinite
time on the motion of the Nation, and no notice was ever given to
the Flippins or their attorney again calling up the case.

There was in the record a notice that the Nation had
not closed its testimony against the Flippins, but intended to
take the testimony of certain witnesses in Tennessee. The case
was decided without anything more being done and without oppor-
tunity of the Flippins to take any testimony or to be present in
person or by attorney to argue their case, or to be present when
the case was decided. The subsequent penitentiary record of the
witnesses for the Nation shows the importance in this particular
case to the Flippins of an opportunity to impeach them, to deny
their statements, and to move to strike from the records the
purely hearsay testimony of all of the witnesses except those who
have since served terms in the penitentiary.

We have attached to our brief a copy of the Washington
Law Reporter dated July 24, 1905, containing a full report of the
decision of the Court of Appeals of the District of Columbia in
the case of James L. Harrick vs. Barton G. Wetmore, Adm., to the
use of John F. Miller. In that case a judgment of a Massachusetts
court had been inadvertently dismissed. Thereafter upon dis-
covering the error the court without notice to the defendant set
aside its order dismissing the suit and entered judgment based
upon the record. While the case stood dismissed the defendant
was discharged in bankruptcy and inquired of the clerk as to the
status of the case and was informed that it had been dismissed by
reason of which he did not plead his discharge. Suit was brought
in the Supreme Court of the District of Columbia on the judgment
rendered by the Massachusetts court and a plea was filed to the
suit collaterally attacking the judgment. A demurrer to the
plea was sustained by the lower court, which was reversed by the
Court of Appeals with directions to the lower court to overrule
the demurrer. We ask a careful consideration of the opinion of
Judge Harbo and the reasons upon which he bases his opinion,

from which we quote the following:

"The right to be heard is a fundamental right of every citizen under our system of jurisprudence, and under every system of jurisprudence worthy of the name; and usually it is not denied even in the lawless codes of the most lawless savages; and in the right to be heard the first element is that of notice. X X X X X

In no court of any jurisdiction can we recognize the authority to render judgment against individual citizens without due notice to them, and it is conceded that in the present instance there was no notice of any kind to the appellants or to any one for him of the intended action of the court. X X X X X

In order to maintain the validity of the judgment upon which he sues, the appellee is driven to the necessity of arguing that no notice was required, that the parties were in court, and that the court had jurisdiction over them and over the subject-matter. But the plain answer to this is that the defendant was not in court. He had been dismissed from court without day, and was no longer required to take notice of his proceedings.

So had the Flippins been dismissed without day. Their case had been dismissed until the attorneys agreed upon a day, which was never done. Until by agreement they came into court, or until upon notice they were again brought into court, they also "had been dismissed from the court without day."

3. The evidence before the Major Commission was incompetent, irrelevant, inadmissible and immaterial, except possibly that of the three jail birds, which was flatly contradicted by all of the Flippins and their relatives who knew any of the facts at the very first opportunity given them to do so. The Flippins have lived in the Cherokee Nation since 1865 and 6, and the best people in the Nation consider them good law abiding and peaceable citizens, noted for their honesty, truthfulness and their obedience to the law. The charge made by the Nation and supported by these jail birds alone is the only one ever made against any of the applicants during all of these years. The testimony is mere repetition of baseless and vague rumors; it is incredible in its nature, requiring us to believe that seven men drank over twenty gallons of whisky in one night, and requiring us to believe that law abiding citizens having a right which has never been questioned did, nevertheless, out of pure wantonness, bring a court to give them a decree to which they were absolutely then entitled, and a right which is today unassailable

notwithstanding the fierce and prolonged war which has been made upon these people by the Nation continuously for eighteen years, in which the Nation has shown its hostility to the extent of taking away from these Cherokees without compensation valuable property bought by them in good faith, attempting to drive them bodily from the Nation itself, and even today seeking to deprive them of their inalienable rights as Cherokees to participate in the division of the common property of the Cherokee people. In all of these years with all of the Nation's resources and industry the Nation has never been able to cast the slightest doubt upon the fact of the Cherokee blood of the applicants. It has relied and still relies upon a decision of its commission rendered without giving to the Filipinos a day in court. This decision it now relies upon solely.

7. The Commission and Department, therefore, have to say whether or not the Filipinos broke the 1830s Compact. They have to consider on the one hand the fact of the absolute right of the Filipinos to the decision as rendered, the positive denial by the Filipinos, who are people of undoubted honesty, uprightness, integrity and are law abiding citizens, revered for by the best people in their Nation. The improbability of people of this character needlessly and wantonly doing an unlawful act is apparent. On the other hand they have to consider the testimony of six witnesses who know absolutely nothing about the matter and three witnesses who testified to mere suspicions and who have since served terms in the penitentiary. They have to consider a decision of the said Commission rendered without giving the Filipinos a day in court, and based upon this kind of testimony we confidently expect the Commission and Department to find that the Nation has not made out its case of fraud and bribery as against the applicants, in which event it must be held that they are admitted and enrolled lawfully and without fraud.

THE INDIVIDUAL CASES.

Taking up the claims of the individual applicants in the

order in which the Commission has indexed them on the first page of the record, we find as follows:

Hannah Flippin was admitted to citizenship on September 28, 1884, removed to the Cherokee Nation in 1885, in which she continued to reside until the time of her death, which occurred in 1903. She was enrolled in 1886, but as she died before September 1, 1903, she is not entitled to enrollment.

Fleda McGlasson, et al.

Fleda McGlasson is the daughter of Mary J. Skinner, who was admitted to citizenship with Hannah Flippin September 28, 1884. She was born in Texas, removed to the Cherokee Nation in 1886 and continued to reside there for seventeen years, or until April, 1903, with the exception of one year, during which she stayed in Texas. Since April, 1903, she has resided with her husband at Hago, in the Choctaw Nation. She has four minor children: Lanny, Samuel, Georgia and Benny, all of whom are living and have lived with their mother all their lives. Fleda McGlasson's name appears upon the 1885 roll as "Skinner, Fleda (now McGlasson)." She and the above named children are entitled to enrollment as Cherokee citizens by blood, and her husband, George B. McGlasson, has the same right as any other intermarried white citizen.

Tennessee Ficklin, et al.

Tennessee Ficklin was admitted to citizenship with her mother, Hannah Flippin, September 28, 1884. Under the decision of the Secretary of the Interior in these cases this admission was the legal equivalent of enrollment. She came to the Nation in 1884 and has continuously resided in the Nation since that time. Her present husband is Eugene E. Ficklin. Her children by her marriage with Mr. Ficklin are Eugene, Mary and Leonida, all of whom were born in the Cherokee Nation after 1884, and, of course, after the mother's admission in 1884 and have continued to reside in the Nation ever since. They are all living.

Samuel Dorsey is her child, born after she came to Viatta in 1884. His father was Dr. Dorsey, the second husband

of Mrs. Ficklin. Mr. Ficklin is her third husband. All of these children are living, were born since Mrs. Ficklin was admitted to citizenship in 1884 and have lived all their lives in the Cherokee Nation. Tennessee Ficklin and her children, Eugene, Mary, and Leonnale Ficklin, and Samuel Dorsey are, therefore, entitled to enrollment as Cherokees by blood.

Jennie Ellis, et al.

Jennie Ellis is the child of Mary J. Skinner, she was admitted to citizenship with her mother, Hannah Flippin, September 26, 1884. Jennie Ellis was born in Texas in October, 1878, was a minor when her mother, Mary J. Skinner, was admitted to citizenship, and came to the Nation with her mother in 1885, where she has continued to reside until the present time, with the exception of a few months, during which she was in Coffeyville, Kansas. Her name appears upon the roll of 1886 as Jennie Skinner. She has two children, Clarence F. Ellis, born May 20, 1904, and Ros Ellis, born July 5, 1902. Mrs. Ellis and her children, Clarence F. Ellis and Ros Ellis, are entitled to enrollment as Cherokee citizens by blood.

Nettie B. Derickson, et al.

Nettie B. Derickson is the daughter of Giles Flippin, who was admitted to citizenship with his mother, Hannah Flippin, September 26, 1884, under the name of "Julia" Flippin. This admission of her father, Giles Flippin, was, under the decision of the Secretary of the Interior, the legal equivalent of enrollment. Nettie B. Derickson was 29 years of age March 28, 1901, and must have been born in 1872. She was, therefore, but 12 years of age and a minor when her father was admitted to citizenship in 1884. She removed to the Cherokee Nation in September, 1881, when she was but 10 years of age and still a minor, and has continued to reside in the Cherokee Nation since. She has six minor children, all of whom are living and were born before September 1, 1902, namely, Gullie, Dixie, Katie, Sugg, Blanche, and Clabe Derickson. She is entitled to enrollment by virtue of

her father's admission, which is the legal equivalent of enrollment. The fact of her being a minor at the time of his admission, her Cherokee blood, under the constitution, and her permanent settlement in the Cherokee Nation before the passage of the Act of December 4, 1894. Therefore, Nettie B. Derickson, and her minor children, Collie, Dixie, Nettie, Sugg, Blanche and Glabe Derickson, are entitled to enrollment as Cherokees by blood. Her husband, John B. Derickson, has the same rights as any other intermarried white person in the Cherokee Nation.

Mary J. Skinner, et al.

Mary J. Skinner was admitted to citizenship with her mother, Hannah Flippin, September 28, 1884. She came to the Cherokee Nation in June of 1866 and has continued to reside in the Nation ever since that time. This application includes her daughter Coconachee, or Baby, who was born in Texas, came to the Nation with her mother, and has from that time until a year ago resided in the Cherokee Nation. For the last year she has resided in the Creek Nation. This application also embraces that of Charles Skinner, the daughter of Charlie Skinner, who was the son of Mary J. Skinner. The father of Charles Skinner came to the Nation in July, 1884. He returned to Texas in November, 1886, to remove his effects to the Nation and was killed while shipping his cattle from Texas to the Cherokee Nation. His daughter Charles was born after his death, when the mother of this child removed her to Texas. The child lived with her mother until her mother's death, when the child was six or eight years of age, since which time she has continued to reside with an aunt and uncle in Texas. This child is still a minor. The father owned a place in the Cherokee Nation until it was taken away from his estate by action of the Cherokee authorities. The name of the father, Charles Skinner, appears upon the 1886 roll, as does also the name of Coconachee, as Coconachee, and Mary J. Skinner. It is clear, therefore, that Mary J. Skinner is entitled to enrollment by virtue of her admission, enrollment and residence; that Coconachee is entitled by virtue of her mother's admission and her own

enrollment; and that Charles Skinner is entitled as the descendant of Charles Skinner, who was lawfully enrolled in 1864, the daughter Charles having been born since her father's enrollment. We, therefore, ask the enrollment of Mary J. Skinner, Ochsabee, or Baby, Skinner, and Charles Skinner as Cherokees by blood.

William T. Flippin.

William T. Flippin is the son of John C. Flippin, who was admitted to citizenship with his mother, Hannah Flippin, September 28, 1864. John C. Flippin came to the Cherokee Nation in 1866 and continued to reside in the Nation until 1895, when he died. William T. Flippin was born in the Cherokee Nation and has always lived in the Cherokee Nation, and is still living. He is now 19 years of age, and therefore a minor. His father was enrolled on the 1866 roll. William T. Flippin is, therefore, entitled to enrollment as a Cherokee by blood.

Lula Freeman, et al.

Lula Freeman is the daughter of Mary J. Skinner, who was with her mother, Hannah Flippin, admitted to citizenship in 1864. This applicant was born in Texas in 1870, removed to the Cherokee Nation in 1886 and has continuously resided in the Cherokee Nation ever since. Her husband is Alexander Freeman, who has no claim to citizenship. Her minor children are: Nina, Frances, Nettie, and Helen, all of whom were born in the Cherokee Nation and have always resided and now reside in the Cherokee Nation. Lula Freeman is enrolled on the 1864 roll as Lula Skinner. She and her children above named are, therefore, entitled to enrollment as Cherokee citizens by blood.

Alice B. Tanner, et al.

Alice B. Tanner is the daughter of John C. Flippin, who with his mother, Hannah Flippin, was admitted to citizenship in 1864. She was born in Texas in 1866 and came to the Cherokee Nation in 1888, since which time she has continuously resided in the Cherokee Nation. Her husband, John H. Tanner, is a white

man. Her son, Samuel F. Tanner, was born in Texas, came to the Nation in 1885 with his mother, and has since that time continuously resided in the Cherokee Nation. Alice B. Tanner's name appears upon the 1896 roll and her son, Samuel F. Tanner, is there enrolled also as Samuel J. Tanner, aged 9 months. Alice B. Tanner and her son, Samuel F. Tanner, should, therefore, be enrolled as Cherokee citizens by blood.

James H. Flippin.

James H. Flippin is the son of John G. Flippin, who, with his mother, Hannah Flippin, was admitted to citizenship in 1884. He was born in Texas in 1878 and came to the Nation in the fall of 1884, and has continued to reside in the Cherokee Nation ever since. He was a minor when his father was admitted to citizenship. His name appears upon the 1896 roll as James H. Flippin, aged 6 years. His wife is a Cherokee by blood and has been enrolled. James H. Flippin should be enrolled as a Cherokee by blood.

James P. Flippin.

James P. Flippin is also a son of John G. Flippin and is enrolled on the 1896 roll. He was about 14 years of age when his father was admitted. He was born in Texas in 1870, came to the Nation with his father in 1884, and has continuously since that time resided in the Cherokee Nation. His wife is a Cherokee by blood, to whom he was married in accordance with Cherokee law before December 16, 1895. He is, therefore, entitled to enrollment as a Cherokee by blood and also has the same right as any other intermarried citizen.

Belle Z. Bowers, et al.

Belle Z. Bowers was admitted to citizenship with her mother, Hannah Flippin, in 1884. She removed to the Cherokee Nation. On April 23, 1887, she was married to H. S. Bowers in accordance with Cherokee law. From that time until her death, which occurred in March of 1903 -- after September 1, 1902 -- she continuously resided in the Cherokee Nation. Her children

who were minors when application was made for enrollment are Lon P., Andy Houston, Milton G., and Corwin Elaine. The children continued to reside with their mother to the time of her death and are all living in the Cherokee Nation at the present time. Belle E. Bowers (as B. Z.), Lon P., and Andy E. are enrolled on the 1886 roll. Corwin B. Bowers was born since this roll was made up. Mrs. Bowers and her children are, therefore, entitled to enrollment as Cherokees by blood, and M. G. Bowers has the same rights as any other intermarried white person.

James C. Flippin, Jr.

James C. Flippin, Jr.'s name appears upon the 1886 roll as James C. Flippin, Jr. His father was John C. Flippin, who was admitted to citizenship with his mother, Hannah Flippin, September 26, 1864. He was born in Texas in 1890 and came to the Nation in 1884, where he has continued to reside until the present time. There seems to be no record of any formal application for him having been made, and we rely upon the fact that it was the clear duty of the Commission to investigate this 1886 roll to find his name thereon and to ascertain whether or not his name was placed thereon by fraud or without authority of law. The Commission did this as to numerous persons whose names appear upon other rolls, making a memorandum or blanket application for them, and we do not believe that the mere omission of the Commission to do its full duty in this particular case should militate against this applicant's rights to enrollment.

Agnes Dorsey.

Agnes Dorsey is the daughter of Tennessee Ficklin by a former husband, Dr. Dorsey. She was born in Virginia and came to the Cherokee Nation when a small child with her mother in 1866, and has continuously resided in the Cherokee Nation from then until the present time. She was, of course, a minor when her mother was admitted to citizenship in 1864 and had the same rights as her mother and should be enrolled as a Cherokee by blood.

Sophia Bethel, et al.

Sophia Bethel is the daughter of Mary J. Skinner who was with her mother, Hannah Flippin, admitted to citizenship in 1884. This applicant came to the Nation with her mother in June of 1886, and has continuously resided in the Cherokee Nation since. Her name appears upon the 1886 roll as "Sophie" Skinner, as does the name of her elder child, Harrison. All of her children are minors and have the same rights as she has. Their names are Harrison, and Oliver. Her husband is dead. She is entitled to enrollment by virtue of her enrollment in 1886, her residence in the Cherokee Nation, and as the descendant of Mary J. Skinner, under the decisions in the James Shirley, James Love, and other cases.

Maud Grutchfield.

Maud Grutchfield is the daughter of John C. Flippin, who with his mother, Hannah Flippin, was admitted to citizenship in 1884. She was born in 1873, and was, therefore, 12 years old when her father was admitted. She has continued to reside in the Nation since her father's admission and is enrolled on the 1886 roll as Maud Flippin. Her husband is a Cherokee by blood and she is entitled to enrollment as a Cherokee by blood, and also as an intermarried citizen.

Errett Skinner.

Errett Skinner is the son of Mary J. Skinner, who was with her mother, Hannah Flippin, admitted to citizenship in 1884. He was born in Texas in 1870 and came to the Cherokee Nation with his mother in June of 1886, or when he was about 16 years of age, since which time he has continued to reside in the Cherokee Nation. His name appears upon the 1886 roll. The Nation objects to the consideration of his right to enrollment for the reason that the record does not show that any formal application was made for him. The law directed the Commission to investigate the right of all persons whose names appear upon this 1886 and other rolls. The Commission made a memorandum or blanket application for numerous other persons whose names appear upon other

rolls, and we do not believe that the Department will allow the failure of the Commission to do its full duty as to the persons' names appearing upon the 1886 roll to militate against this applicant, who is clearly entitled to enrollment as a Cherokee citizen by blood.

Heber Skinner.

Heber Skinner is the son of Mary J. Skinner, who with her mother, Hannah Flippin, was admitted to citizenship in 1864. He was born in Texas in 1873, was 12 years of age when his mother was admitted, and with her came to the Cherokee Nation in 1886, since which time he has continuously resided in the Cherokee Nation. His name appears upon the 1886 roll. The Cherokee Nation objects to the consideration of the rights of Heber Skinner, for the reason that no record appears that any formal application was made by him. The law requires the Commission to investigate the rights of every person whose name appears upon the 1886 and other rolls. As to the large number of persons whose name appear upon other rolls a memorandum or blanket application was made, and we do not believe that the failure of the Commission to perform this duty as to this applicant whose name appears upon the 1886 roll will be allowed to deprive him of his absolute right to enrollment as a Cherokee by blood. He testifies, however, that in the fall of 1901 he appeared before the Commission at Muskogee in person and made application for enrollment; that he was sworn and a stenographer took down the testimony which he then and there gave. The Commission has been unable so far, we believe, to find this record, but his statement is undisputed, and we have no doubt the Commission will believe that he told the truth, so that here even the objection of the Cherokee Nation is met by an actual application and the fact that the Commission did not keep a record of the case will not count as against this applicant.

John F. Fisklin, et al.

John F. Fisklin was born in Texas in 1870 and is the son of Tennessee Fisklin by her first husband. She was admitted

to citizenship with her mother, Hannah Flippin, in 1884. He came to the Nation before his mother did. He continued to reside in the Nation until it his permanent home until about 1893, when he removed to Oklahoma. His children are Roy, John F., Jr., May and Bertie. None of these applicants are enrolled and their claim is based upon their being the descendants of Tennessee Picklin, and on the fact that Roy, John F., Jr., May and Bertie are still alive.

Bertie Erickson, et al.

Bertie Erickson was born in Texas in 1880, came to the Nation with her mother, Tennessee Picklin, in 1896. Her mother was admitted to citizenship with her mother, Hannah Flippin, in 1884. Bertie Erickson from 1896 until the present time has continuously resided in the Cherokee and Creek Nations, for nine years in the Cherokee Nation and about ten in the Creek Nation. She has a minor child, Theodore. Application was made for Bertie Erickson in 1896 under the name of Bertie Shiffers. Her and her child's rights depend upon the rights of Tennessee Picklin, her mother.

Berna E. Russell, et al.

Berna E. Russell is the daughter of Belle J. Bowers, who was with her mother, Hannah Flippin, admitted to citizenship in 1884. This applicant's name appears upon the 1884 roll as Berna Bowers, aged 4 years. She was born about 1882 and came to the Cherokee Nation with her mother and father, which is shown to have been about 1887, when she was still a minor. She has continuously resided in the Cherokee Nation since that time, she has a minor child, Gladys Russell, born September 1, 1901, who is still alive and entitled to the same rights as she is. Berna E. Russell and her child, Gladys Russell, are entitled to enrollment as Cherokee citizens by blood.

Rejection is made in the record by the attorneys for the Cherokee Nation in the consideration of the rights of children born to applicants in these cases between the time of their final and rejection by the Secretary of the Interior, September 1, 1908.

We call attention to the fact that it was impossible for any of these applicants to have any additional applications considered by them when the principal applicants themselves stood rejected, and particularly was this true because during all of this time the decisions of the Commission and Department were that neither the Commission nor Department had jurisdiction to consider any such applications. The law never requires persons to do impossible things. So soon as the Department set aside its decision and gave to the applicants opportunity to be heard, they made the effort to secure the enrollment of these children, which is all that can be expected of them.

Respectfully submitted,

H. Henry White
Hessie G. Kimball

Attorneys for Applicants.

Cherokee

In the matter of the
Enrollment of
HANNAN FLIPPIN, ET AL.

BRIEF FOR APPLICANTS.

COPY FOR THE ATTORNEY
FOR THE CHEROKEE NATION.

Wm. Henry White, and
Harry G. Kimball,

Attorneys for Applicants.

The Washington Law Reporter

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Daniel W. Baker as United States Attorney.

Mr. Daniel W. Baker has been appointed by the President as United States Attorney for the District of Columbia, to succeed Mr. Livingston H. Beach, who retires from office on August 31. Mr. Baker is among the best known members of the District bar, and his appointment is received with very general satisfaction.

Mr. Baker is a native of Maryland, was born in 1857, and was educated at Mount St. Mary's College, in that State, in which institution his father was a professor. He was graduated from the Law School of the Georgetown University in 1883, and two years later became a member of its faculty, since which time his identification with the school has continued. His connection with the bar was immediate, and he immediately among our most active practitioners. For many years he has been a member of the firm of Lambert & Baker.

Mr. Baker served as assistant United States attorney for this District under Hon. Henry E. Davis for about two years, resigning to devote himself to private practice. The position to which he has been called because of great responsibility, and demands that its occupant shall be a man of high character and a lawyer of fine ability. In both respects Mr. Baker is well equipped for the important duties, and that he will discharge them faithfully and efficiently may confidently be predicted.

False Representations to Commercial Agencies.

In *Hills et al. v. Brill*, recently decided by the appellate division of the Supreme Court of New York, suit was brought to recover possession of merchandise sold by the plaintiffs to defendant Brill, in reliance upon statements made by him as to his financial condition for the purpose of obtaining credit. The statements in question, which were shown to have been false and fraudulent, were made by defendant to the representatives of two commercial agencies, and were relied upon by the plaintiffs, who, on the strength of them, delivered to him a quantity of gloves. A few days afterwards the plaintiffs elected to rescind the sale, and demanded the return of the gloves, which was refused, and they thereupon brought this action. It was argued on behalf of the defendant, among other things, that the false representations were not made by him to the plaintiffs directly; but this objection was summarily disposed of by the appellate division, which said: "It is true the representations made by Brill were not made to the plaintiffs personally, but that is of no importance. They were made to the commercial agencies for the purpose of obtaining through them a credit, and were just as effective for that purpose, and, if false, subjected Brill to the same liability as though made to the plaintiffs personally." The decision of the trial term in favor of defendant was reversed.

Bad Dreams as an Element of Damages.

The decision of the Court of Appeals of Kentucky in *Louisville and Nashville R. Co. v. Smith*, 28 S. W. 708, is interesting as dealing with a question seldom appearing in legal decisions. In that case it was held inadmissible to prove damages alleged to have caused pain and suffering, even though the dream seems without question to have been the result of the injury and to have caused the injured person distress naturally incident to a disagreeable dream. The court also lays down the general rule that where the physical or mental suffering of a person, resulting from an injury, is the proper subject of inquiry, the usual expression of such suffering manifested or made at the time may be admitted as original evidence.

Brokers—Commissioners for Sale of Land.

An agreement by a real estate broker to share commissions with another who found a purchaser held not to preclude the broker from recovering the commissions. *Bray v. Riggs* (1924), 98 S. W. Rep. 118.

Court of Appeals of the District of Columbia.

CHARLES S. BUNDY, APPELLANT,

v.

THE UNITED STATES, EX REL. EHUD N. DARLING.

APPEALS, NOTICE OF, APPEAL BONDS, REFUSAL TO APPROVE, MANDAMUS, PRACTICE.

1. A notice of appeal from a justice of the peace gave the name of the proposed surety as "Title Guaranty and Trust Company," but omitted the words "of Scranton, Pa.," though the correct address of the proposed surety was given. The justice, on objection by the appellee, refused to approve the bond on the ground that the notice did not comply with Rule 20 of the Supreme Court, regulating notice in such cases. *Held*, that it was the duty of the justice to approve the bond, and on his refusal mandamus would lie to compel the approval of the bond.
2. Whether the Supreme Court of the District has power to make a rule which, if enforced literally, would shorten the time for giving an appeal bond, should the appellant be unable to procure the requisite surety before the commencement of the time required for notice of his intention to appeal, *quære*.
3. Probably, when a bond is tendered on the last day allowed by the Code, the rule as to notice would still operate, in which event, if satisfied with the surety, the justice could enter his approval as of the date of filing.
4. The relator in mandamus proceedings is, as matter of course, permitted to use the name of the United States, without resort to the intervention of the district attorney; and even that formality is not now essential to maintain the action, following *Dancy v. Clark*, 33 Wash. Law Rep. 18, No. 1467. Decided May 2, 1905.

APPEAL by respondent from an order of the Supreme Court of the District of Columbia, at Law, No. 47,095, directing the issue of a writ of mandamus. Affirmed.

Mr. Wm. S. Abert and Mr. Conway Robinson for the appellant.

Mr. E. G. Niles and Mr. J. S. White for the appellee.

Mr. Chief Justice SHEPARD delivered the opinion of the Court:

This is an appeal from an order of the Supreme Court of the District awarding a writ of mandamus to compel the appellant, as a justice of the peace, to approve an appeal bond.

The following facts appear from the petition and return: In a case pending before the appellant, as justice of the peace, between Ehud N. Darling and William Stone Abert, the same being a trial of the right of property, the said justice, on July 28, 1904, rendered judgment in favor of Abert, from which Darling entered notice of appeal. On said day Darling served notice upon Abert that he had entered an appeal and would, on July 21, offer the Title Guaranty and Trust Company as surety upon his appeal bond. On said date Darling appeared in person before said justice, with the duly authorized agent of the Title Guaranty and Trust Company, of Scranton, Pa., and offered an appeal bond in the proper amount for his approval. Upon objection of Abert's counsel, the justice refused to approve said bond, as appears from his minutes, because of variance in notice and failure to comply with Rule 20 of the Supreme Court of the District, regulating notice in such cases. Rule 20 provides that two clear days of notice of the offering of an appeal bond from a judgment of a justice of the peace shall be given, and such notice shall contain the name and address of the proposed surety. The notice

gave the name and correct address of the said surety company, but omitted the words "of Scranton, Pennsylvania." The Title Guaranty and Trust Company, of Scranton, Pa., appears of record as having been regularly admitted and approved as sufficient surety upon appeal bonds in the courts of the District, and there is no company of similar name upon the said record. It seems quite clear that before the objection was sustained, both the objecting party and the justice of the peace were well informed that the notice referred to the Title Guaranty and Trust Company, of Scranton, Pa., and to none other.

We are of the opinion that it was the plain duty of the justice of the peace, under the circumstances, to approve the bond that had been tendered. *Beal v. Cox*, 14 App. D. C. 368, 373; 27 Wash. Law Rep. 231. In that case it was said: "If the bond appear to be regular in form and execution and the surety sufficient, it is his duty to approve it without regard to captious objections that may be raised on behalf of an opposing party." This being the case, it was clearly within the power and became the duty of the Supreme Court of the District in the exercise of its appellate jurisdiction in the premises to compel the approval of the bond. *Church v. Fidelity and Deposit Co.*, 13 App. D. C. 264, 265; 28 Wash. Law Rep. 674.

The bond was tendered within the six days prescribed by section 31 of the Code, and it is not necessary, therefore, to consider whether, in cases of the trial of the right of property in a justice's court, this time is extended to six days after prayer for appeal entered, by the terms of section 35.

Nor, as the notice was given in the time prescribed by Rule 20, is it necessary to determine whether the Supreme Court of the District has the authority to make a rule which, if enforced literally, might shorten the time for giving an appeal bond should the appellant be unable to procure the requisite surety before the commencement of the time required for notice of his intention. Probably when a bond shall be tendered on the last day allowed by the Code, the rule as to notice might still operate; in which event, if satisfied with the surety, the justice could enter his approval as of the date of filing as indicated in *Beal v. Cox*, 14 App. D. C. 368, 374; 27 Wash. Law Rep. 231.

The question of the power of the court to make a rule that in its necessary operation might shorten the statutory period for tendering appeal bonds in the courts of justices of the peace will not be determined until a case shall come before us which renders it necessary.

The objection that the petition for mandamus could only be prosecuted by the United States attorney for the District has been presented, for the first time, on this hearing. Even if not too late to be now entertained, it is without merit. It has always been the practice to permit the relator in such proceedings to use the name of the United States, as a matter of course, without resort to the intervention of the district attorney; and even that formality is not now considered essential to the maintenance of the action. *Dancy v. Clark*, 33 W. L. R. 15.

There was no error in granting the writ of mandamus, and the order will be affirmed with costs. It is so ordered. Affirmed.

Court of Appeals of the District of Columbia.

JAMES L. KARRICK, APPELLANT,

v.

BERTON O. WETMORE, ADMR., TO THE
USE OF JOHN F. MOKAY.JUDGMENTS; ORDER STRIKING OUT DISMISSAL OF
CAUSE WITHOUT NOTICE TO DEFENDANT HELD
VOID.

1. A judgment of dismissal, on its face apparently a final disposition of the cause in which rendered, can not, after the lapse of five terms of the court rendering it, be stricken out without notice to defendant, and a judgment rendered in place of it in favor of plaintiff and for the full amount of his claim.
2. A judgment of dismissal is as good as any other judgment as long as it stands, and parties are entitled to act upon the faith of it as a valid judgment, while, not being rendered on the merits, they are liable to be stricken out, yet they are final judgments, and may not, any more than a judgment upon the merits, be disturbed after the lapse of the term at which rendered.
3. To an action brought here on a Massachusetts judgment, the defendant pleaded the invalidity of the judgment. It appeared that the Massachusetts court had, on June 13, 1899, dismissed the cause on the ground that no action had been taken within one year, and the cause stood dismissed for more than five terms of the court, until October 13, 1900, when the order of dismissal was, without notice to defendant and without his knowledge, stricken out as based upon a mistake of fact, action having been taken within the year, and on November 20, 1900, likewise without notice to defendant, judgment was rendered for plaintiff for the full amount of his claim. In the meantime, on April 23, 1899, defendant filed his petition in bankruptcy in Colorado, and on June 23, 1899, received his discharge from all provable debts, including that due plaintiff. Subsequently to his discharge, and while the Massachusetts suit stood dismissed, he inquired of the clerk of that court as to the condition of the suit, and was informed it was no longer pending, for which reason he did not suggest his discharge in bankruptcy therein. Defendant's plea, in the action here on the judgment, setting up these facts, was demurred to, and the demurrer sustained. On appeal by defendant, held that the action of the Massachusetts court in striking out the judgment of dismissal and in rendering judgment for the plaintiff, without notice to defendant, was without jurisdiction, and was null and void; and the trial court erred in sustaining the demurrer to the plea.

No. 1528. Decided April 17, 1905.

APPEAL (specially allowed) by defendant from an order of the Supreme Court of the District of Columbia, at Law, No. 46,600, sustaining a demurrer to a plea. Reversed.

Mr. J. J. Dartington, Mr. W. W. Millan, and Mr. R. E. L. Smith for the appellant.

Mr. Wm. L. Ford for the appellee.

Mr. Justice MORRIS delivered the opinion of the Court:

A suit between the parties to the controversy now before us was here on a former appeal and seems to have involved the same subject-matter. It was held, in substance, that the suit, as it then stood, could not be maintained. 23 D. C. App. 457; 31 Wash. Law Rep. 714. That suit seems to have been thereupon abandoned, and the present proceedings were instituted wherein very different questions are raised.

The suit is one at common law, instituted in the Supreme Court of the District of Columbia, upon a judgment recovered by the appellee as plaintiff against the appellant as defendant in the Superior Court for the county of Suffolk, in

the State of Massachusetts, on November 30, 1899, for the sum of \$12,831.46, besides costs, which is alleged in the declaration to remain unsatisfied. With the declaration was filed a copy of the record of the court in Massachusetts, and as the validity of this record as a basis for the present suit is here in question, it is necessary that its condition should to some extent be stated.

The suit in Massachusetts, which seems to have grown out of some building contracts between the appellant and Charles H. Wetmore, deceased, the intestate of the plaintiff therein, was commenced in the year 1892 by attachment proceedings. The defendant, however, the present appellant, subsequently appeared by attorney and pleaded to the declaration. Among the pleas was one of set-off. There was then a trial by jury, who were directed to return a special verdict upon four special interrogatories framed for them. The answers of the jury to these interrogatories seem to have been unfavorable to the defendant in the cause. And yet the defendant came in and moved for judgment. The record fails to disclose what action, if any, was taken on this motion. But the next step seems to have been a motion by the defendant to set aside the special verdict, which was allowed. Thereupon the plaintiff appears to have amended his declaration by filing an additional count, and the parties went to trial again before a jury. There was another special verdict, and also a general verdict in favor of the plaintiff in the case for the sum of \$9,166.39.

A motion for a new trial was made and overruled, and then the defendant, according to the record, filed "sundry exceptions to the ruling and opinion of the court in certain matters of law, which were reduced to writing." When these exceptions were filed does not appear; but presumably they were filed on or before March 5, 1894, which was the time assigned within which they were to be filed.

Nothing further seems to have been done for upwards of four years. Then, on June 8, 1897, "at a calling of the docket under the general order of court the action was dismissed." Two days afterwards, on June 10, 1897, the order of dismissal was stricken out and the cause restored to the calendar. A very short time after this, on June 28, 1897, the attorney for the defendant entered an order withdrawing his appearance. There would seem to have been a substitution of attorneys, for the next step that appears in the record is on June 13, 1898, when another attorney, whose name appears nowhere else in the record, also withdrew his appearance for the defendant. Immediately thereafter appears the following entry:

"Thence the case was continued to the July sitting, 1898, when said exceptions, having been presented to the court, were disallowed as not conformable to the truth, the bill not properly and correctly stating the evidence so as to fairly present the questions of law raised by the defendant's exceptions.

"Thence the case was continued from sitting to sitting into the April sitting, 1899, when on the 12th day of June, 1899, at a calling of the docket under the general order of court, said action was dismissed.

"And now at this present October sitting, 1900, to wit, on the 16th day of said October,

1900, said dismissal is stricken off and the case brought forward, the same having been dismissed improvidently, action having been taken within one year, but not discovered."

Then, on November 17, 1900, there was a motion by the plaintiff for the entry of judgment on the verdict of the jury; and judgment was accordingly entered on November 30, 1900, against the defendant for the sum of \$12,981.46 and costs of suit, with award of execution.

It is upon this record that the present proceedings were instituted in this District.

The defendant filed two pleas: (1) The general issue of nul tiel record; and (2) a special plea, wherein he set forth that, on June 12, 1899, the cause against him in Massachusetts was dismissed; that, under the rules of the court, that dismissal became final on the first Monday of July, 1899; that the cause remained so dismissed for more than five terms of the court, until October 18, 1900; that in the meantime, on April 28, 1899, the defendant filed his petition in bankruptcy in the District Court of the United States for the District of Colorado, in which in his schedule he enumerated the debt due to said Charles H. Wetmore, and was by the said district court, on June 23, 1899, discharged from all debts provable against him in bankruptcy, wherein was included the debt here sued on; that subsequently to his discharge in bankruptcy, and while the suit in Massachusetts stood dismissed as aforesaid, he made inquiry of the clerk of that court as to the condition of the suit and was informed that the same was no longer pending; that, relying upon this statement, he took no steps in that court to suggest his discharge in bankruptcy; that the action in Massachusetts was sought to be restored to the docket of the court in that State, "without summons, citation, or notice of any kind to the defendant, or to any-one for him, and without his knowledge;" and that the court had no jurisdiction in the premises to render such judgment.

There was joinder of issue by the plaintiff on the defendant's first plea, and a demurrer to the second; and the demurrer was sustained by the court below. From the order sustaining the demurrer the defendant has been allowed a special appeal to this court; and the cause is now before us on this special appeal.

The question in this case is whether a judgment of dismissal, on its face apparently a final disposition of the cause in which it was rendered, can, after the lapse of five terms of the court by which it was rendered, be stricken out without notice to the defendant, and a judgment rendered in the place of it, equally without notice to the defendant, in favor of the plaintiff and for the full amount of the latter's claim. And this question, we think, on the plainest principles of justice, whatever may have been the merit of the plaintiff's claim, must be resolved in the negative.

The right to be heard is a fundamental right of every litigant under our system of jurisprudence, and under every system of jurisprudence worthy of the name; and usually it is not denied even in the lawless codes of the most lawless savages; and in the right to be heard the first element is that of notice. The service of process, in other words, notice, is the essen-

tial prerequisite to the exercise of jurisdiction by any court. Indeed, it may be said that, strictly speaking, not a single step from the beginning to the end of a legal controversy can be taken without notice to the opposing party; although, of necessity, the notice in many instances is constructive, rather than actual, and the absence of it is an irregularity rather than a defect that would operate to cause a failure of jurisdiction. These are fundamental principles of the law which can not reasonably be controverted; and yet, if we give effect to the contentions of the appellee in the case now before us, it can not be without serious derogation of those principles.

As appears from the record of the court of Massachusetts the appellant here was the defendant in a suit in that court. That suit, after many vicissitudes, resulted in a judgment of dismissal, upon the ground that there had been no prosecution of the cause for twelve months previously thereto, which was a good ground for dismissal under the rules and practice of the court. There would appear, however, to have been some mistake in the matter, and that there had been some action within the previous year. This was on June 12, 1899. Before this order of dismissal, and while the suit was in a state of abeyance, the appellant had instituted proceedings in bankruptcy in the District Court of the United States for the District of Colorado (on April 28, 1899), for the purpose of being discharged from his debts under the bankruptcy laws of the United States, and had in his schedule of indebtedness enumerated the claim for the enforcement of which the suit in Massachusetts had been prosecuted. On June 23, 1899, he received his discharge in bankruptcy. This was seventeen days after the dismissal of the suit in Massachusetts, of which he seems to have had no notice. But immediately after his discharge, with the view of pleading such discharge as a bar to further proceedings in the Massachusetts court, he applied to the clerk of that court to ascertain the condition of the suit there, and was informed, and very truly informed, that there was no suit then pending in that court against him, and that the suit which had been pending against him had been dismissed.

Now, whatever may have been the cause of the dismissal of that suit, whether it was due to a mistake of fact or to a mistake of law, or whatever was the reason for it, as long as it was not done by the fraud of the appellant, which is not pretended, the appellant, under the circumstances, had the right to rely upon it and to rest secure upon its validity. If the dismissal was improper it was not for him to take any steps to correct the impropriety. There was no obligation upon him to move to have the dismissal stricken out, even to give him an opportunity to plead his discharge in bankruptcy. He was entitled to rest upon the record as he found it and to assume that the cause was at an end. And even if he was chargeable with a knowledge of the infirmity of the judgment of dismissal as having been based upon a mistake of fact, he was entitled to assume that he would be duly notified of any attempt to correct the error. It would certainly be most unreasonable to hold that he was bound

to incessant vigilance to see that no step was taken in the matter without his cognizance of the fact. And when it is remembered that, whatever may have been the merit of the original claim against him, and whatever may have been the demerit of his original defense, he had by his discharge in bankruptcy become entitled to a *prima facie* perfect defense which would or at least might have precluded the entry of any judgment against him, as would a plea of payment *pro daria* continuance, if supported by proof, it will be apparent what great injustice could be and was done in this case by the failure of notice to him of an attempt to convert a judgment in his favor to a judgment against him.

It seems to be conceded that, under the circumstances, only in the suit in Massachusetts could the discharge in bankruptcy have been properly pleaded. It can not be pleaded in the proceedings in this District, for the reason that what purports to be the final judgment of the court in Massachusetts, upon which the present proceedings are based, was rendered after the discharge in bankruptcy. *Dimeck v. Bevere Copper Company*, 137 U. S. 558. But the appellant proposed to plead it, where it was properly pleadable, in the original suit in Massachusetts; and it may be assumed that he would have done so, if the opportunity to do so had been afforded to him by proper notice that the judgment of dismissal would be stricken out. It seems to be assumed by the appellee that the appellant had lost his right to plead his discharge in bankruptcy by his failure, upon the filing of his petition in bankruptcy, to ask for a stay of proceedings in the Massachusetts court. But this proposition is wholly untenable. It was his privilege to ask for a stay of proceedings, if he so desired; but if he assumed that no judgment would be rendered in that court before his discharge in bankruptcy, and that he would have ample time before the final judgment therein to introduce into the suit the defense of his discharge, he was at perfect liberty to do so. In fact, the proceedings in the Massachusetts court seem to have been stayed during nearly the whole time of the proceedings in bankruptcy and for about two years previously thereto; for the record fails to show that anything whatever was done in the case in the Massachusetts court between June 10, 1897, when a previous judgment of dismissal was stricken out, and June 12, 1899, when the second judgment of dismissal was entered, except the withdrawal of the defendant's attorney and the disallowance of the defendant's exceptions at the July term of 1898. Moreover, the only action taken by the court in Massachusetts during the pendency of the bankruptcy proceedings, that is, between April 26, 1898, and June 23, 1899, was the very dismissal complained of by the appellee, on June 12, 1899, which was a most effectual stay of proceedings.

It is plainly apparent, therefore, from the record before us that the appellant was entitled at any time after June 23, 1899, to go into the court in Massachusetts and there plead his discharge in bankruptcy as a bar to any recovery there against him, if any suit was then pending; that there was no suit then pending in that court; that, when it was sought to revive that

suit by striking out the judgment of dismissal, it would have been competent for him then to plead his discharge, if he had the opportunity; that he was deprived of that opportunity by the failure to give him notice, and that thereby he lost a most valuable right. No case can well be supposed which more forcibly illustrates the propriety of giving notice or the gross injustice that may follow from failure to give it. Assuredly it can not be that the law will sanction such a proceeding.

We need not decide the question whether the court in Massachusetts had the authority, after the lapse of five terms of that court, to strike out a judgment of dismissal and to enter a final judgment in favor of the plaintiff. We will assume that it had full power and authority so to do under its rules of practice and under the laws of that State. The full force and credit required by our Federal Constitution and the comity that exists between the States to be given by the courts of one State to the judgments and decrees of the courts of other States, we are disposed to accord even to a greater extent than we might do to the courts of our own jurisdiction, for the reason that many concessions are to be made to difference of practice and difference of statutory law; but in no court of any jurisdiction can we recognize the authority to render judgment against individual citizens without due notice to them, and it is conceded that in the present instance there was no notice of any kind to the appellant or to any one for him of the intended action of the court. It is alleged in the appellant's plea, and it is admitted by the demurrer, that there was absolutely no notice of any kind to the appellant.

In order to maintain the validity of the judgment upon which he sues, the appellee is driven to the necessity of arguing that no notice was required, that the parties were in court, and that the court had jurisdiction over them and over the subject-matter. But the plain answer to this is that the defendant was not in court. He had been dismissed from court without day and was no longer required to take notice of its proceedings. It is absurd to argue that he must be regarded as cognizant of the mistake under which the judgment of dismissal was rendered; that he must be held to know that such judgment was liable to be stricken out; and that, therefore, he was constructively retained in court for an indefinite time, and until the plaintiff thought proper to move in the matter and have the judgment stricken out. This contention, if sustained, would render judgments of dismissal useless and of no value; and yet undoubtedly a judgment of dismissal is as good as any other judgment as long as it stands, and parties are entitled to act upon the faith of it as a valid judgment. It is true that judgments of dismissal, not being rendered upon the merits, are liable to be stricken out; and yet they are final judgments and may terminate the litigation as well as any other judgment. It may not be disturbed any more than a judgment upon the merits after the lapse of the term at which it was rendered. *Bronson v. Schulten*, 104 U. S. 410; *Phillips v. Negley*, 117 U. S. 665.

In these two cases it is shown that there are certain exceptions to the general rule, which

may be reduced to three classes: (1) Cases of clerical misgiving, as when the judgment rendered was not entered correctly by the clerk; (2) cases of mistakes of fact, such as that one of the parties to the judgment had died before its rendition, or was an infant, or a feme covert, or the like, which errors were formerly corrected at the common law by writ of error coram nobis; (3) cases in which a bill in equity will lie to prevent the execution of an erroneous or inequitable judgment.

Now here there was no clerical misgiving. The judgment entered was the judgment actually rendered and which was intended to be rendered. It is true there was a mistake of fact, as we may assume, but that does not make the judgment a clerical error, but an erroneous judgment, such as might result from a mistaken understanding of testimony. It falls, if at all, within one of the other two classes. But this does not help the case of the appellee. For, while in modern practice, the writ of error coram nobis has fallen into disuse, and relief is afforded upon motion supported by affidavits, and while under statutory provisions, as in Massachusetts, relief by motion is also to a limited extent substituted for bill in equity, yet, as both the writ of error coram nobis and bill in equity can not be entertained without service of process, so a motion to serve the same purpose must likewise be based upon notice. Notice is as requisite to jurisdiction in the one case as in the other, and the fact that the method of relief is more summary does not in any manner diminish the necessity for its requirement.

Certain cases are cited on behalf of the appellee as tending to support his proposition that a court may, without notice to the party to be affected thereby, set aside a judgment after the term at which it was rendered and enter a new and radically different judgment. These are *Walton v. Craig's Heirs*, 14 Pet. 147; *Odell v. Reynolds*, 70 Fed. Rep. 625; *Emery v. Whitwell*, 6 Mich. 674; *Nowe v. Yudd*, 15 Mo. 601; *Mann v. Schreier*, 50 Mo. 325; *Davis v. Wade*, 56 Mo. App. 643; *Emery v. Berry*, 25 N. H. 473; *Block on Judgments*, sec. 124; *Pratt on Judgments*, sec. 142; *17 Amer. and English Encyclopedia of Law* 3d ed., 222. But upon careful examination of these authorities it will be found that in no one of them was the case presented which is now before us, and that the mistakes corrected were mistakes of a clerical nature, apparent on the record.

The case of *Walton v. Craig's Heirs*, 14 Pet. 147, merely held that justices were, under the law of the State of Kentucky, to be regarded as continuing in court for the purpose of carrying a judgment into effect. But this is a very different proposition from that of simply annulling a judgment and converting it into an adverse decision.

The case of *Odell v. Reynolds* is apparently more to the point, but only apparently so. A very brief statement of it will be amply sufficient, notwithstanding the somewhat bombastic language of the opinion, to show that it is no authority whatever for the proposition advanced on behalf of the appellee in the present case.

In that case a judgment by confession had

been entered in the Superior Court of Cook County, in the State of Illinois, for the sum of \$25,000, on account of several promissory notes held by the plaintiff and aggregating that amount. The entry of the judgment was on April 13, 1892, and the confession purported to be by a certain person named as "the attorney in fact" for the defendant, and to be an account of "the note filed in the case." There were two defects in the judgment. One was to the effect that the statute law of Illinois forbade the appearance of any one as an attorney in fact to confess judgment, unless he was an attorney at law. The person who had confessed the judgment was in fact an attorney at law; but that fact did not appear affirmatively upon the record, although it was ascertainable from the rolls of the court. Another defect was that the word "note" was used in the singular number, indicating that only one note for the sum of \$25,000 had been filed, while in fact several notes had been filed of the aggregate amount of \$25,000. On February 23, 1893, after the term had expired at which the judgment had been rendered, motion was made to correct it. Whether this motion was made upon notice or without it, the statement of the case does not show. From the opinion in the case of *Odell v. Reynolds* it may be conjectured that it was without notice. The motion was allowed, and the judgment was corrected. Subsequently suit was instituted upon it in the Federal District Court; and there were pleas filed by the defendant, one of them setting forth the insanity of the defendant at the time the judgment was rendered, another to the effect that the judgment had been altered without authority on the part of the court of Cook County so to do, after the lapse of the term. This suit found its way to the Circuit Court of Appeals for the Sixth Circuit, and that court sustained the authority of the Cook County court to correct its judgment.

Assuredly there is nothing in the facts of this case that would justify the contention of the appellee in the case now before us. In that case there was no substantial change whatever in the new judgment that was entered. Indeed, from our standpoint the changes might be regarded as wholly superfluous. The original judgment was against the defendant for \$25,000; the corrected judgment was one against the defendant for \$25,000. It was of no real consequence whether the claim was upon one note for \$25,000 or upon several notes aggregating that sum, or whether it appeared upon the record that the attorney in fact was an attorney at law; and we fail to see how, upon the authority of such a case as this, the action can be vindicated which would convert, without notice to the party to be affected thereby, a judgment of dismissal in his favor to a judgment against him for upwards of \$12,000.

It is upon the reasoning of the case, however, and not upon the facts of it, that the appellee seeks to justify himself; but no more upon the reasoning than upon the facts can he support his contention, for the opinion of the court distinctly and explicitly states the limitations upon the course of procedure which it sanctioned, and which no doubt is entirely correct within these limitations. As the case of *Odell v. Reynolds* is the only case that has been cited

which treats this subject at any length from the apparent standpoint of the appellee, and the subject is a grave one in the administration of justice, we are at pains to transcribe so much of the opinion in that case as seems to be pertinent to the issue before us. The court there said:

"The first question to which we shall give attention arises upon the objection of the defendant to the entry made by the Superior Court of Cook County, on the 26th day of February, 1893, in correction and amendment of the judgment which it had entered on the 18th day of April, 1892. The grounds of that objection, as stated by counsel for defendant in error in argument, are: (1) That the court had no power to make the order, for the reason that the term at which the judgment was rendered had expired, and (2) that the order was made without any notice to the defendant of the proposed action and without his knowledge.

On the contrary, it is a power inherent in the authority of every court having general jurisdiction to correct errors in the making up of its records whereby they fail to express the truth in regard to its proceedings. And the power may be exercised by the court at any time when the error is brought to its attention, and no injury is likely to happen to the parties or other persons by its exercise. No doubt such power should be cautiously and discreetly used, but that it exists is well established by authority. It is the settled doctrine of the English courts, and in most of the courts of this country.

In the present case counsel for defendant submits as a vital objection to the action of the Illinois court in making the entry for correction of February 26, 1893, that 'to make that finding and to insert it in the judgment *nunc pro tunc* was to materially add to and substantially modify the judgment that was rendered at the prior term, for it involved the very character and scope of the agency to which alone Reynolds had committed the right to enter his appearance and confess judgment.' But the consequence of the correction is no test of the power of the court to make it. In Wight's case, just cited, the effect of the entry was to annihilate the whole foundation on which his petition rested.

Sometimes the propriety of such action exists in cases where the correction may be made upon that which appears in the record itself and is necessary to make it consistent and harmonious one part with another. In other cases it is necessary in the interest of justice to act upon matters not appearing from the record; for example, things resting in the recollection of the judge, or evidence adduced *alunde*. In the former case notice to parties is not necessary. No new thing is brought upon the record. The court, for the clearer and more accurate expression of its final action, molds into form that which is fairly and reasonably deducible from the whole record, taken together. There is nothing to litigate. *No right is substantially affected.* Freeman on Judgments, sec. 72a; 1 Black on Judgments, sec. 164; Emery v. Whitwell, *ubi supra*; Matheson's Adm. v. Grant, 2 How. 263. In the latter case the question of the necessity of notice may depend upon the source from which the evidence

comes upon which the action is to be taken. If it is the recollection of the court, it is doubtful whether notice is required, for the reason that it is not open to contest. At all events, it would seem upon the authorities that corrections of the record made by the court upon its own recollection would not be substantially *incurable*, though made without notice."

We have underlined certain phrases in this opinion which clearly show the limitation within which it was intended to be restricted. The opinion is plainly inapplicable as applied to the facts of the case which was before the court; but it is equally plain that the ruling of the court was not intended to extend to cases, where any right was to be substantially affected, or where any of the parties were likely to be injured by the proposed correction. Now it is difficult to conceive of any case where a right was more substantially affected, or where one of the parties to the cause was more seriously injured, than the case now before us.

The case of Wight, 124 U. S. 104, is also cited by the appellee as sustaining his contention that he was entitled to proceed without notice. But we fail to see wherein that case supports him. There it appeared that one Wight, who petitioned to be released on *habeas corpus*, had been indicted and convicted in a district court of the United States for a criminal offense. He made a motion for a new trial and in arrest of judgment, and at that point the district court certified the cause to the circuit court. The circuit court overruled both motions, but failed to enter any order to remand the cause to the district court. It is not entirely clear from the record whether the failure to enter such an order was due to oversight on the part of the clerk to note on his record the verbal order that may have been actually rendered, or resulted from the failure of the court at the time to make any order. But on the same day on which the circuit court denied the motions of the defendant, the district court again took up the case, entered an order overruling the same motions, and putting upon record its opinion that the case had been *improvidently* and without authority certified to the circuit court, vacated the order of certification, and thereupon proceeded to pronounce sentence upon the defendant. The writ of *habeas corpus* was then sued out, and while that writ was pending it was discovered that, as already stated, no entry had been made remanding the cause from the circuit to the district court. Thereupon the circuit court corrected the record so as to provide for such an entry. The petitioner's whole case was based upon the absence of any such entry, and the consequent absence, as claimed, of jurisdiction on the part of the district court to proceed with the same. The Supreme Court of the United States held that the correction of the record was *harmful*.

Now, it is quite apparent from the statement of this case, in which the district judge, who held the district court, also sat with the circuit judge in the circuit court, and both courts were held at the same time in the same court house, that there was an actual remanding of the cause by the circuit to the district court, and whether the failure to enter a formal order to that effect was due to misimpression of the

clerk, who no doubt was the same for both courts, or, as is more likely from the circumstances, was the result of oversight on the part of the judge, or of the view evidently entertained by them, although not entertained, it would seem, by the Supreme Court of the United States, that the order of certification from the district to the circuit court was without authority of law and void; the failure to enter an order for remanding the cause was not a jurisdictional, but a clerical matter. It was intended simply to make a record of that which was actually done by the court, and it did not at all materially alter the nature of the judgment that was rendered. The case of *Wight*, therefore, is no authority for the position of the appellee in the case now before us.

Various other cases that are of a similar character, in which there has been a relaxation of the rigid rules of the common law that judgments of a court of general jurisdiction may not be altered in any manner after the lapse of the term at which they were rendered. But it is unnecessary to consider them. The relaxation has been only to correct clerical errors, or to fill up a gap in the record when there was actually no gap in the action of the court, or in some way to make the record consistent with itself. In other words, the power of correction remaining in the court would seem to be rather of matters leading up to judgment itself. But assuming that a judgment itself might be altered in a substantial manner, by way of correction or amendment, after the lapse of the term at which it has been rendered, we find no adjudicated case, and we know of no rule of law or of reason that would justify a substantial alteration of such judgment without notice to the person to be affected thereby. Such notice is jurisdictional, and the failure to give it is not a mere irregularity to be corrected by action in the same court in the case itself, or by appeal to an appellate tribunal. Evidently in the case before us, when the defendant was advised of the action taken against him, it was too late for him to enforce his right by application to that court or by appeal, and it is absurd that he should be driven to such mode of enforcing his right. He had been dismissed from court, and he could not have been called back except by notice, which it is conceded was not given.

From what we have said it follows in our opinion that the action of the Superior Court of Suffolk County, in the State of Massachusetts, in striking out the judgment of June 13, 1899, dismissing the suit between the parties to these proceedings, and rendering on November 20, 1900, in its place and stead a new and radically different judgment for the plaintiff and against the defendant for the sum of \$12,881.46, without notice to the defendant, was without jurisdiction and was null and void. Consequently we think that it was error in the trial court to sustain the demurrer of the plaintiff to the appellant's second plea, and that the demurrer should have been overruled.

The order appealed from will be reversed, with costs; and the cause will be remanded to the Supreme Court of the District of Columbia, with directions to vacate such order, and to enter an order overruling the plaintiff's demurrer, with leave to the plaintiff to plead over

as he may be advised upon such terms as to the court may seem proper; and for such further proceedings therein, if any, as may be right and just and according to law, and not inconsistent with this opinion. And it is so ordered.
Reversed.

HENRY HELD, TRADING AS BROOKLYN
VAULT LIGHT COMPANY, APPELLANT,

v.
JOHN T. WALKER.

AGENCY; PAYMENT OF MONEY TO AGENT; EVIDENCE.

In this case the question was, whether defendant was justified in making payment to an agent who failed to turn over the money to his principal, the plaintiff. It appeared the plaintiff appointed the person collecting the money to the conduct of an apparently general office, supplied him with stationery upon which his name appeared as agent, and placed in his hands for presentation to defendant the bill of which he received the payment. Held not conclusive evidence of a general agency justifying the payment of money to the person holding such agency, but to raise a question for the jury; and the trial court erred in directing a verdict for defendant.

No. 1507. Decided May 2, 1905.

APPEAL by plaintiff from a judgment of the Supreme Court of the District of Columbia, at Law, No. 46,237, entered upon a verdict directed by the court in a case appealed from a justice of the peace. Reversed.

Mr. Andrew Wilson and *Mr. Noel W. Barksdale* for the appellant.

Mr. Arthur Peter for the appellee.

Mr. Justice MORRIS delivered the opinion of the Court:

This cause originated before a justice of the peace, by whom judgment was rendered in favor of the appellant, who was the plaintiff before him. Upon appeal by the defendant to the Supreme Court of the District, and a new trial had therein before the court with a jury, the court directed a verdict in favor of the defendant, and judgment was entered thereon, from which the plaintiff has appealed to this court.

The question in the case is whether the defendant was justified in making payment to an agent, who, it seems, failed to turn over the money to his principal. For there is no question as to the actual payment of the money by the appellee. The only question is whether he paid it to the right person; and that is resolved into the inquiry whether a man, who was confessedly an agent for soliciting bids and making contracts, was also an agent for the receipt of money becoming due on those contracts.

The circumstances of the controversy between the parties are these. The plaintiff was a manufacturer of vault lights in Brooklyn, New York, doing business under the name of a company, the "Brooklyn Vault Light Company." He had an office also in Philadelphia, whose business, however, does not seem to have been confined to Philadelphia, and in which he placed one *W. E. Taylor* as his agent. To him he furnished stationery, with printed letter heads and bill heads, used by Taylor in all his transactions in this case, and the printing was in these words: "Philadelphia Office, 604 Witherspoon Building, *W. E. Taylor, agent.*" And there was no

restriction or qualification of the word "agent." Walker, a resident of Washington, had a building in this city in course of construction, for which he desired to procure some vault lights. Under date of August 28, 1902, Taylor, upon paper such as has been mentioned, addressed a letter to him (Walker), offering to furnish the lights to him for \$150. The letter was in duplicate. Under date of September 3, 1902, Walker accepted the proposal, indorsed his acceptance on one of the duplicates, and returned it to Taylor. Taylor sent it to his principal, the plaintiff, in Brooklyn; and the latter, on October 2, 1902, shipped the material from Brooklyn directly to Walker, in Washington, together with the bill therefor. There was some freight to be paid and some slight amount of work to be done by the shipper, but this Walker was authorized to do, and the cost of it to deduct from the amount of the bill. In regard to these items of deduction there is no controversy between the parties.

On December 3, 1902, Taylor called in person upon Walker, with a bill, dated November 1, 1902, whose heading was in print purporting to be from the plaintiff's Brooklyn office, but which otherwise was in the plaintiff's handwriting, and requested payment of the amount (\$150). Walker requested to have the credits or deductions, amounting to \$12.31, entered on the account; and these Taylor entered; and Walker thereupon paid the balance (\$137.69) to Taylor, and the latter receipted the bill, and returned it thus receipted to Walker.

It appears that Taylor made no report of his collection to his principal; and the latter, under date of January 1, 1903, sent Walker another bill. Upon this bill Walker wrote: "Paid Dec. 3, 1902, to your agent W. E. Taylor in person," and he returned the bill with the indorsement to the plaintiff. The result was the institution of the present suit.

The plaintiff and the defendant both testified in the case, the former by deposition taken in New York, and their testimony is the only testimony in the case, exclusive of the documentary evidence which has been indicated. The plaintiff swore, in substance, that Taylor had no authority to collect money for him, but only to solicit orders. The defendant testified that, at the time of his first interview with Taylor, when he saw the word "agent" on the letter head, he asked Taylor about the matter, and Taylor stated that he had authority to collect money for goods sold on account of the Brooklyn Vault Light Company; but that he had taken no other steps to ascertain whether Taylor had any such authority to receive payment of this account.

If this case had been tried by the court without a jury, as is often done in appeals from justices of the peace, we would have unhesitatingly affirmed the decision. For we think that there was enough testimony to justify a jury, or a court sitting to try an issue of fact without a jury, to find that the plaintiff had held out Taylor as his general agent, authorized to receive and collect money, as well as to solicit orders; and that the defendant paid such agent in good faith. But the question which is before us, and which was before the court below, is not whether the testimony preponderated in

favor of the defendant rather than in favor of the plaintiff, or whether there was a sufficiency of testimony on which to found a verdict for the defendant, but whether there was any conflict of testimony, or whether the testimony was so overwhelmingly in favor of the defendant that the court would not allow an adverse verdict to stand. We find that there was conflict of testimony which should have been submitted to the jury.

Perhaps no great importance should be attached under the circumstances, either to the plaintiff's statement that no authority had been given by him to Taylor to collect money, or to the defendant's statement that Taylor had assured him that he was so authorized, although these several statements raise an issue of fact. But the unquestionable facts, upon which it is sought to base the claim of authority, the show of agency upon the stationery furnished by the plaintiff to Taylor, the placing of the bill of November 1, 1902, by the plaintiff in Taylor's hands for presentation to the defendant, and the appointment of Taylor to the conduct of an apparently general office, are all circumstances which should have been submitted to a jury. They are not conclusive evidence of a general agency which would justify the payment of money to the person holding such agency. They are merely circumstances from which a jury might justly infer the existence of an agency of that character. They raise a question of fact for a jury, and not merely a question of law for the court. *Hishfield v. Waldron*, 54 Mich. 649; *Luckie v. Johnston*, 89 Ga. 321; *Story on Agency*, sec. 249. While perhaps the majority of men might have done what Walker did in this case, yet it can not be said, as a conclusion of law, that prudent men would not have differed in the conclusions to be drawn from the circumstances stated.

We think the case should have been submitted to a jury, and that it was error to withdraw it from their consideration. For this error we are constrained to reverse the judgment, with costs, and to remand the cause to the Supreme Court of the District, with directions to award a new trial. And it is so ordered.

Reversed.

Master and Servant—Defective Appliances.—Where an appliance erected for the work was not sufficiently strong, owing to defects in one of the main supports, and an employee was injured, the master was liable. *Ingham v. John B. Honor Co. (La.)*, 37 So. Rep. 963.

Master and Servant—Minority of Injured Brakeman—Where a brakeman was employed on his sworn application that he was 21 years old, his minority is no factor in an action for personal injuries. *Williams v. Illinois Cent. R. Co. (La.)*, 37 So. Rep. 992.

Landlord and Tenant—Rent Not Due at Commencement of Action—Plaintiff in forcible entry and detainer held not entitled to recover rent not due when the complaint was filed. *State v. Pittenger (Wash.)*, 79 Pac. Rec. 942.

Court of Appeals of the District of Columbia.

TEODOSIA MICHALOWICZ, APPELLANT,

v.

STANISLAUS MICHALOWICZ ET AL.

DIVORCE; CONFESSIONS; EVIDENCE.

1. To warrant a decree of divorce based on alleged confessions of defendant, the confessions must be well established, direct and certain, free from suspicion of collusion, and corroborated by independent facts and circumstances.
2. The evidence in this case held to fall short of these requirements.

No. 1212. Decided May 2, 1905.

APPEAL by complainant from a decree of the Supreme Court of the District of Columbia, in Equity, No. 24,293, dismissing a bill for divorce. Affirmed.

Mr. Julius I. Peyster for the appellant.

Mr. Jos. D. Sullivan for the appellees.

Mr. Chief Justice SHEPARD delivered the opinion of the Court:

Appellant, a resident for three years past of the District, filed the bill in this case for a divorce from her husband on the ground of adultery. Defendant was alleged to be a resident of Chicago, and notice was given by publication. No appearance having been made by him, an attorney was assigned to defend the cause, as required by the statute.

Upon the hearing the bill was dismissed, and plaintiff has appealed.

Without reviewing the evidence, which is of a character that ought not to be spread of record, it is enough to say that the court was right in holding it insufficient to sustain the allegations of the bill. It consisted almost entirely of alleged confessions of the defendant.

The Code provides that no decree of divorce shall be rendered on default, without proof; "nor shall any admission contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall in all cases be proved by other evidence." Sec. 964.

The Code declares what we apprehend was the general rule of practice in such cases and was not intended to prohibit all evidence of confessions that may have been made by a party. *Baker v. Baker*, 13 Cal. 58.

But to warrant a decree of divorce the confessions must be well established, direct and certain, free from suspicion of collusion, and corroborated by independent facts and circumstances. *Robbins v. Robbins*, 100 Mass. 150; *Johns v. Johns*, 29 Ga. 718; *Kloman v. Kloman*, 62 N. J. Eq. 158.

The evidence in this case falls short of these requirements. It lacks directness and certainty, and that by which it is sought to be corroborated is, to say the least, vague and unsatisfactory.

We are of the opinion that the court was right in refusing the divorce, and the decree will be affirmed with costs. It is so ordered.

Affirmed.

Carriers—Injury to Alighting Passenger.—A passenger, in alighting from a train without knowledge as to the existence of a platform, held not guilty of contributory negligence, because, the company having provided a suitable platform, it was his duty to use it to escape the imputation of negligence. *Chesapeake & Ohio Ry. Co. v. Harris* (Va.), 49 S. E. Rep. 997.

RULE OF COURT.

RULE 17, SEC. 2. Hereafter all notices which relate to proceedings in the Supreme Court of the District of Columbia, the publication of which is required by law or by Rules of Court or by any order of court, shall be published in THE WASHINGTON LAW REPORTER, during the time required by law, in addition to any other papers which may be specially ordered or which may be selected by the parties.

Legal Notices.

FIRST INSERTION.

Sam'l Maddox, Attorney
Supreme Court of the District of Columbia,

Holding a Probate Court.

This is to Give Notice, That the subscriber, who was by the Supreme Court of the District of Columbia granted letters testamentary on the estate of Jesse Brown, deceased, has, with the approval of the Supreme Court of the District of Columbia, holding a Probate Court, appointed Monday, the 31st day of July, 1905, at 10 o'clock A. M., as the time, and said court room as the place, for making payment and distribution from said estate, under the court's direction and control, when there all creditors and persons entitled to distributive shares of legacies or a residue, are notified to attend, in person or by agent or attorney duly authorized, with their claims against the estate properly vouched, given under my hand this 13th day of July, 1905. H. ROZIER DULANEY, 1220 East N. W., by Sam'l Maddox, Attorney. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,304. Administration. 28-31

L. Cabell Williamson, Attorney

In the Supreme Court of the District of Columbia,
Holding Probate Court.

In the Matter of the Estate of Ira A. Stafford, Deceased. Adm. No. 11,284.

Upon consideration of the reports herein filed by Daniel H. Stafford and Albert P. Baldwin, executors of said estate, it is this 12th day of July, A. D. 1905, ordered that the sales made and reported by said executors of lot 153 in B. F. Gilbert's subdivision of square 678, house being known as 43 Myrtle street N. E., to H. C. Hile for Theresa O'Brien for the sum of two thousand dollars (\$2,000); lots 154, 155, 156 in B. F. Gilbert's subdivision of square 678, houses being known as 45, 47, 49 Myrtle street, respectively, to James A. Cahill for the sum of one thousand nine hundred dollars (\$1,900) each; lot 150 in D. L. Morrison's et al. subdivision of part of square 288, house being known as 1583 Columbia street N. W., to John White for the sum of two thousand eight hundred fifty dollars (\$2,850); the south 8 feet 8 inches front on 8th street by full depth of lot 18 and the north 5 feet 4 inches front on 8th street by full depth of lot 19 in H. Crittenden's subdivision of square 288, house being known as 1420 8th street N. W., to John White for the sum of three thousand seven hundred twenty-five dollars (\$3,725); the remainder interest in lot 164 subdivision of square 678, subject to certain alley rights, house being known as 43 Myrtle st. N. E., to Edith M. Ireland Carey for the sum of one thousand dollars (\$1,000); and the remainder interest in lot 80 in William T. Davidson's subdivision of part of block 11, Bloomingdale, subject to certain covenants, house being known as—Quincy street N. W., to Edith M. Ireland Carey for the sum of two thousand dollars (\$2,000), be and every of said sales is hereby ratified and confirmed, unless cause to the contrary be shown to this court on or before the 13th day of August, A. D. 1905. Provided a copy of this order be published once a week for two successive weeks occurring before said day in The Law Reporter and The Washington Post. THOR. H. ANDERSON, Justice. A true copy. Attest: James Tanner, Register of Wills. 28-31

Legal Notices.**John Edout, Solicitor**

In the Supreme Court of the District of Columbia.
**Mima Schaefer v. the Unknown Heirs, Devisees, and
 Assignees of Charles Wrayman.**

The object of this suit is to establish or remove the title in the staple by adverse possession of the complainant to all of original lot eight, in square one hundred and ninety-six, in the city of Washington, in the District of Columbia. On motion of the complainant, it is, this 7th day of July, 1933, ordered that the defendants cause their appearance to be entered herein on or before the first rule day occurring three months after the day of the first publication of this order, which is to be published twice a month for said period of three months in The Washington Law Reporter and the Washington Post, otherwise the cause will be proceeded with as in case of default. **THOMAS H. ANDERSON, Justice.** True copy. Test: J. R. Young, Clerk, by J. W. Lattimer, Asst. Clerk. Jul 14, 1933, pag 11, 12; next 1, 2.

J. E. Lerner, Solicitor

In the Supreme Court of the District of Columbia.
 Holding an Equity Court.

**John Welch, Complainant, v. The Unknown Heirs,
 Assignees, or Devisees of Andrew Link, Deceased,
 Defendants.** Equity No. 3838.

The object of this suit is to quiet the title of the complainant to lot numbered thirty-three (33) in Andrew J. Miller's subdivision of lots in square numbered eighty-four (84), as per plat recorded in the office of the surveyor of the District of Columbia, in Liber 29 at folio 48. Upon motion of the complainant, by his solicitor, it is, this 12th day of July, A. D. 1933, ordered that the defendants, their unknown heirs, assignees, or devisees of Andrew Link, deceased, cause their appearance to be entered herein on or before the first rule day of September, 1933, otherwise the cause will be proceeded with as in case of default. This order shall be published once a week for four (4) successive weeks in The Washington Law Reporter before said return date, it appearing to the court, upon good cause shown, based on the bill filed herein, that further publication is unnecessary. **THOMAS H. ANDERSON, Justice.** A true copy. Test: J. R. Young, Clerk, by Harvey Given, Asst. Clerk. 29-31

John Seiden, Attorney

Supreme Court of the District of Columbia.
 Holding a Probate Court.

This is to Give Notice That the subscribers, of the District of Columbia, have obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Margaret Eden, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 16th day of July, A. D. 1933, otherwise they may by law be excluded from all benefit of said estate. Given under our hands this 12th day of July, 1933. **HENRY H. FLATHER, Elmer Nath. Bank; J. HUBBLEY ASHTON, Pacific Building, THOMAS H. HYDE, 127 1/2th St. N. W.** Attest: **JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court.** No. 12383. Administration. 29-31

M. J. Kenna and Leo P. Harlow, Solicitors

In the Supreme Court of the District of Columbia.

Amelia Dorsey v. Julia Coffee.
 No. 3833. Equity Docket No. 31.

The object of this suit is to set aside deed from Amelia Dorsey to Julia Coffee of lot 15 in W. H. Gannett's subdivision of square 323, Washington, District of Columbia, which deed is recorded in Liber 288, folio 281 et seq., of the records in the surveyor's office of the District of Columbia, on the ground that said deed was obtained by false representations, without consideration, and through fraud. Provided this order be published once a week for three successive weeks in the Washington Law Reporter. On motion of the complainant, it is this 16th day of July, A. D. 1933, ordered that the defendant cause her appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. By the Court, **THOMAS H. ANDERSON, Justice.** True copy. Test: J. R. Young, Clerk, by Harvey Given, Asst. Clerk. 29-31

Legal Notices.**Leon Tebeter, Attorney**

Supreme Court of the District of Columbia,
 Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Henry Klinge, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 11th day of July, A. D. 1933; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 11th day of July, 1933. **CATHERINE KLINGE, 27 N. St. N. W. Attest; JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court.** No. 12,921. Administration. 29-31

F. Spring Ferry, Attorney

Supreme Court of the District of Columbia,
 Holding a Probate Court.

This is to Give Notice That the subscriber, of the State of Maryland, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Emily V. Spurgeon, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 12th day of July, A. D. 1933; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 12th day of July, 1933. **WILLIAM G. SPRINGTON, Hotel Almont, Baltimore, Md. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court.** No. 12,924. Administration. 29-31

Wm. A. McKenney, Attorney

Supreme Court of the District of Columbia,
 Holding a Probate Court.

This is to Give Notice That the subscriber, who was by the Supreme Court of the District of Columbia granted letters testamentary on the estate of Martha J. Denton, deceased, has, with the approval of the Supreme Court of the District of Columbia, holding a Probate Court, appointed Friday, the 6th day of August, 1933, as 10 o'clock A. M., as the time, and said court room as the place, for making payment and distribution from said estate, under the court's direction and control, when and where all creditors and persons entitled by distributive shares or legacies of a residue are notified to attend, in person or by agent or attorney duly authorized, with their claims against the estate properly vouched. Given under my hand this 12th day of July, 1933. **AMERICAN SECURITY AND TRUST COMPANY, by James F. Wood, Secretary, by Wm. A. McKenney, Attorney, Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court.** No. 12,926. Administration. 29-31

Chas. W. Clagett, Attorney

Supreme Court of the District of Columbia,
 Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Patrick Mann, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 19th day of July, A. D. 1933; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 12th day of July, 1933. **ROBERT E. MANN, 287 7th St. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court.** No. 12,928. Adm. 29-31

L. Cabell Williamson and John A. Beator, Solicitors

In the Supreme Court of the District of Columbia.
Etzel Payne v. Herbert Payne, Adm. Wood.
 Equity No. 3833.

The object of this suit is to secure a divorce on the ground of adultery. On motion of the petitioner by her solicitors, it is this 20th day of May, A. D. 1933, ordered that the co-respondent, Adm. Wood, cause her appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. Provided a copy of this order be published once in each week for three successive weeks in The Washington Law Reporter and The Washington Times. **THOMAS H. ANDERSON, Justice.** A true copy. Test: J. R. Young, Clerk, by F. E. Cunningham, Asst. Clerk. 29-31

Legal Notices

F. Elwood Pratt and Jesse H. Wilson, Jr., Solicitors
In the Supreme Court of the District of Columbia.
Holding a Probate Court.
Patrick Fealy v. Anna Dere et al.
Equity No. 25,550.

The object of this suit is the partition by sale of lot numbered thirty-three (33) in George Callaghan's subdivision of lots seventeen (17) and eighteen (18) in L. L. Chapman's subdivision of square numbered three hundred and thirty-five (335) as per plat in book 12, page 423 of the records of the surveyor's office in the District of Columbia. On motion of the complainant it is this 7th day of June, A. D. 1905, ordered that the defendants, Times by Fealy, Ellen Fealy, Johannah Fealy, Mary Coleman, Dennis Pierce Fealy, David Leahy, Nellie Jubala, Johannah Mc. Grath, Nellie Cahill, Thomas Fealy, Catharine Fealy, Mary O'Connell, James D. Leahy, Catherine Leahy, Ellen Collins, Johannah Harriott, Edward O'Connell, and Patrick O'Connell, cause their appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the date of the first publication of this order. Provided a copy of this order be published once a week for three successive weeks in The Washington Law Reporter and The Washington Post. THOS. H. ANDERSON, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk.

Leon Tobriner, Attorney
Supreme Court of the District of Columbia.
Holding a Probate Court.

This is to Give Notice, That the subscriber, who was by the Supreme Court of the District of Columbia granted letters testamentary on the estate of Fanny Heidenheimer, deceased, has, with the approval of the Supreme Court of the District of Columbia, holding a Probate Court, appointed Monday, the 31st day of July, 1905, at 10 o'clock A. M., as the time, and said court room as the place, for making payment and distribution from said estate, under the court's direction and control, when and where all creditors and persons entitled to distributive shares or legacies of the estate notified to attend, in person or by agent or attorney duly authorized, with their claims against the estate properly vouched. Given under my hand this 7th day of July, 1905. ELIAN HEIDENHEIMER, by Leon Tobriner, Attorney At-Law. JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,264. Administration. 28-31

John Eldout, Solicitor

In the Supreme Court of the District of Columbia.

Phillip T. Hall v. The unknown heirs, devisees, and alliances of Charles A. Beatty, John M. Beatty, Mary F. Beatty, Hattie H. C. Beatty, Thomas J. Beatty, Violetta Beatty, Sophia M. Beatty, Francis G. Beatty, Robert M. Beatty, Charles F. Beatty, George Gordon, Stephen West, John Davidson, Geo. F. Hawkins, Anne Campbell, Edward Crowley, John Threlkeld, William King, Sr.

In Equity. No. 25,443.
The object of this suit is to establish of record the title in fee simple the complainant to all of lots numbered 811, 812, 813, and 814 of Phillip T. Hall's subdivision of parts of lots 806 and 270 in square numbered 1200 in the city of Washington, District of Columbia, formerly square 120 in that part of the said city of Washington formerly known as Georgetown, as per plat recorded in book 28, page 14, in the surveyor's office, and parts of lots 269 and 270 in said square 120, said parts of said lots 269, and 270 being fully described in the bill in this cause, also all of lot 275 in said square. On motion of the complainant, it is this 7th day of July, 1905, ordered that the defendants cause their appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order, which is to be published once a week for three successive weeks in The Washington Law Reporter and The Washington Post, otherwise the cause will be proceeded with as in case of default, sufficient cause having been shown for dispensing with a longer period of publication. THOS. H. ANDERSON, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk. 28-31

Legal Notices

W. C. Franklin, Solicitor
In the Supreme Court of the District of Columbia.
William H. Saunders et al. v. William H. Saunders et al.
Equity. No. 25,512. Dec. 21.

Upon consideration of the seventh report of William C. Franklin and Charles C. Hunt, receivers in the above entitled cause, filed this day, showing they have received from Anna E. Leary an offer of three thousand five hundred dollars (\$3,500.00) for the east twenty (20) feet front by depth thereof of lot numbered thirty-two (32) of Saunders and Galliker, trustees' subdivision, and all of lots numbered sixteen (16), twenty-one (21), thirty (30), and the east twenty-eight (28) in the Washington Loan and Trust Company, trustees' subdivision of block numbered thirty-one (31), in "Fourth Addition to the City of Washington," District of Columbia, all unimproved, and from the said Anna E. Leary an offer of eight hundred dollars (\$800.00) for all of lot numbered thirty-one (31), in the last-mentioned subdivision, unimproved, both of said amounts payable one-third (1/3) cash and the balance in one (1) and two (2) years with interest at six (6) per centum per annum, payable semi-annually, secured by deeds of trust on the property purchased, or all cash at the option of the purchaser, it is this 13th day of July, 1905, ordered, adjudged, and decreed that said receivers be and they are hereby authorized to accept said offer and convey said real estate to said purchaser upon compliance with the terms of said unimproved cause to the contrary be shown on or before the 20th day of August, 1905. Provided a copy of this order be published in The Washington Law Reporter and The Washington Evening Star once a week for three (3) successive weeks before said date. THOS. H. ANDERSON, Justice. A true copy. Test: J. R. Young, Clerk, by Harvey Green, Asst. Clerk. 28-31

A. B. Duvall and A. Lefferts Stecher, Attorneys
In the Supreme Court of the District of Columbia.
Holding a Probate Court.
In Re the Condemnation of Land Necessary for a Plaza, or Circle, and New Streets, in the District of Columbia. District Court. No. 65.

Upon consideration of the petition of the Commissioners of the District of Columbia, filed in the above entitled cause, and upon motion of counsel for said Commissioners it is by the court, this 7th day of July, A. D. 1905, ordered that the clerk issue a citation to Thomas F. O'Neill, C. Maitte O'Neill, Lucy G. Frazier, George Rogers, Samuel Green, Jacob Eisenmann, Nathan Harris, Samuel Ford, George E. Woods, James A. Buchanan, William H. Barton, trustee, William H. Edmonston and John L. Warner, trustees, Joseph Flint and Crosby E. Stoddard, trustees, Edmund H. Bains, trustee, Herman R. Howman and Samuel Belden, trustees, George W. Stickney and J. Paul Smith, trustees, Henry H. Bergmann and George M. Rosenbruch, trustees, and John C. Weedin and William Buckingham, trustees, to appear in this court on the 20th day of July, A. D. 1905, at 10 o'clock A. M., to answer said petition, and show the cause why the prayers of said petition should not be granted, and why the following described land, in the city of Washington, District of Columbia, to-wit: square, should not be condemned for a plaza, or circle, and new streets, namely, lots numbered one thousand and thirty-eight (138), one hundred and thirty-nine (139), one hundred and forty (140), one hundred and forty-one (141), one hundred and forty-two (142), one hundred and forty-three (143), one hundred and forty-four (144), one hundred and forty-five (145), one hundred and forty-six (146), one hundred and forty-seven (147), one hundred and forty-eight (148), one hundred and forty-nine (149), one hundred and fifty (150), one hundred and fifty-one (151), one hundred and fifty-two (152), one hundred and fifty-three (153), one hundred and fifty-four (154), one hundred and fifty-five (155), one hundred and fifty-six (156), one hundred and fifty-seven (157), one hundred and fifty-eight (158), one hundred and fifty-nine (159), one hundred and sixty (160), one hundred and sixty-one (161), one hundred and sixty-two (162), one hundred and sixty-three (163), one hundred and sixty-four (164), one hundred and sixty-five (165), one hundred and sixty-six (166), one hundred and sixty-seven (167), one hundred and sixty-eight (168), one hundred and sixty-nine (169), one hundred and seventy (170), one hundred and seventy-one (171), one hundred and seventy-two (172), one hundred and seventy-three (173), one hundred and seventy-four (174), one hundred and seventy-five (175), one hundred and seventy-six (176), one hundred and seventy-seven (177), one hundred and seventy-eight (178), one hundred and seventy-nine (179), one hundred and eighty (180), one hundred and eighty-one (181), one hundred and eighty-two (182), one hundred and eighty-three (183), one hundred and eighty-four (184), one hundred and eighty-five (185), one hundred and eighty-six (186), one hundred and eighty-seven (187), one hundred and eighty-eight (188), one hundred and eighty-nine (189), one hundred and ninety (190), one hundred and ninety-one (191), one hundred and ninety-two (192), one hundred and ninety-three (193), one hundred and ninety-four (194), one hundred and ninety-five (195), one hundred and ninety-six (196), one hundred and ninety-seven (197), one hundred and ninety-eight (198), one hundred and ninety-nine (199), two hundred (200), two hundred and one (201), two hundred and two (202), two hundred and three (203), two hundred and four (204), two hundred and five (205), two hundred and six (206), two hundred and seven (207), two hundred and eight (208), two hundred and nine (209), two hundred and ten (210), two hundred and eleven (211), two hundred and twelve (212), two hundred and thirteen (213), two hundred and fourteen (214), two hundred and fifteen (215), two hundred and sixteen (216), two hundred and seventeen (217), two hundred and eighteen (218), two hundred and nineteen (219), two hundred and twenty (220), two hundred and twenty-one (221), two hundred and twenty-two (222), two hundred and twenty-three (223), two hundred and twenty-four (224), two hundred and twenty-five (225), two hundred and twenty-six (226), two hundred and twenty-seven (227), two hundred and twenty-eight (228), two hundred and twenty-nine (229), two hundred and thirty (230), two hundred and thirty-one (231), two hundred and thirty-two (232), two hundred and thirty-three (233), two hundred and thirty-four (234), two hundred and thirty-five (235), two hundred and thirty-six (236), two hundred and thirty-seven (237), two hundred and thirty-eight (238), two hundred and thirty-nine (239), two hundred and forty (240), two hundred and forty-one (241), two hundred and forty-two (242), two hundred and forty-three (243), two hundred and forty-four (244), two hundred and forty-five (245), two hundred and forty-six (246), two hundred and forty-seven (247), two hundred and forty-eight (248), two hundred and forty-nine (249), two hundred and fifty (250), two hundred and fifty-one (251), two hundred and fifty-two (252), two hundred and fifty-three (253), two hundred and fifty-four (254), two hundred and fifty-five (255), two hundred and fifty-six (256), two hundred and fifty-seven (257), two hundred and fifty-eight (258), two hundred and fifty-nine (259), two hundred and sixty (260), two hundred and sixty-one (261), two hundred and sixty-two (262), two hundred and sixty-three (263), two hundred and sixty-four (264), two hundred and sixty-five (265), two hundred and sixty-six (266), two hundred and sixty-seven (267), two hundred and sixty-eight (268), two hundred and sixty-nine (269), two hundred and seventy (270), two hundred and seventy-one (271), two hundred and seventy-two (272), two hundred and seventy-three (273), two hundred and seventy-four (274), two hundred and seventy-five (275), two hundred and seventy-six (276), two hundred and seventy-seven (277), two hundred and seventy-eight (278), two hundred and seventy-nine (279), two hundred and eighty (280), two hundred and eighty-one (281), two hundred and eighty-two (282), two hundred and eighty-three (283), two hundred and eighty-four (284), two hundred and eighty-five (285), two hundred and eighty-six (286), two hundred and eighty-seven (287), two hundred and eighty-eight (288), two hundred and eighty-nine (289), two hundred and ninety (290), two hundred and ninety-one (291), two hundred and ninety-two (292), two hundred and ninety-three (293), two hundred and ninety-four (294), two hundred and ninety-five (295), two hundred and ninety-six (296), two hundred and ninety-seven (297), two hundred and ninety-eight (298), two hundred and ninety-nine (299), three hundred (300), three hundred and one (301), three hundred and two (302), three hundred and three (303), three hundred and four (304), three hundred and five (305), three hundred and six (306), three hundred and seven (307), three hundred and eight (308), three hundred and nine (309), three hundred and ten (310), three hundred and eleven (311), three hundred and twelve (312), three hundred and thirteen (313), three hundred and fourteen (314), three hundred and fifteen (315), three hundred and sixteen (316), three hundred and seventeen (317), three hundred and eighteen (318), three hundred and nineteen (319), three hundred and twenty (320), three hundred and twenty-one (321), three hundred and twenty-two (322), three hundred and twenty-three (323), three hundred and twenty-four (324), three hundred and twenty-five (325), three hundred and twenty-six (326), three hundred and twenty-seven (327), three hundred and twenty-eight (328), three hundred and twenty-nine (329), three hundred and thirty (330), three hundred and thirty-one (331), three hundred and thirty-two (332), three hundred and thirty-three (333), three hundred and thirty-four (334), three hundred and thirty-five (335), three hundred and thirty-six (336), three hundred and thirty-seven (337), three hundred and thirty-eight (338), three hundred and thirty-nine (339), three hundred and forty (340), three hundred and forty-one (341), three hundred and forty-two (342), three hundred and forty-three (343), three hundred and forty-four (344), three hundred and forty-five (345), three hundred and forty-six (346), three hundred and forty-seven (347), three hundred and forty-eight (348), three hundred and forty-nine (349), three hundred and fifty (350), three hundred and fifty-one (351), three hundred and fifty-two (352), three hundred and fifty-three (353), three hundred and fifty-four (354), three hundred and fifty-five (355), three hundred and fifty-six (356), three hundred and fifty-seven (357), three hundred and fifty-eight (358), three hundred and fifty-nine (359), three hundred and sixty (360), three hundred and sixty-one (361), three hundred and sixty-two (362), three hundred and sixty-three (363), three hundred and sixty-four (364), three hundred and sixty-five (365), three hundred and sixty-six (366), three hundred and sixty-seven (367), three hundred and sixty-eight (368), three hundred and sixty-nine (369), three hundred and seventy (370), three hundred and seventy-one (371), three hundred and seventy-two (372), three hundred and seventy-three (373), three hundred and seventy-four (374), three hundred and seventy-five (375), three hundred and seventy-six (376), three hundred and seventy-seven (377), three hundred and seventy-eight (378), three hundred and seventy-nine (379), three hundred and eighty (380), three hundred and eighty-one (381), three hundred and eighty-two (382), three hundred and eighty-three (383), three hundred and eighty-four (384), three hundred and eighty-five (385), three hundred and eighty-six (386), three hundred and eighty-seven (387), three hundred and eighty-eight (388), three hundred and eighty-nine (389), three hundred and ninety (390), three hundred and ninety-one (391), three hundred and 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Legal Notices.**SECOND INSERTION.****Malcolm Hasty, Attorney**

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Mary F. Young, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 6th day of July, A. D. 1906; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 6th day of July, 1905. MALCOLM HASTY, Columbian Bldg. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 13,002. Ad-
ministration. 27-31

T. Percy Myers, Solicitor

In the Supreme Court of the District of Columbia,
Isabella Rieks v. Edward L. Edmonston et al.

In Equity, No. 24,718.

Upon consideration of the report of T. Percy Myers and Campbell Carrington, trustees, filed herein, stating that they have sold at public auction the east half of lot 23 in square 282, to Julius A. P. Dowling, Jr., as the agent for Mary A. Smith, for the sum of twenty-two hundred (\$2,200) dollars, it is, by the court, this 6th day of July, A. D. 1905, adjudged, ordered, and decreed that said sale be ratified and confirmed, unless cause to the contrary be shown on or before the 7th day of August, 1905. Provided a copy of this order be published in The Washington Law Reporter once a week for three successive weeks before said date. THOM. H. ANDERSON, Justice. A true copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk. 27-31

Paul E. Johnson, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of John W. Post, otherwise known as John Williams, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 30th day of June, A. D. 1906; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 30th day of June, 1905. NELLIE POST, 611 3d st. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,999. Administration. 27-31

J. A. Sweeney, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

Estate of Charles Ippolito, Deceased.
No. 12,968. Administration.

Application having been made to the Supreme Court of the District of Columbia, holding a Probate Court, for letters of administration on said estate, by Benjamin F. Guy, it is ordered this 7th day of July, A. D. 1905, that notice be and hereby is given to Raphael Ippolito, Otto Essoline, Joe Otto, and mother of Charles Ippolito, whose name and address is unknown, but is supposed to live in Italy, and to all others concerned, to appear in said court on Tuesday, the 8th day of August, A. D. 1905, at 10 o'clock A. M., to show cause why such application should not be granted. Provided this notice be published in The Washington Law Reporter and the Washington Times once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day. THOM. H. ANDERSON, Justice. Attest: James Tanner, Register of Wills for the District of Columbia, Clerk of the Probate Court. 27-31

The Law Reporter Printing Company's office is now the cleanest, most comfortable and best conducted one in the city of Washington, having a head for every department of the business. It will be kept so, in order that the public may be expeditiously served.

Legal Notices.**Wm. D. Hoover, Attorney**

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, which was by the Supreme Court of the District of Columbia granted letters of administration on the estate of James H. Hopkins, deceased, has, with the approval of the Supreme Court of the District of Columbia, holding a Probate Court, appointed Monday, the 24th day of July, 1905, at 10 o'clock A. M., as the time, and said court room as the place, for making payment and distribution from said estate, under the court's direction and control, when and where all creditors and persons entitled to distributive shares or legacies or a residue, are notified to attend, in person or by agent or attorney duly authorized, with their claims against the estate properly vouched. Given under my hand this 2d day of July, 1905. THE NATIONAL SAFE DEPOSIT, SAVINGS, AND TRUST COMPANY OF THE DISTRICT OF COLUMBIA, by William D. Hoover, 2d V.-President. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,225. Administration. 27-31

L. Cabell Williamson, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia letters of administration on the estate of Augustine Favese, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereon legally authenticated, to the subscriber, on or before the 29th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 29th day of June, 1905. L. CABELL WILLIAMSON, 626 La. ave. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,929. Administration. 27-31

Wm. L. Follard, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscribers, of the District of Columbia, have obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Martha A. Jackson, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscribers, on or before the 29th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under our hands this 29th day of June, 1905. SIDNEY A. TAYLOR, 1015 3d st. N. W.; PHOEBE MILES, 618 4th st. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,993. Administration. 27-31

Chas. F. Conrad, Solicitor

In the Supreme Court of the District of Columbia,
Annie K. Ward v. Henry C. Ward, Blanche Walker.

No. 23,255. Equity Docket No. 45.

The object of this suit is to obtain a divorce from the bond of marriage from the defendant, Henry C. Ward, on the ground of adultery. On motion of the complainant it is this 2d day of July, A. D. 1905, ordered that the defendant, Blanche Walker, cause her appearance to be entered herein on or before the forthright day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order, otherwise the cause will be proceeded with as in case of default by the court. THOM. H. ANDERSON, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk. 27-31

Levi E. David, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Anna H. Stewart, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 30th day of June, A. D. 1905, otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 29th day of June, 1905. ANDREW STEWART, 1429 Q st. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,994. Administration. 27-31

Legal Notices.

E. Hilton Jackson, Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

Estate of Julia M. Adams, Deceased.
No. 12,988, Administration.

Application having been made to the Supreme Court of the District of Columbia, holding a Probate Court, for probate of the last will and testament of said deceased, and for letters testamentary on said estate, by Decatur Morgan, it is ordered this 30th day of June, A. D. 1905, that notice be and hereby is given to Charles H. Adams, Carrie M. Adams, and Frank H. Adams, and to all others concerned, to appear in said court on Monday, the 10th day of August, 1905, at ten o'clock A. M., to show cause why such application should not be granted. Provided this notice be published in The Washington Law Reporter and The Record once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day. WENDELL P. STAFFORD, Justice. A true copy. Attest: James Tanner, Register of Wills. 27-31

THIRD INSERTION.

Wm. L. Peillard, Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Augusta F. Meyer, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 27th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 27th day of June, 1905. JOHN H. F. MEYER, 804 23d St. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,908, Administration. 25-31

Wm. E. Ambrose, Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Arshak Abramian, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 28th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 28th day of June, 1905. WILLIAM E. AMBROSE, 456 La. ave. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 13,021, Administration. 25-31

W. A. McKenney, Solicitor
In the Supreme Court of the District of Columbia.
American Security and Trust Co., a Corporation, Complainant, v. Willard H. Myers et al., Defendants.

No. 24,452, Equity Docket No. 11.
The object of this suit is to procure a sale of the interest of the defendant, Willard H. Myers, in and to the real and personal property held by the defendant, the National Safe Deposit Savings and Trust Company of the District of Columbia as administrator de bonis non, cum testamento annexo, and as trustee, under the will of Martha F. Myers, deceased, to satisfy the judgment of the complainant against said Willard H. Myers. On motion of the complainant, it is this 19th day of June, A. D. 1905, ordered that the defendant cause his appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. Provided a copy of this order is published once a week for three successive weeks in The Washington Law Reporter. By the court. THOS. H. ANDERSON, Justice. True copy. Test: J. R. Young, Clerk, by R. J. Meigs, Jr., Asst. Clerk. 25-31

Legal Notices.

E. B. Hay, Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Anna L. Neville, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 23d day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 23d day of June, 1905. EDWIN E. HAY, Bond Building. Attest: WM. C. TAYLOR, Deputy Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,981, Administration. 25-31

M. J. Keane and M. J. Colbart, Solicitors
[Filed June 23, 1905—J. R. Young, Clerk.]
In the Supreme Court of the District of Columbia,
Holding Equity Court.

Patrick J. Daly, Complainant, v. Douglas S. Mackall, the Unknown Heirs, Alliances, and Devisees of Samuel L. Stewart. Equity No. 24,224. Doc. 54.

The object of this suit is to declare the title of the complainant to lots thirty-three (33) and thirty-four (34) in Patrick J. Daly's subdivision of part of square 526, as per plat recorded in Liber 28, folio 13, of the records of the surveyor's office for the District of Columbia, located in the city of Washington, District of Columbia, to be good in fee simple in the complainant by reason of adverse possession. On motion of the complainant, by Michael J. Keane, his solicitor, it is by the court, this 23d day of June, 1905, ordered that the defendants, the unknown heirs, devisees, and alliances of Samuel L. Stewart, cause their appearance to be entered herein on or before the first rule day occurring after the expiration of forty (40) days, exclusive of Sundays and legal holidays, from the first publication of this order, good cause therefor having been shown to the satisfaction of the court; otherwise this case will be proceeded with as in case of default. Provided this order be published in The Washington Law Reporter once a week for three successive weeks before said return day. WENDELL P. STAFFORD, Justice. A true copy. Test: J. R. Young, Clerk, by R. J. Meigs, Jr., Asst. Clerk. 25-31

Smith Thompson, Jr., Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia letters of administration on the estate of Abaalom Baird, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 28th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 28th day of June, 1905. WILLIAM BAIRD, State Home, Annapolis, Md. Attest: WM. C. TAYLOR, Deputy Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 13,022, Administration. 25-31

W. H. Marlow, Jr., Solicitor
[Filed June 21, 1905, J. R. Young, Clerk.]
In the Supreme Court of the District of Columbia.
Thomas Tracy et al. v. James E. Mulligan et al.
Equity No. 24,470. Doc. 55.

Walter H. Marlow, Jr., the trustee herein, having reported sale at public auction of part of original lot one (1) in square seven hundred and forty-nine (749) in the city of Washington, District of Columbia, more fully described by metes and bounds in these proceedings, and otherwise known as lot forty-two (42) in O'Donoghue's subdivision of said square, as per plat in Book C. H. B., page 127, in the surveyor's office of the District of Columbia, improved by house No. 1604 Third street, N. E., to Edward A. Scanlon, for the sum of ten hundred and forty-five dollars (\$1045), all cash; it is therefore, this twenty-first (21st) day of June, A. D. 1905, ordered that said sale be finally ratified and confirmed unless cause to the contrary be shown on or before the twenty-second (22d) day of July, 1905. Provided a copy of this order be published in The Washington Law Reporter once a week for three successive weeks before said last named day. WENDELL P. STAFFORD, Justice. A true copy. Test: J. R. Young, Clerk, by L. P. Williams, Asst. Clerk. 25-31

Legal Notices.

Wm. A. Nauck, Attorney
Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Winifred Thompson, late of the District of Columbia, deceased. All persons having claims against the decedent are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 28th day of June, A. D. 1905, otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 28th day of June, 1905. BENJAMIN F. MANGOLD, St. Elizabeth, D.C., Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 1274. Administration. 25-31

Oscar Nauck, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, who was by the Supreme Court of the District of Columbia, granted letters of administration on the estate of Mary Congrove, deceased, has, with the approval of the Supreme Court of the District of Columbia, holding a Probate Court, appointed Monday, the 17th day of July, 1905, at 10 o'clock A. M., as the time, and said court room as the place, for making payment and distribution from said estate, under the court's direction and control, when and where all creditors and persons entitled to distributive shares or legacies or a residue, are notified to attend, in person or by agent or attorney duly authorized, with their claims against the estate properly verified. Given under my hand this 17th day of June, 1905. EDWIN NAUCK, by Oscar Nauck, Attorney. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 1278. Administration. 25-31

Wm. H. Hudson, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.
Estate of Irmel E. Kirk, Deceased.
No. 1298. Administration.

Application having been made to the Supreme Court of the District of Columbia, holding a Probate Court, for letters of administration on said estate, by August DeLoach, one of the creditors of said decedent, it is ordered, this 28th day of June, A. D. 1905, that notice be and hereby is given to William G. Kirk, Charles Mahon Kirk, Raymond Kirk, and Neil Kirk Taylor, sole heirs at law and next of kin of said decedent, and to all others concerned, to appear in said court on Tuesday, the 1st day of August, A. D. 1905, at 10 o'clock A. M., to show cause why such application should not be granted. Provided this notice be published in The Washington Law Reporter once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day. WENDELL P. STAFFORD, Justice. Attest: James Tanner, Register of Wills for the District of Columbia, Clerk of the Probate Court. 25-31

C. F. Curran, Attorney

In the Supreme Court of the District of Columbia,
Holding a Probate Court.

Wm. C. Shaffer et al., by their Next Friend, John L. Goslin, v. George D. Shaffer, No. 321.
(George D. Shaffer, trustee, having reported that he has received from Thomas W. Barker an offer of five hundred dollars, cash, for a part of a tract of land situated in the county of Washington, District of Columbia, known as "Fox," lying adjacent to the Georgetown College property, and beginning for the same in the south line intersection of the said college property and the Foxall estate, thence south 1/2° west 120.6 feet, thence east at right angles to said line 20 feet, thence north parallel to said first line 120.6 feet to the line of the college property, and thence west in a straight line to the beginning. It is by the court, this 28th day of June, A. D. 1905, adjudged, ordered, and decreed that said trustee be and he is hereby authorized to accept said offer and convey said real estate to said purchaser upon payment of the purchase money, unless cause to contrary be shown on or before the 28th day of July, A. D. 1905. Provided a copy of this order be published in The Washington Law Reporter once a week for three successive weeks before said last mentioned date. WENDELL P. STAFFORD, Justice. A true copy. Attest: Wm. C. Taylor, Deputy Register of Wills. 25-31

Legal Notices.

Campbell Carrington, Solicitor

In the Supreme Court of the District of Columbia,
William H. Johnson v. Albee Johnson.
No. 21,974. Equity Docket No. 58.

The object of this suit is to obtain an absolute divorce upon the ground of adultery. Provided a copy of this order be published once each week for three successive weeks in The Washington Law Reporter and the Washington Times. On motion of the complainant, by his solicitor, Campbell Carrington, it is this 24th day of June, A. D. 1905, ordered that the defendant, Albee Johnson, do forthwith, day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. By the court. WENDELL P. STAFFORD, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk. 25-31

Wm. L. Elterich, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

Estate of Heinrich Wilhelm Fessler, Deceased.
No. 1300. Administration.

Application having been made to the Supreme Court of the District of Columbia, holding a Probate Court, for probate of the last will and testament of said deceased, and for letters testamentary on said estate, by John Waldman and H. A. Schenckman, it is ordered, this 28th day of June, A. D. 1905, that notice be and hereby is given to the unknown heirs of the decedent, and to all others concerned, to appear in said court on Monday, the 31st day of July, A. D. 1905, at 10 o'clock A. M., to show cause why such application should not be granted. Provided this notice be published in The Washington Law Reporter and The Evening Star once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day. WENDELL P. STAFFORD, Justice. Attest: Wm. C. Taylor, Deputy Register of Wills for the District of Columbia, Clerk of the Probate Court. 25-31

Fillmore Beall, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia letters of administration c. t. a. on the estate of Truman D. Beckett, late of the District of Columbia, deceased. All persons having claims against the decedent are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 23d day of June, A. D. 1905, otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 23d day of June, 1905. CATHERINE E. BECKETT, 484 10th St. N. W. Attest: Wm. C. Taylor, Deputy Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 1282. Administration. 25-31

In the Supreme Court of the District of Columbia,
Charlotte Conrad et al. v. Minnie F. Briscoe.
Equity. No. 25,135.

Upon consideration of the report of Thomas Walker and George F. Collins, trustees, this day filed, it is, this 28th day of June, 1905, adjudged and ordered by the court that the sale thereby reported of part lot 28, in square 411, to Charasli Dorsey for the sum of \$1,695, be and the same is hereby ratified and confirmed, unless cause to the contrary thereof be shown on or before the 31st day of July, 1905. Provided a copy of this order be published in The Washington Law Reporter once a week for three successive weeks before said date. AMILEY M. GOULD, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Latimer, Asst. Clerk. 25-31

L. Cabell Williamson, Attorney

Supreme Court of the District of Columbia,
Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters of administration on the estate of Theophilus Bray, late of the District of Columbia, deceased. All persons having claims against the decedent are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber, on or before the 27th day of June, A. D. 1905; otherwise they may by law be excluded from all benefit of said estate. Given under my hand this 27th day of June, 1905. EDWIN YARNOLD, 1222 C. St. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,917. Administration. 25-31

Legal Notices.

R. E. Robinson, Attorney

In the Supreme Court of the District of Columbia. In Re Estate of J. K. Wilhelmina Kirchner, Deceased. No. 228.

It appearing to the court that the authentication as to the trial of the issue in this case relating to the validity of the paper writing, dated the 12th day of April, 1924, purported to be the last will and testament of J. K. Wilhelmina Kirchner, deceased, has been returned on to Frederick W. Boucher, Edward Boucher, and Sam Mitchell - not to be found - & in this 23rd day of June, 1924, ordered that the issue heretofore framed in this case be, and they are hereby, set down for trial on the 12th day of October, 1924, and that this order and the substance of said issue heretofore framed shall be published once a week for four weeks in The Washington Law Reporter, and twice a week for the same period in The Washington Post. WENDELL P. STAFFORD, Justice. A true copy. Attest: James Tanner, Register of Wills.

1. Was the said paper writing propounded as the last will and testament of said J. K. Wilhelmina Kirchner, deceased, bearing date the 12th day of April, 1924, executed by her in due form of law? 2. Was the said J. K. Wilhelmina Kirchner, at the time of the execution of said paper writing, bearing date the 12th day of April, 1924, of sound mind, and capable of executing a valid deed or contract? 3. Was the said paper writing, bearing date the 12th day of April, 1924, and offered for probate and record as the last will and testament of said J. K. Wilhelmina Kirchner, deceased, procured through the undue influence, importunities, suggestions, and persuasions of any person or persons? 4. Was the said paper writing, bearing date the 12th day of April, 1924, and offered for probate and record as the last will and testament of said J. K. Wilhelmina Kirchner, deceased, procured by the fraud, deceit, or misrepresentations practiced upon her by any person or persons? 23-24

Donald W. Cunningham, Attorney Supreme Court of the District of Columbia. Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia letters of administration on the estate of James R. Bowling, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereon legally authenticated, to the subscriber, on or before the 25th day of June, A. D. 1924; otherwise they may be excluded from all benefit of said estate. Given under my hand this 23rd day of June, 1924. THOMAS H. ANDERSON, Justice. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,765. Administration. 23-24

Charles S. Hogan, Attorney Supreme Court of the District of Columbia. Holding a Probate Court.

This is to Give Notice That the subscriber, of the District of Columbia, has obtained from the Probate Court of the District of Columbia, letters testamentary on the estate of Mary J. Collins, late of the District of Columbia, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereon legally authenticated, to the subscriber, on or before the 25th day of June, A. D. 1924; otherwise they may be excluded from all benefit of said estate. Given under my hand this 23rd day of June, 1924. CATHERINE C. CULLEN, et al. et al. N. W. Attest: JAMES TANNER, Register of Wills for the District of Columbia, Clerk of the Probate Court. No. 12,766. Administration. 23-24

FIFTH INSCRIPTION.

Ballou & Ballou, Solicitors

In the Supreme Court of the District of Columbia. Calvin Tibbo, Complainant, v. James Bennett's Unknown Heirs, Defendants. Equity. No. 2,228. Dec. No. 24.

The object of this suit is to determine the title of complainant to lot two (2) in square five hundred and ninety-nine (599), in the city of Washington, District of Columbia, to be paid in fee simple by adverse possession. On motion of the complainant, it is this 23rd day of May, A. D. 1924, ordered that the defendants, the unknown heirs, devisees, and assignees of James Bennett, deceased, cause their appearance to be entered herein on or before the first rule day occurring three months after the day of the first publication of this order, otherwise this cause will be proceeded with as in case of default. THOMAS H. ANDERSON, Justice. A true copy. Test: J. R. Young, Clerk, by F. E. Cunningham, Asst. Clerk. 24, 2-24, 4-11

Legal Notices.

FIFTH INSCRIPTION.

Lester S. Price, Solicitors

In the Supreme Court of the District of Columbia. Thomas S. Evans, Complainant v. David Peter et al., Defendants. Equity, No. 2,229.

The object of this suit is to perfect the title of complainant to part of lot nine, square number one hundred and forty-one, in the city of Washington, District of Columbia, beginning for the same at the southwest corner of said lot, and running thence north 23 feet 6 inches to the center of the dividing wall between two frame houses on said lot, thence east 115 feet 6 inches, thence south 23 feet 6 inches to the north line of said lot, thence west 115 feet 6 inches to place of beginning. On motion of the complainant, it is this 23rd day of May ordered that the defendants, David Peter, Thomas Peter, Robert Peter, Jr., Trustees; John Brown, John Inale Clark, - Brewer, - Ives, George Gibbs, Walter Chesney, Samuel Elam, William Cook, James McHenry, Robert Oliver, William Hindman, John McHenry, Anne Boyd, and Ramsey McHenry, if they be living, and the unknown heirs, devisees, and assignees of each of them as are dead, cause their appearance to be entered herein on or before the fourth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order, if they be living; and that the unknown heirs, devisees, and assignees of each of them who are dead cause their appearance to be entered herein on or before the first rule day occurring three months after the publication of this order, otherwise this cause will be proceeded with as in case of default. Provided, a copy of this order be published once a week for three successive weeks prior to said first return day, and twice a month for three successive months prior to the said latter return day (the last publications to include one of the former publications) in The Washington Law Reporter and The Washington Times. WENDELL P. STAFFORD, Justice. True copy. Test: J. R. Young, Clerk, by J. W. Ludmer, Asst. Clerk. May 23; June 2-2; July 7-14; Aug. 4-11

SIXTH INSCRIPTION.

Filed May 10, 1924. - J. R. Young, Clerk.

John R. Shields, Solicitor

In the Supreme Court of the District of Columbia. Pauline Thornton v. Unknown Heirs, Assignees, and Devisees of James H. Smith, the Sisters of the Visitation of Georgetown, George W. Walsh, and George W. Walsh, Trustees. Equity No. 25,212.

The object of this suit is to obtain a decree to establish as complete and perfect in fee simple by adverse possession the title of complainant to part of original lot fourteen (14) in square six hundred twenty (200), in Washington City, District of Columbia, said part of lot being described as follows, viz: beginning at a point on the line of north "M" street, distant twenty (20) feet east of the northwest corner of said lot fourteen (14) and running thence west twenty (20) feet; thence south along the west line of said lot fourteen (14) one hundred and thirty-six (136) feet to the rear or south line of said lot; thence east twenty (20) feet and thence north one hundred thirty-six (136) feet to the place of beginning; and to enjoin the defendants from asserting any title or claim thereto. On motion of complainant, by John R. Shields, her solicitor, it is, this 10th day of May, A. D. 1924, ordered that the defendants above named cause their appearance to be entered herein on or before the first rule day, occurring three months after the date of the first publication of this order, otherwise the cause will be proceeded with as in case of default. This order to be published twice a month for three months prior to said return day in The Washington Law Reporter and Washington Post. THOMAS H. ANDERSON, Justice. A true copy. Test: J. R. Young, Clerk, by R. J. Metzger, Jr., Asst. Clerk. May 12, 13; June 9, 16; July 7, 14.

This office and store opens at eight o'clock in the morning and closes at six, but the workshop closes at half past five, and all work wanted after that hour must be paid for at more than day rates. We call your attention to the fact that there may be no misunderstanding. The Law Reporter Company, 611 Fifth Street, N. W.

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DEPARTMENT OF THE INTERIOR,
Commissioner to the Five Civilized Tribes.

-----000-----

In re application of HANNAH FLYPPIN, et al., for Enrollment as Citizens by Blood of the Cherokee Nation.

-----000-----

REPLY BRIEF FOR APPLICANTS.

The brief for the Cherokee Nation may be summed up in the words res adjudicata. The brief is, in substance:

1. The decision of the Adair Court was final.
2. The decision of the Springer Court was final.
3. The decision of the United States Supreme Court was final.

Taking these up in their order we call attention, first, to the contention that the decision of the Adair Court or Commission was final. The Cherokee Nation has cited numerous authorities to the effect that the decisions of courts of record are final and may not be collaterally attacked where the court had full jurisdiction of the subject-matter and of parties; but there is no case among those cited by the attorney for the Nation which in any way relates to the decisions of mere Commissions. That the findings of such bodies do not have the dignity of final judgments of courts of general jurisdiction is beyond question.

Among the authorities cited is the opinion of the Assistant Attorney-General in the Dawson case, but the utmost that was said by the Assistant Attorney-General in that case is this:

"I am therefore of opinion that judgments of the Indian tribal courts upon the question of Cherokee blood, left for years in force, unquestioned, and which have never been vacated, should be held conclusive upon the Nation."

The reasons inducing this opinion, as stated in the opinion of the Assistant Attorney-General, are that the first petitioner, now dead, is charged with corrupting the court, two of whom are now dead.

"That the present applicants, none, if any, of whom are charged with wrongdoing x x x must give up their lands

and homes to those who have not improved, cultivated, or built them, lose the nationality to which many of them have been born, and all are loyal, and seek elsewhere a new nationality, establish new homes and work out a new heritage."

And that the Cherokee Nation had during all of these years neglected to investigate the subject, to charge them with any fraud, and that after this lapse of time it would be a practical impossibility for the applicants in the Dawson case to prove their Cherokee blood.

Applying these reasons to the Flippin case, we find that the very reverse is the condition. The Flippins did their very best to make a defense whenever charged with wrongdoing, and have exhausted every opportunity given them under the law to establish their rights. The very reason of the rule laid down by the Assistant Attorney-General is based upon the fact that the Nation could have acted at any time during the long period of years and did not act, for which reason the decision of the tribal commission was "conclusive upon the Nation." The reason of the rule failing, the reason fails, and as these applicants never have had an opportunity to establish their innocence of the charge, they should not now be concluded from so doing.

The Nation in asserting that the decision of the Adair Commission is final is hopelessly inconsistent. The decision of the Adair Commission is based upon authority of the Cherokee legislature. But for that act of the legislature there would have been no decision, and the decision of the Spears Court admitting the applicants would have stood unquestioned. If, then, the Cherokee legislature had authority to direct the investigation of a decision of the Adair Court years after the rendition of that decision, certainly Congress has authority to direct the investigation of the right of these applicants in such a way as to open up the whole matter, for the authority of Congress is paramount to that of the Cherokee legislature. -- Opinion S. V. Frazier, First Assistant Attorney, approved July 8, 1903.

Congress has directed in plain and unmistakable terms

an investigation of the fact of fraud. If Congress has not authority to direct an investigation beyond the period of the decision of the Adair Commission, then certainly the Cherokee legislature had no authority to investigate the decision of the Spears Commission, and, therefore, the Adair Court was without jurisdiction of the subject-matter of its inquiry. If we are to consider one of these decisions as final, the other is final, because if Congress had no authority the Cherokee National Council had not authority. The Spears Commission having unquestioned jurisdiction, and its decision being final, the Adair Commission was without jurisdiction, and we think that not even the attorneys for the Cherokee Nation would insist, certainly the authorities cited by them do not support the proposition, that the decision of a court or commission is final if it has not jurisdiction of the subject-matter.

We further showed in our brief that even if the Adair Commission had jurisdiction of the subject-matter and of the parties, it lost jurisdiction in two ways:

First, of the subject-matter by rendering final decrees without having passed upon a motion directed to the jurisdiction of the Commission over the subject-matter. The Nation on page 2 of its brief calls attention to the following language from the decision of the Adair Commission:

"Defense rested mainly upon the decree of the Spears Commission and the non-jurisdiction of this commission, which was overruled."

Now what was overruled? Was it the Commission, the non-jurisdiction, or the decree of the Spears Commission? Do courts overrule decrees, do they overrule "non-jurisdictions," or do they overrule commissions? This language does not say that the "defense" was overruled, because defense as used there means "defendants," and surely the people themselves were not overruled. The language upon which the Nation relies, therefore, seems to be vague, indefinite, and uncertain; while there is in the record the plain and unequivocal statement over the

the indefinite continuance to a time to be agreed upon by the attorneys is positively established by the record, and that the only thing that the Nation can possibly urge in favor of a fixing of that time amounts to a mere guess. In order to give the court jurisdiction again, there must be an absolutely certain record showing that the defendants were properly brought into court.

Not only is the record absolutely silent as to anything showing notice to defendants calling them again into court, but we have the positive, uncontradicted testimony in the record that they never were so notified.

The Nation in its brief further says on page 3:

"Following the introduction of C. H. Taylor (page 15, Exhibit 4) the Nation's attorney offered the affidavits of ten parties, marked from A to J, inclusive, which were evidently taken in Gibson County, Tennessee, under the notice given to J. M. Bryant, elsewhere shown in the testimony."

An examination of these "affidavits of ten parties" shows that one of the "ten" was the original petition of Hannah Flippin, filed before the Spears Commission; that another of the "ten" was the "Identification Hannah Flippin," also taken from the records of the Spears Commission, and that the other eight of the "ten" are the affidavits taken from the record of the Spears Commission, and on which was based the decision of the Spears Commission in 1864.

I doubt if the attorney for the Nation who prepared this brief could possibly have been so careless in going over the record as to have thought that these were the depositions which he supposed "were evidently taken in Gibson County, Tennessee, under the notice given to J. M. Bryant, elsewhere shown in the testimony," as the notice was not given until three years later, or on May 20, 1867; whereas the Spears Commission admitted Hannah Flippin upon these very depositions on September 28, 1864, or nearly three years before.

If, as the Nation contends, the motion to dismiss was by the Adair Court overruled in the decree which finally adjudi-

cates the case, then it but supports our proposition that no notice was given to the defendants again calling up the case, for, if contained in the same decree, there could be no notice between the time of overruling the motion and the final rendition of judgment in which to notify the defendants to come in and make a defense, as the two acts were simultaneous. As above shown, the discontinuance is absolutely established and is not contradicted by the Nation. No notice again calling the persons in court is shown by the record, and the utmost for which the Nation can possibly contend is but a guess, and its guess is based upon the premises above shown to be untrue in point of fact. We take it to be unquestionably settled by the record that a continuance was made to an indefinite time; that the defendants were dismissed without day and were never again called into court to answer; that they were lulled into fancied security by the further fact that the Nation never announced its case as closed, never took any action in relation to the depositions in Tennessee, and that there never was a time when, according to the record and the uncontradicted testimony, the Nation had closed its case, given to the defendants notice thereof, either expressed or implied, when, and not until then, were the defendants called upon to offer their defense.

Taking up the contention of the Nation that the decision of the Springer Court is final, we call attention to the unmistakable fact that that question has been decided against the Nation in the decision of the Assistant Attorney-General in the Belle E. Bowers case dated February 10, 1905. The Nation says in its brief, page 6, that

"The attention of the Commissioner of Indian Affairs and of the Secretary of the Interior and of the Assistant Attorney-General had not then (when deciding the Bowers case) been called to the fact that subsequent to their enrollment in 1838 the Appeal Court rendered its decision of August 29, 1837; that the United States Court under the Act of Congress dated June 19, 1838, declared these persons not entitled to citizenship in the Cherokee Nation, and the Supreme Court of the United States in the William Stephens case, it being consolidated with this case, affirmed the decision of the United States Court for the Indian Territory.

Now once again we have to call attention to the incor-
 rectness of the statements of the attorney for the Nation, as
 shown by the following extract from the decision of the Assistant
 Attorney-General in the Bowers case. After reciting that the
 applicants had been rejected on the ground that their names did
 not appear upon any of the rolls of the Cherokee Nation, the
 opinion says:

"The motion for a new hearing is based upon two alleged
 errors of fact of the commission -- viz: that the records
 of the Cherokee Nation in possession of the commission show
 (1) that the principal applicant by her maiden name of Belle
 Z. Flippin was admitted to citizenship of the Cherokee Na-
 tion, September 25, 1884, by the Spears Commission, and that
 the name of applicant Belle Z. Bowers, her husband, M. C.
 Bowers, and their children then living, Lou F. Berne and
 Emily H. Bowers, appear on the 1884 Cherokee tribal roll,
 Coconawocwee district. July 13, 1904, the commission ad-
 vised counsel for applicant by a letter, the original of
 which is filed with the motion, that such names do appear
 upon the 1884 tribal roll. A certified and sworn copy of
 the record of proceedings of the Spears Commission on Citi-
 zenship is also filed, showing the admission of Hannah Flip-
 pin and her children, among whom was "Bell Z.," September
 25, 1884.

"The motion and accompanying papers were served upon
 counsel for the Cherokee Nation, who has responded thereto,
 not denying the fact of the alleged admission of the princi-
 pal applicant or the enrollment of 1886. Both the errors
 of fact of the commission, which were the basis of its de-
 cision of January 19, 1902, and of that of the Department
 of February 7, 1902, that there was no jurisdiction to con-
 sider the merits of the applicants' claim of right to en-
 rollment, are thus, for all purposes of the motion, fully
 established.

"There is, however, annexed to the response by counsel
 to the nation what purports to be a statement of the action
 taken by the commission, November 24, 1896, in the cases of
 these applicants, whereby "some" were denied and "others"
 were admitted, and that an appeal was taken to the United
 States court for the Northern district of Indian Territory,
 under the act of June 10, 1896 (29 Stat., 321, 329), and
 that such court rendered a decision therein, an unauthentic
 copy of which is included in such statement. This unau-
 thentic copy of the proceedings of the court purports to
 show that the final action of the court upon the applica-
 tions was adverse to all the applicants, upon the ground
 that an act of the Cherokee Council, December 8, 1896, em-
 powered the Adair Commission to try a complaint by the
 Cherokee Nation charging these applicants (and others) "with
 having obtained citizenship by fraud and bribery," and to
 try such charges; to re-examine the merits and annul the
 admissions; and that the Adair Commission did annul the ac-
 tion of the Spears Commission.

"Counsel for applicants in response concedes that the
 court rendered such judgment, and thus, for purposes of this
 motion, cures the lack of its authentication, but contends
 that the bar of the judgment rendered by the court upon ap-
 peal, under the act of June 10, 1896 (supra), is raised by
 the later legislation of Congress, citing and relying upon
 the acts of June 20, 1896 (30 Stat., 495, 502), of May 31,
 1900 (31 Stat., 221, 236), and July 1, 1902 (32 Stat., 716-
 722). But for the concession of the rendition of the

the act of 1898 was adopted, as were many other appeals, and in directing investigation of the right of "all other persons whose names are found on any other rolls," Congress directly approved the ruling principle that when citizenship in the nation was lost, it could only be regained by consent of the nation, but saved the right of all persons on any roll, subject to investigation by the commission and proof of the fraudulent or illegal admission of such person.

X X X X X X X X X X X X X
"I am therefore of opinion that the bar of final adverse judgments upon appeals taken under the act of 1898 is removed as to all Cherokee applicants whose names appear on any of the tribal rolls, and that such persons are entitled to have their cases decided upon the merits."

If the opinion of the Assistant Attorney-General were not conclusive, the following from the opinion of the Supreme Court of the United States in the Stephens case, page 491, settles the question beyond doubt:

"For reasons already given we regard this act in general as not objectionable to constitutional objection, but in no holding we do not intend to intimate any opinion as to the effect that changes made thereby, or by the agreements referred to, may make, if any, on the status of the several applicants who are parties to these appeals."

The court also says, as to the merits of the individual cases and the opinions of the courts, including the Springer Court: by name.

"But we have not been called on to go into these matters, and our jurisdiction is that we are confined to the question of constitutionality merely."

We, therefore, in conclusion respectfully submit:

1. That neither the decision of the Adair Court, Springer Court, nor Supreme Court of the United States is final.

2. That under the plain direction of Congress it is now the duty of the Commissioner and Department to investigate the facts as to whether or not fraud was perpetrated by applicants in securing their admission to citizenship in 1891.

3. That Hannah Flippin was undoubtedly a Cherokee by blood, and as such entitled to admission to citizenship, and that there is not any evidence which could be taken into serious consideration as tending to show bribery; that the Commission to the Five Civilized Tribes failed to find any fraud; that the report of Mr. Duncan, Special Agent of the Department, held the proof of fraud to flimsy for serious consideration; and that the

report of the special master appointed by the Springer Court shows there was no fraud in the following language, page 7 of the opinion of Judge Springer in the record as follows:

"The special master to whom this case was referred is of the opinion, as stated in the report, that the evidence which was produced before the Adair Commission on the question of bribery and corruption of the Spears Commission by the claimants in this case is of a very indefinite character, and that the proof is insufficient, as shown by the record, to establish the fact that the Spears Commission was bribed or corrupted and was induced to render their decision admitting these claimants to citizenship."

In our brief we have pointed out, by giving a digest of the testimony of all the witnesses who testified for the Nation before the Adair Court, that there is absolutely nothing therein contained to even suggest bribery, with the exception, possibly, of the testimony offered by three persons therein properly designated as jail-birds. Even the Cherokee Nation while calling attention to the names of these witnesses has not undertaken to show in its brief anything said by any witness other than these jail-birds which even tends to show bribery or corruption. We confidently expect a decision exonerating these men and women from this reproach cast upon their names, and insist upon the consideration of the high moral character of each individual as shown by their reputations established in the Cherokee Nation by long years of residence therein and among the very best people in that nation.

As pointed out in our brief everything has been removed which would in any way deprive them of the right to enrollment now, excepting only this question of bribery. We do not believe that the Commissioner and Department will allow this reproach on the names of these people to stand, nor allow them to be deprived of their lawful inheritance because of the testimony alone of three jail-birds and the testimony of a few other persons who heard some rumors which had been started by one or two of the jail-birds.

Very respectfully,

Harry K. White
Thurston White
Attorneys for Applicants.

(COPY)

Acts National Council Regular Session,
(Senate Bill No. 6)

An act providing for the appointment of a special Commission to try and settle claims to Cherokee citizenship.

Whereas it is of the utmost importance to the Cherokee Nation that the claims of certain persons to Citizenship hereof be speedily and permanently settled by Competent authority, and

Whereas, there is a constant influx of claimants to Cherokee citizenship. Therefore it becomes necessary that there should be established a permanent tribunal for the adjudication of such cases, Therefore,

Be it enacted by the National Council;

That there be and is hereby created a special Commission to be designated "The Commission on Citizenship". The Commission on Citizenship shall consist of three members (to be nominated and Commissioned by the Principal Chief with the advice and consent of the Senate) They shall constitute a tribunal of last resort in the hearing and determining the Census hereinafter designated.

The National Council in joint (session) shall elect one of the three Commissioners (elect) to act as President.

They shall at the same time elect one attorney for the nation who shall also be commissioned by the Principal Chief, who shall act for the Nation in all cases undergoing adjudication by the Commission.

The Commission on Citizenship and the attorney for the nation before entering upon their duties shall qualify to support the constitution and laws of the Cherokee Nation, and to discharge their duties without fear or favor and to the best of their ability.

The president of the Commission on Citizenship shall preside at the sessions of the same; in his absence or inability to serve, the senior (age) member present shall preside. Any two members shall be competent to transact business.

The Commission on citizenship shall have authority to appoint and qualify one clerk and one interpreter and to define their respective duties.

They shall also have the right to command the presence and services of the Sheriff of Tahlequah District or his deputy, during their sessions, who shall be allowed one dollar per day while attending the sessions of the Commission on Citizenship separate from his salary. The said Sheriff shall have authority to send summons to the several sheriffs of the several Districts to be served without delay by them and returned without any other compensation than that of their salaries. The Commission on Citizenship shall have cognizance of and exercise complete jurisdiction over all cases arising under the constitution and laws of the Cherokee Nation, involving the right to citizenship of said Nation as hereinafter specified.

1st. Wherein a claimant to citizenship has applied to the late Commission on Citizenship and no final action taken or to the National Council since the expiration of the Commission on Citizenship, or where application for citizenship may be made to the National Council prior to the first meeting of the Commission on Citizenship herein created.

2^o. Of all cases where the National Council has adjudicated the same by a decision adverse to the Claimants and where such rejected claimants have appealed from the jurisdiction of the Cherokee Nation to that of the United States subsequent to the date of the Cherokee Treaty of July 19th 1866 and whose cases have been reported by the United States Indian Agent under instructions from the Department of the Interior to the Principal Chief, and are now on file in his Office and which have not been investigated, and final decision given by the late Commission on Citizenship.

3^d. Of all cases where the claimants have ignored the authorities of the Cherokee Nation, and appealed to those of the United States.

4th. Of all cases where citizens of the United States have married into this nation in violation of the laws prohibiting the marriage of persons previously married without having obtained a divorce.

5th. Of all cases of persons petitioning for Citizenship not embraced in the foregoing classification of Claimants.

7th. Of all cases of persons of African descent arising under the Cherokee treaty of July 19th 1866 where the applicant claims to have complied with the treaty, but has failed to receive recognition as a citizen by competent authority.

In decreeing the right to citizenship in the Cherokee Nation the Commission shall be governed by the provisions contained in the 5th section, Amendments to Article 3d of the Constitution.

The recognition of the right of citizenship in the Cherokee Nation by virtue of the foregoing provisions shall not (be deemed as conferring the like right upon any person not an Indian, who may be connected with such person by blood or affinity, unless such person shall comply with the provisions of Article 15th, Chapter 10th New (Revised) Code relating to intermarriage.

The Commission on Citizenship may admit as evidence in any of the cases herein named, the oral testimony of witnesses under oath, the decisions, records, or other papers or certified copies thereof in the clerks office of the National Council or of the Supreme Court of the Cherokee Nation, duly authenticated pertaining to any case brought before it under this act, and shall give such weight in making up their judgment thereon as they may deem it entitled to.

They may in their discretion, limit the number of witnesses that may be introduced, to establish the same fact in any one case, and fix the period for hearing and determining the same/.

The Commissioners shall keep in a book to be used for that purpose a docket of all cases tried, with their decision thereon; a copy of such decision to be furnished to the claimant, whether admitted or not, and such decision shall be final.

The evidence in every case tried by the Commission, shall be carefully arranged, labelled and numbered, to correspond with the docket, and be filed for preservation with the National records.

The Commission on Citizenship shall hold their sessions at Tahlequah. The Commission on Citizenship shall meet twice a year and hold one month at each meeting. The time of meeting shall be January and September, of each year. Provided however that they shall hold a preliminary meeting at Tahlequah, for the purpose of organizing, and giving public notice for the information of claimants, so that they may be ready for trial at the regular meeting of the Commission, time of preliminary meeting to be fixed by themselves.

The members of the Commission on Citizenship shall each receive for their services, the sum of four dollars per day, the attorney, clerk and interpreter the same (four dollars per day) while in actual service, payment to be made from the General fund on preferred warrants of the Principal Chief, based on estimate

for services rendered duly certified by the President, and the clerk, as the same shall be required by the Commission while in the discharge of their duty.

Witnesses summoned and appearing for the Nation, shall be allowed the same pay as is allowed witnesses in criminal cases, payable in the same manner, upon certificates issued, recorded and reported by the clerk of the Commission.

The Commission shall through the office of the Principal Chief and not later than the second (2d) Monday in November of each year, shall report the result of their Proceedings, for the information of the National Council, provided that all applicants for citizenship embraced within the provisions of this act, who shall refuse to bring their cases before the Commission on Citizenship for adjudication and all such as may be rejected by the Commission, shall be held as intruders, and shall be reported by the Commission to the Principal Chief as such, and the Principal Chief shall at once demand of the secretary of the Interior, or of the President of the United States, their immediate expulsion from the Cherokee Nation.

(Tahlequah C.N.) November 20th 1879.

J. P. Davis, Pres't Senate.

J. L. Springston, Clerk Senate.

Concurred in by the Council November 21st 1879.

Sam Hair, Speaker Council.

H. R. Hicks, Clerk Council.

Approved November 20th 1879 .

D. V. Bingham, Principal Chief.

Executive Office Cherokee Nation,
Tahlequah Ind. Ter.

I, E. V. Alberty, assistant Executive secretary of the Cherokee Nation do hereby certify that the foregoing two and a fraction pages, is a true copy taken from the record of laws and acts of the National Council made and filed in this Office and is now in my legal custody.

Given under my hand and the seal of the Cherokee Nation this the 20th day of January 1882.

(Signed)

E. V. ALBERTY

Assistant Executive secretary
Cherokee Nation.

(SEAL)

Lady M. Brown, being 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 full true and correct copy of an instrument now on file with this office.

Subscribed and sworn to before me this 27th day of February, 1882

B. P. Rogers
Notary Public

COPY

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

In the matter of the application for the enrollment of
Hannah Flippin, et al., as citizens of the Cherokee Nation, con-
solidating the applications of:-

Hannah Flippin,	Cherokee	N	405
Fleeta McGlasson, et al.	"	N	103
Tennessee Picklin, et al.	"	N	98
Jennie Ellis,	"	N	120
Hettie B. Diricksen, et al.	"	N	130
Mary J. Skinner, et al.	"	N	99
William T. Flippin,	"	N	126
Lula Freeman, et al.	"	N	420
Alice B. Snider, et al.	"	N	336
James H. Flippin,	"	D	397
James F. Flippin,	"	D	397
Belle E. Bowers, et al.	"	N	131
James O. Flippin Jr.	"	N	500
Sophy Bethell, et al.	"	N	101
Maud Grutchfield	"		3780
Bennett Skinner	"	N	343
Heber Skinner	"	N	344
John P. Diamond, et al.	"	N	345
Bertha Brisketon, et al.	"	N	346
Berne E. Bevell, et al.	"	N	120.

DE CISION .

THE RECORD IN THIS CASE SHOWS: That applications for enrollment as Cherokees by blood were made to the Commission to the Five Civilized Tribes by Hannah Flippin for herself; by Fleeta McGlasson for herself and minor children, Lemay, Sam Cooke and Georgia McGlasson, and her husband, George E. McGlasson by inter-marriage; by Tennessee Picklin for herself and minor children, Agnes Dorsey, Samuel, Eugene, Mary and Lee Easy Picklin; by Mary Jane Skinner for herself and minor child, Catherine or Baby Skinner

and minor grandchild, Charlie Skinner (female); by Lula Freeman for herself and minor children, Nina, Frances, Nettie and Helen Freeman; by Sophy Bethell for herself and minor children, E. Harrison and Charlie Oliver Bethell; by Jennie Ellis for herself; by Belle E. Bowers for herself and minor children, Len F., Andy Houston, Milton C. Jr., and Corwin Blaine Bowers, and her husband, Milton C. Bowers, Sr., by intermarriage; by Berna B. Boswell for herself; by James F. Flippin for, among others, himself, by intermarriage; by Mary I. Flippin for her minor child William T. Flippin; by Nettie B. Pirickson for herself and minor children, Callie, Dixie, Katie, Sugg, Blanche and Clabe Pirickson; by Alice B. Tanner for herself and minor children, Samuel Reed, Thomas James and Alice May Tanner; by James H. Flippin for himself and wife, Ella May Flippin; and by John K. Grutchfield for, among others, his wife, Maud Grutchfield, nee Flippin, by intermarriage. Such rights as certain applicants herein may have to Cherokee citizenship by virtue of their marriage to recognized citizens of the Cherokee Nation will not be considered in this decision. The rights of the said James F. Flippin and Maud Grutchfield to citizenship by blood in the Cherokee Nation, being identical with the other claimants herein, will be adjudicated in this decision. The "others" included in the applications of James F. Flippin, and John K. Grutchfield, and the said Ella May Flippin, having been heretofore enrolled their rights to Cherokee citizenship will not be considered.

The record further shows that, among others, the said Hannah Flippin, Wleda, Lunay, Sam Goode and Georgia Neelassen, Tennessee, Samuel, Eugene, Mary and Lee Mary Vicklin and Agnes Porsey, Mary Jane, Ochesches or Baby, and Charlie Skinner, Lula Nina, Frances, Nettie and Helen Freeman, Sophy, E. Harrison and Charlie Oliver Bethell, Jennie Ellis, Belle E., Len F., Andy Houston, Milton C. Jr., and Corwin Blaine Bowers, Berna B. Boswell, William F. Flippin, Nettie B., Callie, Dixie, Katie, Sugg, Blanche and Clabe Pirickson, Alice B., Samuel Reed, Thomas James and Alice May Tanner, and James H. Flippin have been heretofore denied the right to enrollment as citizens of the Cherokee Nation by the Commission to the Five Civilized Tribes, and that its action in each instance was subsequently affirmed by the Department.

The record further shows that thereafter, to-wit: on February 15, April 12 and 20, 1908 (I.T.D. 1486-3566-05), on motions of the applicants the cases of all those named in the first paragraph of this decision, were reopened, consolidated, and remanded by the Department, and the Commission to the Five Civilized Tribes directed to hear and decide said cases upon their merits, "hearing any other competent testimony and considering any other competent evidence that the parties may offer, necessary fully to present their contentions;" and that, in compliance therewith, further proceedings in the matter of said applications were had on April 13, and May 25, 1908, at Muskegee, Indian Territory, and on the latter date the following names, viz: Gladys Boswell, Benny Neelassen, Clarence P. and Des Ellis, Theodore and

Bertha Erickson, Roy F., John F., Emma and Bertha Diamond, Emmett and Heber Skinner, and James C. Flippin, Jr., were submitted to the Commission as those of persons entitled to Cherokee citizenship as descendants of the applicant, Hannah Flippin. At the time applications were made for the enrollment of the thirteen last above named persons, the Cherokee Nation objected that this office was without jurisdiction to receive the same. The Act of April 26, 1906, (34 Stat. 137), gives this office jurisdiction of such applications; hence the objection of the Cherokee Nation is over-ruled.

It further appears that, on request of the parties hereto, the following exhibits were filed with and made a part of the record in this case, to-wit: Affidavits of Berns B. Boswell and John P. Sudderth, showing the birth of Gladys Boswell on September 9, 1901 (p.p.197-8), certified copy of Spears Commission admitting Hannah Flippin et. al. to citizenship in the Cherokee Nation (p.199), letter of Commissioner Nixby to William Henry White, dated July 13, 1904 (p.200), certified copy of certain proceedings had before, and papers filed with, the Dawes Commission in 1896 in re application for Cherokee Citizenship of Hannah Flippin et al., which also included copies of proceedings had before the Spears and Adair Courts and before C. C. Duncan, U. S. Special Agent, together with his report, dated July 29, 1892 (p.p.202 to 256 incl.), copy of appeal taken from decision of Dawes Commission in cases of Hannah Flippin et al. to U. S. District Court (p.264), copy of an Act of the Cherokee Council approved December 8, 1826 (p.265), copy of decision of Adair Commission in re Cherokee citizenship of Hannah Flippin et al. (p.272), opinion of William M. Springer, Judge, of the U. S. Court for the Northern District of the Indian Territory, in re rights to Cherokee citizenship of Hannah Flippin et al. (p.275), opinion of the Supreme Court of the United States in the case of Stephens et al. v. Cherokee Nation, 43 L. Ed. 1041 (p.284), answer of Hannah Flippin and her children filed with the Adair Commission April 21, 1887 (p.310), motion of J. M. Bryan, attorney for Hannah Flippin and her children, filed with said Commission May 23, 1887 (p.312), notice of R. F. Wily, attorney for Cherokee Nation, served on J. M. Bryan, attorney for Hannah Flippin and her children (p.313), opinion of Acting Attorney-General W. A. Day rendered December 7, 1904 (p.314), letter from Pension Department to William Henry White, (p.316), dated June 15, 1905, certified copies of mittimus of one John M. Taylor convicted of perjury and of presenting false claims against the Government, (p.319), of Campbell H. Taylor, convicted of violating the Postal law (p.321), and of one John Ward, convicted of introducing liquor (p.322), and the opinion of the Assistant Attorney-General, John I. Hall, rendered July 16, 1894, in the case of John O. Cobb, et al., v Cherokee Nation (p.287).

The following certified copies of certain records in the custody of this office were ordered filed with, and made a part of the record in this case, to-wit:- Copy of Act of Cherokee Council approved November 26, 1879 (p.324), copy of decision rendered by the Ross Commission on Cherokee Citizenship, on March 18, 1880, in the cases of Aaron Balow, et al., v Cherokee Nation (p.327), copy of register of "Lucy Briant", et al., under Treaty of July 8, 1817 with the Cherokee Nation (p.342), and report of J. T. Adair, Chairman Citizenship Commission, to D. W. Bushyhead, Principal Chief of the Cherokee Nation, dated Tahlequah, Indian Territory, November 14, 1887 (p.342).

several motions, briefs and arguments in behalf of the applicants and the Cherokee Nation are filed herewith and made a part of the record herein (p.p. 111, 118, 147, 152, 348 and 364).

The record further shows that on September 8, 1884, at Pottawatomie, Indian Territory, Hannah Whippin and her children filed with the Commission on Cherokee citizenship commonly known as the "Spence Court", their petition praying that they be admitted to citizenship in the Cherokee Nation as descendants of one John Bryant, deceased, who, they alleged, was a Cherokee by blood and at one time a member of the old Cherokee Nation; and that on September 26, 1884, they were admitted by that Court to all the rights of native born Cherokees (p. 199); that subsequently, to-wit: on December 8, 1886, an Act of the Cherokee Council was approved, which provided for the creation of a Commission on Cherokee citizenship with authority to summon before it certain parties, among others, the said Hannah Whippin and family, who, it was charged, had obtained their admission to Cherokee citizenship through fraud and bribery, and require them to show cause why the decree admitting them should not be declared null and void (p.p. 265-270), and that, thereafter, to-wit: on August 29, 1887, the Commission created by this Act commonly known as the "Spence Court", declared "the decree of the former Commission (Spence Court) admitting Hannah Whippin et al., to Cherokee citizenship null and void to all intents and purposes (p. 272).

Other proceedings relative to the right of Hannah Whippin and her descendants, to Cherokee citizenship, were thereafter had, viz.: Investigation and report by G. C. Duncan, decree of the Peace Commission under the Act of June 10, 1896, and judgments of the United States Court for the Northern District, Indian Territory, and of the Supreme Court of the United States, on appeal ("Exhibits 4, C. and D"), but under the ruling of the Department (I.T.D. 1486-03), supra, it is not considered necessary to at this time set them out in detail.

The following points are fully established by the evidence, to-wit:

- (1) That Hannah Whippin, now deceased, was the granddaughter of one John Bryant, deceased, who for many years prior to his death in 1855, at the age of eighty, lived in Gibson County, Tennessee, is the common ancestor of all the other applicants herein, and that none of the applicants in this case possess any Cherokee blood other than such as they may have obtained as descendants of the said John Bryant, deceased.
- (2) That certain of the applicants together with the deceased ancestors of others herein, are identified on the Cherokee pay roll of 1886 ("Exhibit 3" p. 200), but that none of said applicants, except James F. Whippin, who is identified on the Cherokee census roll of 1896 as an intermarried Cherokee citizen, nor any ancestor through

when by any possibility they might obtain rights to Cherokee citizenship, can be identified on any other roll of the Cherokee Nation in the custody of this office.

In an opinion rendered by the Assistant Attorney General on October 8, 1906, in the case of Harry Still, departmental letter of October 18, 1906 (I.T.D. 7550-04, 3200-06), wherein was considered the weight to be given a decree of the Cherokee Supreme Court by the Commissioner to the Five Civilized Tribes, of a matter coming within the jurisdiction of both, respectively, he said, *inter alia*:

"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 (30 stat. 321, 339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When responded to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great agency, to be followed unless it appear 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. . . ."

In view of the record in this consolidated case which shows that the cases included therein were remanded for the purpose of being readjudicated "upon their merits," together with the ruling of the Department in the case of Harry Still, *supra*, it is considered that, in accordance therewith, two questions are presented to this office for determination, *viz*:

- first: Is it established that the applicants herein possess Cherokee blood? and
- second: Was the action of the Cherokee authorities in dealing with the petition for Cherokee citizenship of Hannah Whippin, et al., been such that the applicants herein are now entitled to Cherokee citizenship irrespective of whether or not they possess Cherokee blood?

In re applicants' Cherokee blood:

The proper disposition of this question depends upon whether or not John Bryant, deceased, possessed Cherokee blood.

and all evidence within the reach of this office, bearing upon that point, will be here considered.

Before the general court on September 12, 1864, Aaron Belew (brother of Hannah Whippin), and S. H. Wilburn, in behalf of the petitioners, Hannah Whippin and her eight children, testified as follows:

AARON BELEW: John Bryant was one-fourth Cherokee and three-fourths white. He lived in South Carolina, Union District, and moved from there to Tennessee, where he died. In both states he was known and regarded as a Cherokee, and said himself he was part Cherokee.

S. H. WILBURN: I am about 55 or 57 years old and my occupation is farming. I was raised near John Bryant in west Tennessee, Gibson County. I do not recollect that he was recognized as a Cherokee. I was told by my parents he was part Indian. He was so regarded by the neighbors. I do not know that the applicant (Hannah Whippin) is a Cherokee, but have always been taught that John Bryant was part Indian.

The petitioners also filed in support of their claim the ex parte affidavits of J. H. Edwards, A. J. Smith, G. Greer, L. V. Frasier, James I. Walker and G. G. Walker.

J. H. EDWARDS, stated: I know John Bryant in Gibson County, Tennessee. He was from South Carolina. I know him to be part Cherokee Indian, the same as I know him to be part white man. He was generally known to be part Cherokee Indian. Subscribed and sworn to on August 2, 1864, before W. A. Williams, clerk county Court, Westgate County, Texas.

A. J. SMITH, G. GREER and L. V. FRASIER, stated: we know Aaron Belew, Gov. Belew and Hannah Whippin, also know John Bryant of Gibson County, Tennessee, and know that the three first named are grandchildren of the said John Bryant. Subscribed and sworn to August 4, 1864, before J. B. Cross, clerk of Gibson County, Tennessee.

JAMES P. and G. G. WALKER, stated: we know John Bryant of Gibson County, Tennessee. He was from South Carolina. We, and his neighbors generally, knew him to be part Indian the same as we know him to be part white man. Subscribed and sworn to July 31, 1864, before Sam J. House, Clerk of the chancery court of Ita County, Mississippi.

Under the showing above indicated the general court, in its decree rendered on September 24, 1864, admitted the petitioners to all the rights of native Cherokees.

In accordance with a notice dated June 27, 1867, addressed to and served upon J. H. Bryan, Esq., Attorney for Hannah Flippin, et al., the depositions of Gash Bryant and George Robinson, of Gibson County, Tennessee, to be used by the Cherokee Nation in the proceedings then pending before the Adair court in re charges against Hannah Flippin and family, were taken on July 15, 1867.

SASH BRYANT deposed as follows: I am 67 years old, was born in Union District, South Carolina, and except from 1835 to 1856, have lived in Gibson County, Tennessee for about sixty-two years. My father was named Gashariah Bryant, but was called Pial Bryant, and was the son of John Bryant. John Bryant had fourteen children. He came to Tennessee from Alabama about 1825, was originally from South Carolina, where he had married, but I don't think he was born there. I don't know who John Bryant's parents were and have no recollection of any of the Bryant families ever having been enrolled as Cherokees or drawing any money as such from Alfred Chapman, Special Agent for the United States Government to make payments to the Cherokee Indians in 1852. About the year 1826 John Bryant went, as he said, to the Cherokee Nation, from there to South Carolina, and then back home. In the spring of 1835 I spent several months at his house; he had heard there was liable to be trouble between the United States Government and the Cherokee Indians, and was fearful the Cherokees, who he said were his people, would be wronged. His wife was a white woman, and I have often heard her scold her children and say "You Indians, you Indians." John Bryant was never a citizen of the Cherokee Nation to my knowledge. He came to South Carolina from the Cherokee country, a straggler. I knew nothing of J. H. Edwards and if such a man was living in the neighborhood of my grandfather since my day I think I would have known him. There were Edwards's there, but not with that initial that I know of. Subscribed and sworn to July 15, 1867, before J. D. Crane, Clerk of Gibson County Court, Tennessee.

GEORGE W. ROBINSON deposed as follows: I am 57 years old and have lived in Gibson County, Tennessee, during the past fifty-three years. I knew John Bryant from my boyhood to his death in '55 or '56. I know nothing of his Cherokee blood except from hearsay. My father and mother knew him in South Carolina and I have heard them say there was Cherokee blood in him. I have no knowledge of the father and mother of John Bryant and never knew of John Bryant or any member of his family being enrolled as Cherokees or drawing per capita payments as such. Subscribed and sworn to on July 15th, 1867, before J. D. Crane, Clerk of Gibson County Court, Tennessee.

The ex parte affidavits of one Sampson Browning and the said S. W. Wilburn were filed by the defendants, Hannah Flippin et al. said affiants swore as follows:

SAMPSON BROWNING: I am 69 years old, was born and have

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lived in the state of South Carolina near the Carroll and Gibson County line since about the year 1858. I have been acquainted with John Bryant and his family for about fifty-two years, and from an undoubted authority the said John Bryant was part Cherokee Indian. I have been personally acquainted with many Cherokee Indians as well as with the said John Bryant, and do not believe that I can be deceived about him being a Cherokee Indian. Subscribed and sworn to on March 14, 1887, before H. J. Heathcock, Notary Public, Gibson County, Tennessee.

E. H. WILBURN: I am about fifty years old and my postoffice is Pilot Point, Denton County, Texas. I have been personally acquainted with Aaron Belew, brother of Hannah Flippin, for about fifty years, and he has been considered a Cherokee by blood ever since I knew him. Subscribed and sworn to on June 29, 1887, before Ben Moss, J. P. and Ex officio N. P., Precinct No. 2, Denton County, Texas.

Attention is here invited to the testimony of this same witness before the Spears Court on September 12, 1884, wherein he testified that he did not recollect that John Bryant or Hannah Flippin, grandfather and sister of Aaron Belew, were ever recognized as Cherokees. (p. 409, supra.)

For the reason that the two foregoing affidavits were taken and filed contrary to the rules of practice the Adair Court refused to consider them as evidence.

In re charges of bribery and fraud investigated by the Adair Court, W. L. Baird, Jesse Cochran, William Shellenberger, Thomas Bravert, John Ward, John M. Taylor, E. C. Boudinet Jr., C. W. Taylor and John G. Harnage testified in behalf of the Cherokee Nation, and Hannah, M. J. and J. C. Flippin, testified in behalf of the defendants, but as their testimony is not relevant to applicants' Cherokee blood it will not be considered at this time.

On August 29, 1887, the Adair Court found that the charges of bribery and fraud made against Hannah Flippin and family in procuring admission to Cherokee citizenship had been established, and declared the decree of the Spears Court "admitting Hannah Flippin et al., to Cherokee citizenship null and void to all intents and purposes". (p. 272).

Subsequently there was filed with the Commissioner of Indian Affairs and the Department, numerous letters from the several applicants, protesting against the decision of the Adair Court, supra., which resulted in the dispatch of one C. G. Duncan to the Cherokee Nation for the purpose of investigating the rights of the Flippins to Cherokee citizenship, but as his investigation and report dated July 29, 1892, did not embrace the question of applicant's Cherokee blood, and for other reasons below indicated, the proceedings had before him will not be discussed in detail.

Under the act of June 10, 1886 (23 Stat., 321), these

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applicants herein in being at that time filed with the Daves Commission their petition for Cherokee citizenship, and in support thereof submitted in proof of their Cherokee blood the ex parte affidavit of one D. J. Edleman, who stated: "I am sixty-two years old and have known Mrs. Hannah Whippin since 1858 (the year she removed from Tennessee to Texas) and have always understood she possessed Cherokee blood and such was the understanding of her neighbors in Denton county, Texas. Subscribed and sworn to August 11, 1896, before Pearl Edleman, N.P. (p. 219).

The affidavits of the petitioners and copies of the proceedings had before the Spears and Adair Courts, and before C. C. Duncan were also filed with the Daves Commission by the respective parties to said proceedings.

From the decision of the Daves Commission an appeal was taken to the United States Court, Northern District, Indian Territory, and in an opinion rendered by that Court on _____ 1897, all of said petitioners were denied the right to Cherokee citizenship, from which an appeal was taken to the Supreme Court of the United States on the ground that certain Acts of Congress conferring jurisdiction on the United States Courts to review questions of citizenship formerly passed upon by the tribal authorities and the Daves Commission were unconstitutional, but that Court declared the Acts constitutional and affirmed the decision of the lower court. Stephens v Cherokee Nation et al. (No. 557 Whippin et al. v Game) 43 L. Ed. 1041.

Subsequent to the decision of the Adair Court (August 29, 1887), supra., there was filed with said Court, presumably by the applicants, the ex parte affidavit of the said John Bryant who swore, in part, as follows: "The said John Bryant was borned in the Cherokee Nation now known as the state of Georgia, . . . he was part Cherokee Indian." subscribed and sworn to September 5th, 1887, before H. G. Heathcock, N.P., Gibson County, Tennessee. (p. 212).

On October 8, 1887, there was filed with the Cherokee Commission on Citizenship the petitions of Giles D. Belew et al., Aaron Belew et al., Brinkley Bryant et al., William C. Bryant, et al., Giles H. Bryant et al., George W. Bryant et al., Charles Bryant et al., Mary C. Bryant et al., David Boyd Bryant et al., Zach Bryant et al., and Governor Belew et al., including in all fifty-four persons, praying that they be admitted to Cherokee citizenship as descendants of the said John Bryant, deceased, of Gibson County, Tennessee. (p.p. 327-340 incl.)

In these cases it was alleged that John Bryant was either the son or brother of one Lucy Bryant (Briant) and that the said Lucy Bryant (Briant) was a member of the old Cherokee Nation residing alone at a place called "chu-nan-nee, on the Georgia side" and in 1830 appeared to be about seventy years old. (In this connection attention is invited to Exhibit p. 341).

On March 18, 1889, the Commission denied these petitioners the rights of Cherokee citizenship on the ground that the evidence

introduced failed to establish that John Bryant, deceased, was possessed of Cherokee blood, or that he was born within the limits of the old Cherokee Nation or at any time resided or affiliated with the Cherokee tribe of Indians, and further declared that said applicants were interlopers in the Cherokee Nation (p.p. 330 and 331).

The foregoing is all the evidence introduced by Hannah Whippin et al., and the Cherokee Nation, before the Cherokee Citizenship Commission or Courts, the Dawes Commission and the United States Courts, relative to the Cherokee blood of the said John Bryant, deceased.

It is shown conclusively that John Bryant died in Gibson County, Tennessee about 1865, and that at his death he was at least eighty years old, hence he must have been born about 1775, but neither the place of his birth, nor the name of either of his parents, is established.

In his deposition taken on July 15, 1887, said Bryant deposed, in part, as follows: "John Bryant came to Tennessee from Alabama, but was originally from South Carolina, . . . but I don't think he was born in South Carolina." In an affidavit sworn to on September 3, 1887, the said John Bryant swore, in part, as follows: "John Bryant was born in the Cherokee Nation now known as the State of Georgia." Nothing further can be gleaned from the record as to the birthplace of John Bryant, and for the reasons, to-wit: that said deponent first testified that he did not know where John Bryant was born, and later made affidavit that he was born in the old Cherokee Nation, in addition to the fact that in the latter instance said affiant was swearing to a matter that occurred thirty-five years before he was born, it is respectfully submitted that the birthplace of John Bryant is not established, nor any evidence adduced from which it can be inferred that his birthplace was in the old Cherokee Nation.

In her petition filed with the Spears Court the applicant, Hannah Whippin, alleged, and her brother, Aaron Relew testified, that their grandfather, John Bryant, was possessed of one-fourth Cherokee blood and three-fourths white blood. This would indicate, if true, either that John Bryant's white ancestry intermarried with the Cherokees during the second generation before him, or that both his parents were of the one-half blood, which would also carry the intermixture of his blood back to the second generation of his ancestry, or to about the year 1750, a date at which it was neither popular nor customary for the whites and Indians to intermarry. Consequently the allegation that John Bryant was of one-quarter Cherokee blood raises a doubt that necessarily militates against such claim, and would have to be overcome by affirmative evidence. It is not intended to assert that the two ways above indicated are those only by which a descendant could obtain such quantum of Cherokee blood, but if derived otherwise it would necessarily carry the intermixture

of the two bloods back to a more distant generation, and in the case under discussion make the doubt as to John Bryant's Cherokee blood the stronger.

No particular import can be attached to the allegations of relatives that at one time John Bryant lived in Union District, South Carolina, subsequently in Alabama, and later moved to Western Tennessee, except that, in each instance, he became farther removed from the Cherokee Indians, the tribe of which it is now claimed he was a member by blood.

It is satisfactorily established that John Bryant lived in Gibson County, Tennessee, from 1826 till his death in 1855, a period of thirty years. His grandson, Zach Bryant, testifies that in the spring of 1838 "he said the Cherokee Indians were his people", but neither this witness nor any of the others introduced, some of whom had been intimately associated with John Bryant for years, were able to give the name of either one of his parents, or how he derived his Cherokee blood. Several state they know him to be part Indian the same as they know him to be part white man; some that they know him to be part Cherokee Indian the same as they know him to be part white man, while one (S. W. Wilburn) states that he does not recollect that he was recognized as a Cherokee, but had "been taught that John Bryant was part Indian."

In further support of their right to Cherokee citizenship, Hannah Flippin et al., filed with the Adair Commission, on August 22, 1867, a notice calling the Commission's attention to a reservation made under Article 2, treaty of July 3, 1817, to one "Lucy Briant" who, they alleged, was the daughter of John Bryant.

Subsequently, before the Ross Commission on Citizenship in the cases of Aaron Belew et al., supra, the petitioners attempted to prove that this same reservee was either the mother or the sister of the said John Bryant.

In connection with these allegations attention is invited to a certified copy of the reservation made to one Lucy Briant (p. 342).

Section 2, treaty of July 3, 1817, reads, in part, as follows:

"And to each and every head of any Indian family residing on the east side of the Mississippi river, on the lands that are now, or may hereafter be, surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of 640 acres of land, in a square, to include their improvements, which are to be as near the centre thereof as practicable, in which they will have a life estate, with a reversion in fee simple to their children, reserving to the widow her dower, etc." Indian Affairs Laws & Treaties, p. 99, Kappler edition.

Recurring to the certified copy of reservation, supra, it will be seen that on May 20, 1818, Lucy Briant was a widow whose

family numbered seven. In view of the provisions of Section 8, supra., it would seem most probable that this family was composed of the mother and six children, that the children were all under age, and that the name "Bryant" was the name acquired by her marriage to her husband, since deceased.

Referring to the deposition of Zach Bryant it will be seen that the said John Bryant had fourteen children, among them a daughter named "Lucy". Whether or not she married does not appear, but this deponent asserts that she "left no heirs" and from his testimony it is inferred that this daughter was born, lived and died in Gibson County, Tennessee. Besides, it is highly improbable that in 1818 John Bryant, who himself was born about 1776, could have had a daughter and six grandchildren living on Chu-nan-nee river, Georgia, in the old Cherokee Nation.

If the above theory is correct, and it is submitted that it is the most probable, then it would further appear that the reservee, Lucy Bryant, was not old enough to be the mother of John Bryant. In addition, the fact that one set of John Bryant's descendants claim that the said Lucy Bryant was his daughter and another that she was either his mother or his sister is, in itself, sufficient to destroy the probability of their claims. If she had been related to John Bryant in any one of the three ways alleged, it was a matter capable of positive proof, which should have been produced by the applicants, otherwise both claims fail.

In 1835, for the purpose of determining, among other things, the number of Cherokees living east of the Mississippi river, the United States Government made a roll enumerating all such Indians, a certified copy of which is in the custody of this office.

The territory of the Cherokees was divided into districts and the work of taking the census apportioned among five men. The roll, as prepared, is arranged under the following heads, viz:

"Census of Cherokees in the limits of Tennessee in 1835 as taken by Daniel Henderson, Esq." (Roll pp. 1 to 10, inclusive.)

"Census of Cherokees in the limits of Alabama in 1835, as taken by Rosin Rawlings, Esq." (Ib. pp. 12 to 17 inclusive).

"Census of Cherokees in the limits of North Carolina in 1835, as taken by Nathaniel Smith." (Ib. pp. 19 to 33, inclusive).

"Census of Cherokees in the limits of Georgia in 1835, as taken by C. H. Nelson, Esq." (Ib. pp. 35 to 49 inclusive), and by George H. Underwood, Esq." (Ib. pp. 48 to 86 inclusive).

Following the list made by each census taker is a certificate which reads as follows:

"I do hereby certify upon honor that the foregoing is a correct census of the Cherokees residing in the limits (as to Alabama, "Chartered limits") of Tennessee,

North Carolina, Alabama and Georgia, composing the district assigned me by the Superintendent of Cherokee removals, and that the other items of information, under their appropriate heads are as correctly stated as practicable without a precise and thorough examination of each subject, respectively."

After a careful examination of this roll the name "Bryants" can not be identified thereon.

Under authority of Section 4, Act of Congress approved July 29, 1848, a roll giving the names and number of the Cherokees who remained in the state of North Carolina after the treaty of New Echota (December 29, 1835), was made. This roll was prepared by Special Agent J. C. Hullett, and is commonly known as the "Hullett Roll" (a certified copy of the same is now in the custody of this office), but after a careful examination of the 1517 names of persons enumerated thereon, and of many of the ancestors living and deceased of the persons so enumerated, some of whom were traced to Georgia, others to Arkansas, and many to the Indian Territory, the name "Bryants" can not be identified thereon.

In 1861 a census of the Cherokees living east of the Mississippi river was taken by Special Agent D. W. Siler. The roll prepared in conformity with this census is commonly known as the "Siler Roll" and was made preliminary to the payment of a large amount of money to those Cherokees residing east of the river. A certified copy of this roll is now in the custody of this office. The names of 2345 Cherokee claimants appear thereon, the first 1961 of whom resided within the limits of the old Nation in the states of North Carolina, Tennessee, Alabama and Georgia. A majority of the others resided within the limits of said states, some as far north as Nashville, Tennessee, but in some instances the census taker, having heard of Cherokees who had removed from the old Nation, traced them to northern Kentucky, Arkansas, California, and to remote districts of the four states first above named. An examination of this roll indicates that the maker thereof must have been very painstaking in running down all clues that would locate Cherokees entitled to be placed thereon, but such examination fails to disclose the name "Bryants" as enrolled or in any way referred to.

In his letter submitting this census to the Commissioner of Indian Affairs, Mr. Siler comments on the scattered condition of the Cherokees, and adds: "I think, however, very few indeed, have been omitted (from the roll) if there are any".

Under Acts of Congress approved September 30, 1850, and February 27, 1861 (9 stats. 555 and 574), making appropriation of a large amount of money to the Cherokee Indians residing east of the Mississippi River, a roll of those entitled to share in the per capita payments of \$92.79 a head, was made by one Alfred Chapman. This roll includes the names of 2133 persons residing in the states of North Carolina, Tennessee, Alabama, Georgia and Kentucky, and in Washington, D. C., to whom

payments were made amounting in all to \$193,253.09, but after a careful examination the name Bryant can not be identified thereon.

When the 1851 and 1852 rolls were made John Bryant and many of his descendants were living within the limits of the state of Tennessee. They knew that a large amount of money was being paid to those Cherokees east of the Mississippi river by one Alfred Chapman (see deposition of Zach Bryant, p. 213) and that several thousand dollars of this money would have been their share had they been able to establish their Cherokee blood, but it is not recorded that they ever made an attempt to secure what it is now claimed they were entitled to.

It is also worthy of note that from the earliest period of which we have any authentic record of this family, till the year 1845, their migrations have always been away from the Cherokee people. This was particularly noticeable in 1858 when, while living less than three hundred and twenty-five miles from the country of the Western Cherokees, and about the same distance from the Eastern band, they passed the Cherokee Nation (Indian Territory), and traveled over five hundred miles to reach Denton county, Texas.

In re action of Cherokee authorities in dealing with the petition for Cherokee citizenship of Hannah Flippin et al. an Act of the Cherokee Council approved November 26, 1879, made provision for, inter alia, the creation of a special commission to be designated "the Commission on Citizenship."

The first Commission sitting under authority of this Act was composed of Reach Young, William Harnage and G. W. Hayes, which held regular terms during the period beginning January 5, 1880 and ending October 3, 1881, which was followed by the Commission commonly known as the "Yehae Court", composed of Thomas Yehae, Alex Wolfe and S. T. Thompson, which sat in turn time from January 10, 1882 till September 27, 1883, and in turn, was succeeded by the Commission commonly known as the "Spears Court", composed of Eli Spears, John Lee and Andrew Young, alias Snake-Puppy, which held regular terms during the interval commencing January 1, 1884 and ending September 26, 1884.

The Act of Cherokee Council, supra., reads, in part, as follows:

"The Commission on Citizenship may admit as evidence in any of the cases herein named, the oral testimony of witnesses under oath, the decisions records, or other papers or certified copies thereof in the clerk's office of the National Council or of the Supreme Court of the Cherokee Nation, duly authenticated, pertaining to any case brought before it under this Act, and shall give such weight in making up their judgment thereon as they may deem it entitled to." (p. 325)

In conformity with this provision said citizenship Commission on February 1, 1882, adopted, among others, the following rule of practice, viz:-

9. All witnesses giving testimony will be required to appear in person and make their statements in open court. The deposition, or affidavits, of witnesses taken out of court will not be accepted as competent evidence in any case." *Requet Cherokee Citizenship Commission.*

The only witnesses appearing before the Spears Court in behalf of the applicants were Hannah Flippin's brother, Aaron Below, and one S. H. Wilburn, a relative. The ex parte affidavits filed with the Spears Commission by the applicants are not only intrinsically valueless on the question at issue, as an examination of them will show, and should not have been admitted under the most liberal construction of the rules of evidence, but, in fact, were admitted in open violation of the Act creating said Commission, and directly contrary to the rule of procedure adopted by the court which declared that such instruments would "not be accepted as competent evidence in any case." Hence the only competent evidence before the Commission was the testimony of the witnesses Aaron Below and S. H. Wilburn, to which attention is respectfully invited. (pp. 222, 223).

In a brief filed in this case by the attorney for the applicants, he says "The Spears Commission had before it the following testimony: The deposition of Zach Bryant, who testified, etc." This is clearly error, as the deposition of Zach Bryant was not taken till nearly three years after the Spears Commission rendered its decision.

The record further shows that at the close of the proceedings before the Spears Court, the attorney for the Cherokee Nation, J. W. Smith, not having cross-examined the two witnesses introduced, remarked "There was very little testimony in the case, but it was all to the point. That woman (Hannah) Flippin) is a Cherokee and I am not going to argue the case." The position assumed by the Nation's attorney, in view of the showing made by the applicants, and his oath of office prescribed by the Act creating the Commission (p. 324), was a most flagrant breach of duty and in effect amounted to a non-feasance of office. For comments on like conduct see opinion of the Assistant Attorney General rendered in the Coleman case, on March 10, 1906 (I. T. D. 2871-06).

What the motive was that prompted the Spears Court to admit the ex-parte affidavits of persons residing in Texas and Tennessee, wholly incompetent from any point they may be considered, and enter a decree admitting applicants to Cherokee citizenship under the meager, unsatisfactory, and conflicting testimony of interested parties, or the motive that prompted the Nation's Attorney to wholly disregard his duty in the premises, is not

necessary to consider here, and can be dismissed with the remark that the inducing motive in each instance was certainly not due to any meritorious showing made by the applicants of their Cherokee blood. That the evidence before the Spears Court was not sufficient to sustain a decree admitting Hannah Flippin and her children to Cherokee citizenship, is obvious, and under authority of the ruling of the Department in the Harry Still case, supra., this office is of the opinion that said decree should have been, as it later was, set aside and held for naught.

The authority of the Cherokee Council to pass the Acts of November 21, 1879, and December 8, 1886, supra., or the jurisdiction of the Spears Court over said parties, is not questioned, but objection is made that the Adair Court did not obtain jurisdiction of the Flippin family and if it did it subsequently lost the same, hence its judgment setting aside the decree of the Spears Court was null and void.

Section 18 of the Act of December 8, 1886, authorized the investigation of the charges of fraud made against, among others, Hannah Flippin and family, in procuring admission to Cherokee citizenship, and in pursuance of this authority the following proceedings relative thereto were had before the Adair Court.

On April 21, 1887, in answer to the summons theretofore issued by said Court, Hannah Flippin et al., appeared and the following proceedings were had, to-wit: Two answers filed, one by Hannah Flippin and her children and one by Hannah Flippin and children by their attorney, J. N. Bryan, also argument of J. N. Bryan.

On the dates below mentioned further proceedings were had in this case as indicated, namely:

May 5, 1887, notice duly served on attorney for applicants that the Cherokee Nation would attempt to show that John Bryant was not of Cherokee blood.

May 20, 1887, notice from R. F. Wyley to J. N. Bryan, attorney for applicants, that on May 23, 1887, the Cherokee Nation would ask for a continuance in the Flippin case.

May 23, 1887, motion to dismiss the case for want of jurisdiction filed by attorney for applicants. Motion for continuance filed.

June 27, 1887, notice served on attorney for applicants that on July 13, 14 and 15, 1887, the Cherokee Nation would take the depositions of certain persons residing in Gibson County, Tennessee.

depositions of John Bryant and G. W. Robinson taken on July 15, 1887, at Trenton, Gibson County, Tennessee, filed by the Cherokee Nation.

August 18, 1887, Motion filed by J. N. Bryan praying that the Court receive no hearsay testimony in the Flippin case. Overruled.

August 18, 20 and 23, 1887, testimony of ten witnesses taken in behalf of the Cherokee Nation, all of whom were cross-examined.

August 20, 1887, affidavit as to good character of 211 spears filed by the defendants.

August 22, 1887, Request filed by J. M. Bryan asking for certified copies of all proceedings had in case to date and Notice calling the Court's attention to one Lucy Briant, a reservee under the treaty of 1817, who it was claimed, was the daughter of John Bryant.

testimony of John C. Harnage taken by Cherokee Nation.

Brief filed by attorney for applicants in which he discussed in detail the depositions and testimony of witnesses introduced by the Cherokee Nation, also the evidence introduced by the defendants.

August 25, 1887, second brief filed by attorney for applicants in which the unconstitutionality of Section 16 Act of Cherokee Council approved December 8, 1886, is alleged and the depositions and testimony of witnesses for Cherokee Nation recited and discussed fully, to which was added "Evidence closed by the Nation" and then a summary of the evidence introduced by the defendants set out in full.

August 29, 1887, Court rendered its decision in the case. Thereafter the Commission received a letter from Hannah Flippin and her children (written by her attorney), dated September 26, 1887, requesting the Commission to advise what disposition had been made of their case and if disposed of the date of decision, whether its finding was for or against defendants and if against them that a copy of the Commission's opinion be forwarded to them.

Subsequently Mr. Bryan filed with the Interior Department a protest against the decision of the Adair Court which declared the Flippin family to be intruders on the Cherokee domain, and nearly five years later, after much correspondence between the Flippins, their attorney, and the Department, Mr. Duncan was dispatched to the Cherokee Nation to investigate and report.

The proceedings before the Adair Court have been set out in full in order that the contentions of applicants may be more easily examined.

It is contended on behalf of applicants that if the Adair Court ever had jurisdiction of the Flippins it was lost in two ways, to-wit:

(1) "In proceeding to judgment while there was in the record undisposed of a motion to dismiss the case for want of jurisdiction of the Commission. This motion was endorsed on the back: 'No action of this motion by Commission', and this endorsement dated and signed by the Clerk of the Commission". p. 356.

(2) That on May 23, 1887, the Commission continued the case until such time as should be agreed upon

by the attorneys in said case, and that there is nothing in the record to indicate that any time was ever agreed upon by said attorneys. p. 387."

From an examination of the record of proceedings had before the Commission on May 23, 1887, it can not be ascertained in what order they were had, but whatever may have been the order it is apparent that the final ruling of the Court was that the case should be continued. This, in effect, overruled applicants' motion to dismiss the case, and that the applicants so understood it is apparent from subsequent proceedings. An entry on the Court's docket (p. 167), undated, in the Clerk's handwriting, reads as follows: "Case called and continued until August 18th, 1887", and that the applicants understood their case was continued till that date is also apparent from subsequent events.

The endorsement on back of motion referred to by applicants, is written in pencil, and was evidently made by one of the attorneys representing the Flippins before the Dawes Commission in 1896. That it was not made by any member of the Adair Commission is evident from a comparison of the handwriting, and the assertion that this endorsement is dated and signed by the Clerk of the Commission is manifestly error, as the most casual examination will show. There is this endorsement, however, stamped on said motion, to-wit: "Filed July 23, 1887, Jas. A. Winston, Clerk." This was the filing stamp of the clerk of the U. S. District Court, Northern District, Indian Territory, evidently placed thereon when the case came before that Court on appeal. The following also appears thereon, viz: "This motion should be dismissed the case." Mr. J. M. Bryan, attorney for applicants, before the Adair Court was the author of this endorsement--likewise of many others found on papers filed in the case in which he gave vent to not only his legal opinions but quite often to his feelings in the matter.

In support of the second reason advanced to show that the Adair Court lost jurisdiction of the Flippin case, Attorney for applicants says: "There is from this time (May 23, 1887) forward no appearance of any attorney for the applicants before the Commission and the presumption is that this Commission simply passed upon the case without any notice to Hannah Flippin or her children or their attorney of record." (p. 387). Again applicants' allegations are contradicted by the record. The Court's docket shows that at some stage of the proceedings, date unknown, the case was continued till August 18, 1887, and the record shows that on that date Mr. Bryan appeared before the Court and filed a motion requesting that no hearsay testimony be received as evidence in said case, and it is reasonable to presume that it was he who cross-examined the ten witnesses introduced by the Cherokee Nation on August 19, 20 and 23, 1887. This presumption

is strengthened by the fact that subsequent to the introduction of these witnesses and prior to the Court's decision, the attorney for applicants filed briefs and arguments in which he dismissed fully all proceedings had to date in the case.

An examination of the brief and argument filed by Mr. Bryan indicates that he considered the case closed and ready for a decision. This theory is also strengthened by the fact that under date of September 28, 1887, in a letter (Mr. Bryan's handwriting) signed "Nannah Whippin for herself and children, J. N. Bryan, Attorney for Whippin," the Commission was requested to advise the applicants whether or not a decision had been rendered in their case, and if so, was it favorable or unfavorable.

In view of the record of proceedings had before the Adair Court in the Whippin case it is believed that the Court obtained jurisdiction of the parties thereto and retained the same until its decision was rendered on August 29, 1887, and that said decision was rendered after both sides had closed their case. It is not considered that the validity of said decision is affected by the fact that the parties were not present in Court when it was rendered.

With reference to the Duncan report, two objections can be made, to-wit:-

first: It is not in harmony with the facts, in this, namely, it wholly misrepresents the proceedings had before the Adair Court; and

second: Mr. Duncan had no authority to determine or pass upon the matters he presumed to adjudicate and report to the Department from Vinita, on July 26, 1892, and the Assistant Attorney General so ruled in his opinion rendered on July 16, 1894, in the case of John O. Cobb et al. v the Cherokee Nation (p. 257).

Mr. Duncan in his report says that the Adair Court had no regular terms. That said Court had regular terms attention is invited to Section 8 of the Act creating it (p. 267), and to the report of J. T. Adair, chairman, under date of November 14, 1887, (p. 342). He further says in his report that the applicants were not represented when the case was tried. That this is clearly error see record of proceedings had before said Court supra.

Without setting out in full or discussing the evidence introduced before the Adair Court in the Whippin case it is considered, after a careful examination of the same, that it was sufficient to warrant the decision rendered, and under the ruling of the Department in the case of Harry Still, supra., and Richard B. Coleman et al. (I.T.D. 12438-04 and 4220-06), said decision should be affirmed by this office. It is not considered that the proceedings had before the Commission to the five Civilized Tribes on May 25, 1905, are sufficient to impeach the testimony of certain witnesses appearing before the Adair Court in 1887, or to affect the decision rendered by that Court in the

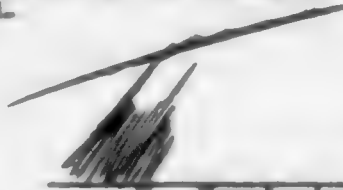
Flippin case.

It is further shown that the applicant, Hannah Flippin died prior to September 1, 1902.

VIEWING OF FACT AND CONCLUSION: It is considered that the evidence in this case fails to show that the said John Bryant, deceased, was possessed of Cherokee blood, or ever was a citizen of the old Cherokee Nation, or that the applicants herein possess any rights to enrollment as citizens by blood of the Cherokee Nation other than as his descendants, hence the applications for their enrollment as such citizens come within the rulings of the Department in the cases of Eliza Bryant et al. (I. T. D. 544-04), William Barber (I. T. D. 1488-04), Minnie Duncan et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Jane Lacey et al. (I. T. D. 6410, 12688-04), Florence Bratcher (I. T. D. 12892-04) Nancy Ross (I. T. D. 6056-04) and Frankie Grimmett (I. T. D. 17902-1906).

And that the evidence shows that on September 26, 1864, Hannah Flippin and her children were admitted to citizenship in the Cherokee Nation by the duly constituted authorities thereof; that in 1875 certain of them were duly enrolled as such citizens; and that on August 29, 1867, they were legally deprived of their Cherokee citizenship and have not since acquired citizenship in said Nation. *Hoff v. Dursey*, 42 L. Ed. 442.

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., 486), Flora, Lucy, Sam Goods and Georgia McGlasson, Tennessee Vicklin, Agnes Dorsey, Samuel, Eugene, Vary and Leo Vary Vicklin, Vary Jane, Ocheechee or Baby and Charlie Skinner, Lula, Wina, Frances, Nettie and Helen Freeman, Sophy, E. Harrison and Charlie Oliver Bethell, Jennie Ellis, Belle L., Len V., Andy Houston, Wilton C. Jr., and Corwin Blaine Bowers, Berna V. Russell, James V. and William T. Flippin, Nettie B., Callie, Mrie, Katie, Sary, Blanche and Clabe Dirickson, Alice T., Samuel Reed, Thomas Jones and Alice Way Tanner, James H. Flippin and Wand Cratchfield, Gladys Russell, Jenny McGlasson, Clarence P. and Dez Ellis, Theodore and Bertha Bricksten, Roy V., John P., Emma and Bertha Diamond, Emmett and Heber Skinner and James C. Flippin Jr., are not entitled by virtue of either claim considered in this decision to enrollment as citizens of the Cherokee Nation, and their applications for enrollment as such are accordingly denied. And that, under the provisions of Section Twenty-five of an Act of Congress approved July 1, 1902 (32 Stat., 716), the application for the enrollment of Hannah Flippin should be, and the same is, hereby dismissed.



Commissioner

Dated at Washington, Indian Territory,

this JAN 10 1907

IN THE DEPARTMENT OF THE INTERIOR.

-----000-----

In the matter of the application of HANNAH FLIPPIN,
ET AL., for enrollment as citizens by blood of the Cherokee Na-
tion.

-----000-----

THREE POINTS FOR APPELLANTS.

The decision of the Commissioner to the Five Civilized Tribes dated January 20, 1907, rejects all of the applicants, is 20 pages in length, but may be summed up as follows:

1. "That the evidence before the Spears Court was not sufficient to sustain a decree admitting Hannah Flippin and her children to Cherokee citizenship is obvious."

2. That there was no discontinuance in the trial before the Adair Commission.

3. That the testimony before the Adair Commission was sufficient to establish fraud and bribery.

The last point has been heretofore fully briefed by us and the second point in part. The first point is new.

The evidence that Hannah Flippin is a Cherokee by blood satisfied the Spears Court and the Cherokee Nation at that time -- 1884. During the 22 years that have elapsed no witness has uttered a syllable contradicting that in the slightest degree. If, as the Commissioner asserts in his opinion, the depositions of Jack Bryant and G. F. Robinson, taken on July 15, 1887, were "filed by the Cherokee Nation," then these two witnesses for the Nation testify that the ancestor of Hannah Flippin was a Cherokee by blood.

Undertaking, as the Commissioner professes, to be analyzing this testimony "as the court reviewing the case as upon a petition for a new trial," if the case were not so serious, the conclusions would be amusing. Can it be imagined for instance, that a court would grant a new trial after the expiration of 22 years, during which many witnesses have died, and particularly where the essential facts (of ancestry) extend back, as shown by

the evidence, for more than 100 years; or for admitting ex parte affidavits, where no objection was made at the time of their admission and where both sides to the controversy did the same thing.

Another reason assigned by the Commissioner for holding that Hannah Flippin had no Cherokee blood is that John Bryant's name has not been found by the Commissioner to be upon either the roll of 1836, 1848, 1851, or 1852. On page 12 of the decision it is asserted that in 1856 "the United States Government made a roll enumerating all such Indians". It is hardly necessary to say to persons with the experience of those who will pass upon this case that no roll ever enumerated all such Indians. It is humanly impossible to make any such roll.

May it not also be true that the Commissioner's office overlooked the name of John Bryant on some of these rolls? In this very case, for instance, the Commission found that some of the applicants were enrolled in the case of Jennie Ellis, Belle Z. Bowers, Mary J. Skinner, Ochsabee Skinner and Flora McIlwain. The writer went through their records, found all these names on the 1856 roll, and later the Commission so certified. In the James F. Flippin case, he is stated to be on the 1856 roll alone, whereas he was also on the 1856 roll. In the James F. Flippin case whereas the record shows that he is and also that he is not enrolled. In the William F. Flippin case the Commission did not look for the father, though William F. was too young to be on the 1856 roll, and the record pointed out that his father should have been enrolled. In the Hannah Flippin case the Commission found her to be neither admitted nor enrolled, whereas the facts are she was both admitted and enrolled.

In the light of the above, therefore, can the Department find that Hannah Flippin has no Cherokee blood, because the Commissioner is unable to find her ancestor's name upon certain rolls, when a veritable "cloud of witnesses" say that she had Cherokee blood and when not one of them is contradicted even by inference? It must also be remembered that enrollment of an

ancestor was not essential. Cherokee blood alone was sufficient.

The second point of the Commissioner's decision is that there was no discontinuance of the cause in the Adair Court. Our first brief states everything that is in the record and states it correctly. On pages 16 and 17 of the Commissioner's decision are various things purporting to be in the record not mentioned in my brief. None of these were offered in evidence in my presence, nor have I ever seen a copy of them, had opportunity to inspect or object to them, nor have they in any way whatsoever been proved. The matters I here refer to are as follows:

"Depositions of Zach Bryant and G. W. Robinson taken on July 15, 1887, at Trenton, Gibson County, Tennessee, filed by the Cherokee Nation.

August 16, 1887, Motion filed by J. M. Bryant praying that the Court receive no hearsay testimony in the Flippin case. Overruled.

August 20, 1887, Affidavit as to good character of Eli Spears filed by the defendants.

August 22, 1887, Request filed by J. M. Bryant asking for certified copies of all proceedings, etc.

Testimony of John B. Harvige taken by Cherokee Nation.

Brief filed by attorney for applicants.

August 25, 1887, second brief filed by attorney for applicants.

Thereafter the Commission received letter from Hannah Flippin and her children (written by her attorney) dated September 26, 1887."

Our Mr. White made two trips to the Cherokee Nation to be actually present at the taking of this testimony. At no other time was either he or any applicant notified that testimony would be taken. The testimony was taken and such exhibits as were to be made a part of the record were formally offered and the case was announced closed May 25, 1906. We do not know what these alleged exhibits contain. No copies of them have ever been furnished us, nor was any notice ever given that any of them had been or would be offered; the handwriting of some of them has been proved, nor their custody shown, and the writer does not believe that there is any such record and knows positively that until this case was closed nothing of the sort was ever offered in evidence.

The attorneys for the Nation in this case and the Com-

Commissioner have both fallen into the error that the Cherokee Nation offered the testimony of ten witnesses in the case before the Admir Court, all of whom were cross-examined by the applicant, for the Commissioner says:

"August 18, 20 and 23, 1887, testimony of ten witnesses taken in behalf of the Cherokee Nation, all of whom were cross-examined."

Now these were the depositions of the witnesses introduced by applicant before the Spears Court in 1884. They were cross-examined it is true, but by the attorney for the Nation, and it was upon this testimony that the applicants were admitted to citizenship in 1884. Putting this in the record in this case as an effort to show that Hannah Flippin actually before the Admir Court offered witnesses in her own behalf incorrectly states the record, it is unfair and is a piece of inexcusable carelessness, as it was carefully pointed out in our reply brief just west this testimony in. It will be found on page 15, exhibit 4 of the record.

Respectfully submitted,

Nancy S. Marshall

Wm. L. White

Attorneys for Applicants.

OFFICE GEN. ON CITIZENSHIP,
TALLEGUAH, I.T., NOV. 24, 1887.

HON. B. V. BUNTING,
Principal Chief, C. N.
Dear Sir:-

The act of the National Council, entitled an act providing for the appointment of a Commission to try and determine applications for Cherokee citizenship, approved Dec. 8th, 1886, requires that the Commission, appointed under its provisions shall, through the office of the Principal Chief and not later than the second Monday in November following the sitting of the Commission, report the result of their proceedings, for the information of the National Council.

The Commission on Citizenship, would therefore respectfully submit, through your office for the information of National Council, the following, with the documents herewith transmitted, as their report of the result of their proceedings under the provisions of the act above referred to.

The Commission, on the 8th day of January, 1887, met at Talleguah, C. N., and proceeded to organize, under the requirements of law, for the transaction of the business submitted to it.

There were present, John T. Blair, Chairman of the Commission, D. V. Lips and John H. Gunter, Commissioners, and E. F. Wily, Attorney on part of the Nation. G. C. Lips was appointed Clerk; V. T. Karnaugh Sheriff, and George W. Reese as Interpreter of the Commission. Since our organization it became our sad duty to chronicle the death of our Interpreter, George W. Reese, who died on the 8th day of September, 1887. Since that time the Commission has appointed Wilson Sanders as Interpreter to fill the vacancy caused by the death of George W. Reese.

The rules, necessary for the orderly and systematic transaction of the business of the Commission, were discussed and adopted; and due notice, by publication in the CHEROKEE ADVOCATE was given the applicants, of the time and place of the sitting of the Commission.

In the investigation of many of the cases, which have been tried and decided by the Commission, much time has necessarily been consumed, in taking testimony on the part of the Nation; especially in the "Hannah Flippen" and "Prather" cases. Believing it to be a duty imposed upon the Commission, we have endeavored, without fear or favor, to accord to applicants for citizenship, every opportunity and indulgence necessary to a full and impartial investigation of their claims, under the law organizing the Commission.

In many cases it became necessary, when witnesses were unable to attend the sitting of the Commission on account of old age, sickness, etc., to send the Attorney, on behalf of the Nation, to remote parts of the country to take the testimony of such witnesses, thus unavoidably consuming much time.

Some idea of the magnitude and importance of the work imposed upon the Commission may be had when it is remembered, that the cases to be adjudicated have been accumulating from year to year upon the hands of the National Council and the former Commissions until they had reached a grand total of about twenty one hundred cases which estimate at the usual average, would swell the number of the actual applicants to not less than six thousand persons; a number about equal to one fourth of the entire population of the whole Cherokee Nation. Of this number, 880 (persons) applications have been decided in their favor, most of whom were formerly residents of this Nation, and in 84 cases judgment has been rendered adversely to applicants.

In the case of Hannah Flippen et. al., one of the cases referred to in the law (organizing the Commission) as having obtained citizenship through fraud and bribery, were summoned as directed by law to appear and answer to the charge as set forth in the act of Council. The Commission after a prolonged and impartial investigation of the case decided that the said Hannah Flippen (et. al.) procured

8

their citizenship through fraud and bribery and the decree of the Commission admitting them was null and void, and the parties were reported to the Principal Chief as intruders. This family alone includes a total of about three hundred persons. In the case of R. A. Prather and Family, another case, (referred to in the law above quoted) has been thoroughly investigated, and the evidence is now before the Commission for examination and decision thereon.

We would respectfully suggest that owing to the great amount of labor required of the Clerk, that the office of Interpreter for the Commission be abolished so far as the appointment of a regular Interpreter and the Commission be authorized to employ another or an assistant clerk instead, and if the services of an Interpreter be required, authorize the Commission to employ one for the time being, to be paid out of the contingent fund appropriated for the use of the Commission. There is actually very little necessity for an Interpreter, as the majority of the witnesses brought before the Commission are generally English speaking.

In concluding the report, we would respectfully call your attention to the fact that the Commission has not been furnished with Roll of Western Cherokees including Old Settler Rolls provided for at a call session of the National Council in May last - want of the Old Settler Rolls has retarded the progress of the Commission and has been a source of annoyance and inconvenience to that class of claimants, many of whom are entitled to re-admission.

Respectfully submitted,

J. T. Adair,
Chairman Commission,

Attest, Henry Eiffert,
Ass't. Clerk Commission.

I hereby certify that the foregoing is a true and correct copy of the report made on November 14, 1887, to Honorable D. W. Bushyhead, Principal Chief of the Cherokee Nation, by J. T. Adair, Chairman of the Cherokee Citizenship Commission, and that the original report is in the custody of this office, and it is ordered that the same be filed with and made a part of the record in the case of Hannah Flippin, et al.

MAY 8 - 1906

(Signed)

Wm. B. Beall
Acting Commissioner

JH

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

In the matter of the application for enrollment as
citizens of the Cherokee Nation, of Hannah Flippin et al.

-1-

O R D E R .

It is ordered that certified copies of the record of proceedings had by the Cherokee Commission on Citizenship in the matter of the applications for admission to citizenship in the Cherokee Nation by Giles B. Bellow et al., Governor Bellow, et al., Levi J. Bellow et al., N. E. Bellow, Zack Bryant, George H. Bryant et al., David Mayd Bryant et al., Giles H. Bryant et al., Charles Bryant, W. H. Bryant et al., William C. Bryant, Brinkley Bryant, Frank Cannon, Tennessee Carter et al., Mary E. Baird et al., J. W. Colby et al., Sestia Ann Beaty et al., Z. A. Newhouse, and A. I. Buchanan et al., be filed with and made a part of the record in the matter of the application for the enrollment of Hannah Flippin et al., as citizens of the Cherokee Nation.


Acting Commissioner.

Dated at Muskogee, Indian Territory,

May 31 - 1906

This _____

Allen D. Jones

OFFICE COMMISSION ON CITIZENSHIP,
FALLS CHURCH, C.T. OCT 9 1957.

DOCKET NO. YEARS AGE SEX POSTOFFICE ATTORNEY

1 Allen D. Jones 68 Male Alwood Tenn.

2 Thomas J. Hill 20 Male

914 3 Allen D. Jones Jr 14 Male

APPLICANT FOR G. E. Taylor

CITIZENSHIP CERTIFICATE

CITIZENSHIP BOLLS 1958

ADDRESS

John Bryant

CITIZENSHIP VARIOS

V - B

Requested March 15th 1957

ADDRESS

Improved in details on page 481.

Book #1 in the Aaron Bellows Case

Office Commission on Citizenship

Thalleggen I. E., March 1958 1958

D. H. Williams

Allen GJR Com.

Will D. Ross

Chairman Com.

John E. Gentry, Com.

COPY

480

Giles D. Holow

OFFICE COMMISSION ON CITIZENSHIP,
TANLEQUAN, C.N. OCT 5 1907.

DOCKET NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
1	Giles D. Holow	62	Male	Alwood Tenn.	
2	Francis B. How	18	Female		
V14 3	Giles D. How Jr	17	Male		

APPLICANT FOR C. H. Taylor

CITIZENSHIP

CENSUS ROLL 1895

AGENCY

John Bryant

CHEROKEE NATION

Expected Mrs. 1/17/08

Adverse

Referred in decision on page 411.

Book 2, in the Aaron Holow Case

Office Commission on Citizenship

Tahlequah, T. T., March 18th 1908

D. H. Williams

Asst. Clk. Com.

Will P. Ross

Chairman Com.

John E. Carter, Com.

COPY

Aaron Bellow

OFFICE COMMISSIONER OF CITIZENSHIP,
 BURLINGAME, CALIF. OCT 1939

DOCKET NO. NAMES AGE SEX POSTOFFICE ATTORNEY

1	Aaron Bellow	67	Male	Visalia Ind Tor	
2	Daniel Bellow	45	Female		
3	Elizabeth Bellow	47	"		
4	John Bellow	40	Male		
5	Polly Ann Bellow	37	Female		
6	Katherine Bellow	34	"		
7	Levi Bellow	22	Male		
8	Tennessee Bellow	20	Female		

Rejected *Married* *1939*

APPLICANT FOR
 L.S. Bell

COMMISSIONER OF CITIZENSHIP,
 CHURCHES BAPTIST, IND. TIA.

BURLINGAME, March 15 - 1939

Pamlyns, (Ellen D. Bellow) aged 63 years.

" (Francis B. Bellow) " 26 " daughter,

" (Ellen B. Bellow) " 17 " male

" Governor Bellow " 54 "

" E. H. Bellow " 15 " male

" Levi J. Bellow " 34 "

" Raymond Bellow " 7 " male

COPY

Aaron Bellow

OFFICE COMMISSION ON CITIZENSHIP,

TANLEQUAN, C.W. OCT 1889

ROCKET NO	NAMES	AGE	SEX	POSTOFFICE	ATTORNEY
1	Aaron Bellow	67	Male	Vanita Ind Ter	
2	Samuel Bellow	48	Female		
716	3 Elizabeth Bellow	47	"		
4	John Bellow	40	Male		
5	Folly Ann Bellow	37	Female		
6	Novascotia Bellow	34	"		L.B. Bell
7	Levi Bellow	21	Male		APPLICANT FOR CHEROKKE CITIZENSHIP.
8	Tennessee Bellow	28	Female		

COMMISSION ON CITIZENSHIP,
CHEROKKE NATION, IND. TER.

TANLEQUAN, March 18 - 1889

Families	(Giles D. Bellow	aged 67 years,
"	(Francis B. Bellow	" 28 " daughter,
"	(Giles D. Bellow	" 17 " male
"	Governor Bellow	" 54 "
"	H. E. Bellow	" 18 " male
"	Levi J. Bellow	" 24 "
"	Edmond Bellow	" 7 " male
"	Joseph B. Bellow	" 5 " "
"	W. E. Bellow	" 25 " "
"	Jack Bryant	" 49 "
"	George W. Bryant	" 32 "
"	John Bryant	" 20 " Male
"	Jim Bryant	" 14 " "
"	Only Bryant	" 14 " Female
"	Willie Bryant	" 10 " "
"	David Boyd Bryant	" 13 " Male
"	Andery Bryant	" 12 " Female
"	Julian Bryant	" 10 " Male

COPY

•	Giles R. Bryant	•	01	•	•
•	Wesley L. Bryant	•	19	•	•
•	Mary A. Bryant	•	17	•	Female
•	James H. Bryant	•	15	•	Male
•	Sarah C. Bryant	•	12	•	•
•	Dorit F. Bryant	•	10	•	•

1

COMMISSION ON CITIZENSHIP.
CHEROKEE NATION, IND. TER.

TAULLEQUAH, March 18 - 1889.

Family	Charles Bryant	aged 26 years male
•	V. R. Bryant	•
•	Lillian Bryant	• 16 • Female
•	John Bryant	• 14 • Male
•	Wesley Bryant	• 12 • Female
•	Eugene Bryant	• 10 • Male
•	Stella Bryant	• 8 • Female
•	Agnes Bryant	• 6 • •
•	Edith Bryant	• 4 • •
•	William C. Bryant	• 21 • Male
•	Erskine Bryant	• 23 • •
•	Elizabeth Cannon	• 21 • Female
•	Tennessee Carter	• 20 • •
•	Sallie Carter	• 6 • •
•	Vivian Lee Carter	• 4 • •
•	Mary E. Baird	• 41 • •
•	V. H. Baird	• 19 • Male
•	M. D. L. Baird	• 17 • •
•	G. H. Baird	• 14 • •
•	G. A. Baird	• 12 • Female
•	G. V. Coley	• 22 • •
•	Wend Coley	• 14 • •
•	Robert Coley	• 12 • Male
•	Eve Coley	• 10 • Female

OFFICE

3

COMMISSION OF CITIZENSHIP,
 CHARLOTTE TATION, IVD. IND.

RAVINGHAM March 15 - 1888

Family's	Bootes Ann Bootey	aged 27 years
"	Helen Earl Bootey	" 3 " Male
"	I. E. Neuhouse	aged 27 years Male
"	A. E. Neuhouse	aged 24 years Female
"	A. K. Neuhouse	" 6 " Male
"	Thomas Neuhouse	" 3 " "

Will P. Reed,

Chairman of Commission

John J. Cantor, Clerk.

Office Commission

on Citizenship

Tableau I. T.

March 15 - 1888.

D. S. Williams

Clerk Com'.

V - 8

CHARLOTTE TATION

CHEROKEE HILLS

INDIAN

John Bryant

Now on this the 15th day of March 1888, comes the above case to wit, Aaron Bellow for himself and children to wit: Susan Bellow aged 43 years, Elizabeth Bellow aged 47 years, John Bellow aged 49 years, Polly Ann Bellow aged 27 years, Margaretta Bellow, aged 24 years, Levi Bellow, aged 21 years, Tennessee Bellow, aged 20 years, for a final hearing on having made application for readmission to Citizenship in the Cherokee Nation pursuant to the provisions of an act of the National Council approved December 28th 1884, after careful examination of all the testimony submitted in this case in behalf of the plaintiff and of the defendant, the Commission have reached the conclusion that it has not been established that John Bryant the grand father of the applicant and deponent from whom he claims Cherokee blood and a right to admission to Citizenship as a native Cherokee, was of Cherokee blood. The testimony shows that he was not of any line known to the witnesses to have resided within the limits of the Cherokee Nation and that his parentage and relationship were unknown. This alleged Cherokee descent is based upon common report except in the case of one or two witnesses who give no reason for the statement that John Bryant was a Cherokee Indian except that they knew him to be part Cherokee as they knew him to be part white. There is no identification of John Bryant as a Cherokee and none of Lucy Bryant or that she was either his Mother or Sister. It is also worthy of note that although John Bryant is shown

COPY

4

to have resided within the state of South Carolina when he first became known as a stragling young man, and afterwards in Alabama and finally for many years in Gibson County Tennessee near the Cherokee country that he does not appear to have sought residence at any time within the Cherokee Nation or to have availed himself of any of the privileges and benefits to which if a Cherokee he was entitled before and at the time of the removal of the Cherokees under the Treaties of 1817, 1819, and 1838, and such is the fact in regard to his descendants also until of recent date. Neither the names of John Bryant, Zachariah Bryant nor of the claimant Aaron Bellow, nor of any of their relatives or descendants so far as shown are found on the census or pay rolls of 1835 or 1861 or 1862 nor of other date. In accordance therefore with these facts and with the provisions of the acts in force defining the authority of this Commission they decide that Aaron Bellow et al, named above, are not of Cherokee blood and are not entitled to the rights and privileges of Citizenship in the Cherokee Nation which belong to native Cherokees, but are intruders and will be reported as such to the Principal Chief. This decision includes the following named applicants for citizenship who claim Cherokee blood by descent from the before named John Bryant and whose applications were submitted by the consent of parties for final hearing and determination by the Commission on Citizenship along with the case of Aaron Bellow et al, herein decided to wit,

(as above)

Will P. Ross,
Chairman.

J. H. Genter, Secy.

Attest. D. S. Williams,
Asst Clk Com.

COPY

Bryant Bryant

OFFICE COMMISSION OF CITIZENSHIP,
TALLAHASSEE, FLA., OCT 5 1907.

BOOK NO. 1108 FOR REC. POSTOFFICE TALLAHASSEE

1 Bryant Bryant SS Vale Highland Tenn

726

APPLICANT FOR C. F. Taylor.

ROBERTS CITIZENSHIP

CHASDS BELLS

ANDERSON

John Bryant

CHEROKEE VARIOR

7 - 8

*Rejected
March 15 - 1907*

AVERSES

Referred in decision on page 451

Book B. in the Aaron Bellor case

rendered March 18 - 1907.

WILL F. BOSS

Chairman Com.

John E. Gunter Com.

COPY

Brinkley Bryant

OFFICE COMMISSION ON CITIZENSHIP,

TAHLEQUAH, C.N., OCT 5 1887.

BOOK NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
---------	------	-----	-----	------------	----------

1	Brinkley Bryant	25	Male	Hiland Tenn	
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716

APPLICANT FOR

C. H. Taylor.

MICHROKKE CITIZENSHIP

CENSUS ROLLS

ANCESTOR

John Bryant

V - 2

CHEROKEE NATION

*Rejected
March 18-1889*

Adverse

Embraced in decision on page 411

Book B, in the Aaron Beller case

rendered March 18 - 1889.

Will F. Ross

Chairman Com.

John K. Gunter Com.

Office Commission on Citizenship

Tahlequah I. T. March 18 - 1889

D. S. Williams

Clk Com.

428

COPY

William C. Bryant

OFFICE COMMISSIONER OF CITIZENSHIP

WASHINGTON, D. C. OCT 8 1907.

DOCKET NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
-----------	------	-----	-----	------------	----------

1	WILLIAM C. BRYANT II	Wale	Charles L. T.		
---	----------------------	------	---------------	--	--

719

APPLICANT FOR

CITIZENSHIP O. H. Taylor

OSWEGO WILLS 2828

ARONSON

John Bryant

CITIZENSHIP DIVISION

4 - 8

*Corrected
March 17 1908*

ATTORNEY

Embroided in decision on page 421

Book B. In the Aaron Heller case

Forwarded March 15 - 1908.

WILLIAMS P. BOES

Chairman Com.

John H. Quinter Com.

COPY

William C. Bryant

OFFICE COMMISSION ON CITIZENSHIP

WASHINGTON, D.C. OCT 5 1899.

DOCKET NO	NAME	AGE	SEX	POSTOFFICE	CITY
-----------	------	-----	-----	------------	------

1	William C. Bryant	31	Male	Charles	L. T.
---	-------------------	----	------	---------	-------

717

APPLICANT FOR

CITIZENSHIP C. E. Taylor

CHERRY HILLS ILL

V - 2

CITIZENSHIP

RECORDED

John Bryant

*Copy filed
March 10 - 1900*

Adverse

Referred in decision on page 42
Book B, in the Aaron Baker case
rendered March 12 - 1899.

Will F. Rice

Chairman Com.

John H. Carter Com.

Office Commission)
 on Citizenship)
 Taklogah I. T.)
 March 12 - 1899)

D. G. Williams

Clk Com.

John K. Bryant

OFFICE COMMISSION ON CITIZENSHIP,

FALLS CHURCH, G.W., OCT 8 1887.

ROSTER NO	NAME	AGE	SEX	PROFESSION	ATTORNEY
1	Allen K. Bryant	61	Male	Millard Farm	
2	Wesley G. Bryant	20	Male		
3	Mary A. Bryant	19	Female		
4	James H. Bryant	18	Male		
5	Gertrude C. Bryant	18	Male		
6	David R. Bryant	10			

APPLICANT FOR C. H. TAYLOR

CITIZENSHIP

CITIZEN ROLLS 1888

APPLICANT

John Bryant

Rejected
Mar

CITIZENSHIP

Adverts

Imposed in decision on page 431

Book B. in the Aaron Bellow case

Dated March 18 - 1889

Will P. Ross

Chairman Com.

John K. Quinter Com.

Office Commission on Citizenship

Giles H. Bryant

OFFICE COMMISSION ON CITIZENSHIP,

TABLEQUAH, C.W. OCT 5 1887.

BOOKET NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
1	Giles H. Bryant	62	Male	Wilford Tenn	
2	Masses C. Bryant	19	Male		
3	Mary A. Bryant	17	Female		
4	James H. Bryant	18	Male		
5	Gerahan C. Bryant	18	Male		APPLICANT FOR C. H. Taylor
6	David F. Bryant	10			CHEROKEE CITIZENSHIP
7 - 8				CENSUS ROLLS 1888	
	CHEROKEE NATION			ANCESTOR	
				John Bryant	

Rejected
March 18 1888

Adverse

Embraced in decision on page 431

Book B. in the Aaron Bellow case

Rendered March 18 - 1888

Will F. Ross

Chairman Com.

John E. Gunter Com.

Office Commission on Citizenship

Tablequah I. T. March 18 - 1888

E. S. Williams

Clk Com

George V. Bryant

OFFICE COMMISSION ON CITIZENSHIP

WASHINGTON, D. C., OCT 8 1954.

DECISION NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
1	George V. Bryant	33	Male	Wilmington	James
2	John Bryant	30	"		
3	James Bryant	28	"		
4	Only Bryant	14	Female		
5	Willie Bryant	10	Male		

1 George V. Bryant 33 Male Wilmington James

2 John Bryant 30 "

3 James Bryant 28 "

4 Only Bryant 14 Female

5 Willie Bryant 10 Male

APPLICANT FOR

C. K. Taylor

CHEROKEE NATIVITY

CENSUS ROLLS 1935

ANCHSTON

John Bryant

CHEROKEE NATIVITY

7-3

*Rejected
March 15-1954*Myers

Subposed in decision on page 431

Book E, in the Aaron Heller case

WILL F. BARR,

Chairman Com.

John E. Quarter Com.

Office Commission on Citizenship

George V. Bryant.

OFFICE COMMISSION ON CITIZENSHIP
TALLAHUEE, C.F., OCT 8 1907.

ROCKET NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
1	George V. Bryant	38	Male	Wills and Team	
2	John Bryant	29	"		
3	James Bryant	18	"		
4	Galy Bryant	14	Female		
5	Willie Bryant	13	Male		

APPLICANT FOR C. H. Taylor
GEORGIA CITIZENSHIP

CENSUS ROLL 1835

ANCESTOR

John Bryant

V - S
GEORGIA NATION

*Rejected
March 15 - 1911*

Adverse

Referred in decision on page 451

Book 1, in the Aaron Bellows case

Will F. Ross,

Chairman Com.

John K. Guster Com.

Office Commission on Citizenship

Tallahuee I. T. March 18 - 1889

D. S. Williams

Clerk Com.

Charles Bryant

OFFICE COMMISSIONER OF AGRICULTURE

WASHINGTON, D. C., OCT 6 1937.

JOHN BRYANT THE THE PENNSYLVANIA ATTORNEY

1. Chartered by you so said Edward Thom

180

*Rejected
March*

APPLICANT FOR E. F. Taylor

DIRECTOR OF AGRICULTURE

CHESTER BELLS 1938

CHESTER BRYANT

AGRICULTURE

John Bryant

Adverse

Referred in decision on page 431

Foot 2. In the Aaron Heller case

Rendered March 15 - 1937.

WILL P. HOES

Chairman Com.

John B. Bryant Com.

Charles Bryant.

OFFICE COMMISSION ON CITIZENSHIP

TABLEGUSH, C.H., OCT 9 1889.

DUCKET NO	NAME	AGE	SEX	PROFESSION	RESIDENCE
-----------	------	-----	-----	------------	-----------

1	Charles Bryant	26	Male	William Farm	
---	----------------	----	------	--------------	--

720

APPLICANT FOR **G. H. Taylor**
 CHEROKEE CITIZENSHIP
 CENSUS ROLL 1880

V - 8

CHEROKEE NATION

ANCESTOR

John Bryant

Adverse

Embodied in decision on page 421
 Book B, in the Aaron Bellow case
 Rendered March 18 - 1889.

Will P. Ross

Chairman Com.

John E. Venter Com.

Office Commission
 on Citizenship
 Tablegush I. T.
 March 18 - 1889.

D. S. Williams

Clk Com.

JERRY O. BAIRD

OFFICE COMMISSION ON CITIZENSHIP,

WASHINGTON, D.C., OCT 3 1959.

NOCKET NO	NAME	AGE	SEX	POSTOFFICE	ATTORNEY
-----------	------	-----	-----	------------	----------

1	HARRY O. BAIRD	41	Female	Chelsea I. T.	
---	----------------	----	--------	---------------	--

2	V. K. BAIRD	19	Male		
---	-------------	----	------	--	--

3	J.H.D.L. BAIRD	27			
---	----------------	----	--	--	--

4	G. E. BAIRD	24			
---	-------------	----	--	--	--

5	J. A. BAIRD	10	Female		
---	-------------	----	--------	--	--

APPLICANT FOR C. H. TAYLOR

CITIZENSHIP CITIZENSHIP

CHRYSTUS WOLLS 1946

ARCHERSON

John Bryant

CITIZENSHIP NATION

7-8

Adverse

Reversed in decision on page 431

Doct 2. In the Aaron Bailler case

Rendered March 24 - 1959.

WILLI D. BASS,

Chadrasan Coon

*Rejected
March 15 1959*

Mary C. Baird

OFFICE COMMISSION ON CITIZENSHIP

WASHINGTON, D.C. MAY 2 1909

BOOKS IN	NAMES	AGE	SEX	DOMICILE	ATTORNEY
1	Mary C. Baird	42	Female	Chelsea I. N.	
2	V. H. Baird	19	Male		
721	J.F.D.L. Baird	17	"		
4	G. H. Baird	14	"		
5	J. A. Baird	16	Female		
				APPLICANT FOR	C. H. Taylor
CITIZENSHIP					
CITIZEN RULES 1898					
ANSWER					
John Bryant					

V - 8

COMMISSIONER NATION

*Copy retained
March 15 - 1909*

Advised

Referred in discussion on page 432
Book 2, in the Aaron Heller case
Reviewed March 15 - 1909.

Will P. Howe,

Chairman Com.

John H. Senter Com.

Office Commission

on Citizenship

Washington I. T.

March 15 - 1909

B. S. Williams

Clk Com.

David Boyd Bryant

SERVICE COMMISSION ON CITIZENSHIP,

WASHINGTON, D.C., OCT 9 1909.

DOCKET NO	NAMES	AGE	SEX	POSTOFFICE	ATTORNEY
-----------	-------	-----	-----	------------	----------

1	David Boyd Bryant	28	Male	Overton Ind Tenn.	
---	-------------------	----	------	-------------------	--

2	Andrew Bryant	14	Male		
---	---------------	----	------	--	--

3	Jesse Bryant	10	Male		
---	--------------	----	------	--	--

APPLICANT FOR C. I. Taylor

CHICKEN CITIZENSHIP

CHARLES POLLEN 1900

V - 8

CHICKEN RATION

AMSTERDAM
John Bryant

ATTORNS

Indorsed in registration on page 431

Book B, in the Aaron Bellow case

Rendered March 10 - 1909.

WILL P. BASS,

Chairman Com.

John E. Carter, Com.

David Boyd Bryant

OFFICE COMMISSIONER OF CITIZENSHIP,
WASHINGTON, D.C. MAY 15 1911.

BOOKED BY	NAME	AGE	SEX	RESIDENCE	STATUS
	1 David Boyd Bryant	28	Male	Washington, D.C.	Boy
	2 Andrew Bryant	18	Female		
712	3 Julian Bryant	18	Male		

APPLICANT FOR C. H. Taylor

OFFICE COMMISSIONER

WASHINGTON D.C.

*Rejected
March 18/11*

V-8
OFFICE COMMISSIONER

APPLICANT
John Bryant

NOTICE

Entered in decision on page 42,
Book 1, in the Acres Index case
Registered March 18 - 1911.

Will P. Ross,
Assistant Com.
John E. Warner, Com.

Office Commission
on Citizenship
Tablequah L. T.
March 18 - 1911

E. S. Williams
Clerk Com.

439

COPY

Jack Bryant

OFFICE COMMISSION ON CITIZENSHIP,
BUREAU, C.I. OCT 5 1967.

DOCKET NO

ISSUES

AGE

SEX

POSTOFFICE

APPROVED

1 Jack Bryant

69 Male White and Term

723

APPLICANT FOR

C. H. Taylor

CITIZENSHIP

4 - 3

CITIZENSHIP

GENSUS ROLLS 1936

ADDRESS

John Bryant

Adverse

Entered in decision on page 431

Book B. in the Aaron Bellow case

Dated March 16 - 1939.

Will P. Ross,
Chairman Com.

John E. Gunter, Com.

Office Commission

on Citizenship

Zach Bryant.

OFFICE COMMISSION ON CITIZENSHIP,
TALIEQUAH, C.R., OCT 5 1897.

ROCKET NO NAMES AGE SEX POSTOFFICE ATTORNEY

1 Zach Bryant 29 Male Millard Town

723

APPLICANT FOR S. E. Taylor

AMERICAN CITIZENSHIP

7-1
CITIZENSHIP NOTICE

GENCOX HILLS 1836

ANCESTOR

John Bryant

*Rejected
March 18-1898*

ADVERSES

Referred in Application on page 431

Book B. in the Area Follow case

Rendered March 18 - 1898.

Will P. Hoge,
Chairman Com.

John B. Guster, Com.

Office Commission
on Citizenship
Taliequah I. T.
March 18 - 1898.

D. S. Williams

Clk Com^d

COPY

Governor DeLoe

OFFICE COMMISSIONER OF CITIZENSHIP,

ZACHRYBUE, C.W. OCT 4 1897.

LOCITY NO NAME AGE SEX POSTOFFICE ATTORNEY

1 Governor DeLoe 34 Male Chasds Ind Terr

2 W. C. DeLoe 12

724

APPLICANT FOR G. F. Taylor

CHEROKEE CITIZENSHIP

V - 8

CHEROKEE WARREN

CHEROKEE HILLS

ANDERSON

John Bryant

AVERSE

Entered in decision on page 441
Book B. in the Aaron DeLoe case.

WILL P. BOSS,
Chairman Com.

John N. Guntler, Com.

Office Commission on Citizenship

Governing Rules

OFFICE COMMISSION ON CITIZENSHIP,

WASHINGTON, D.C., OCT 3 1907.

SECTION NO	NAME	AGE	SEX	PROFESSION	ATTORNEY
------------	------	-----	-----	------------	----------

1	Governing Rules	24	Male	Chairman	Int Test
2	H. C. Hays	12			

734

APPLICANT FOR **G. E. Taylor**
CHINESE CITIZENSHIP

V-S
CHINESE NATIVE

*Requested
by Mrs. Ch. H. Taylor*

CHINESE NAME

ADDRESS

John Brown

Adverse

Referred in Schedule on page 42

Book 2, in the above office case.

Will P. Hays,
Chairman Com.

John H. Guster, Com.

Office Commission on Citizenship

Washington, D. C., March 10 - 1907

F. S. Williams

Sec. Com.

18

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

This is to certify that the above and foregoing is a full, true and correct copy of the record of proceedings of the Cherokee Commission on Citizenship in the matter of the applications for admission to citizenship in the Cherokee Nation of Giles D. Bellow, et al., as the same appears on pages 439 to 440 inclusive, of Booklet "B" of the records of said Commission.

(Signed)

Wm. Bixby
Acting Commissioner

Dated at Muskogee, Indian Territory,
this MAY 3 - 1906

Handwritten notes:
W. H. B. 1897
H. H. Rogers

REGISTER OF PERSONS WHO WISH RESERVATIONS UNDER TREATY
OF JULY 8TH, 1817, WITH THE CHEROKEE NATIONS.

DATE	NO. OF RESERVATION.	NAMES.	NO. IN FAMILY.	PLACE OF RESIDENCE.	REMARKS.
1818 MAY 20.	91	Briant, Lucy, A. Widow.	7	Old man-see	Entered proxy of H. H. Rogers.

I hereby certify that the foregoing is a true and correct copy of certain words and figures found on pages 62 and 63 of Register of Persons who wish Reservations under Treaty of July 8th, 1817, and that a copy of said Register is in the lawful custody of this office, and it is ordered that said copy be filed with and made a part of the record in the Consolidated Case of Hannah Flippen, et al.

MAY 8 - 1906

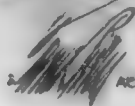
(Signed) Wm. H. Bell
Acting Commissioner.

Memo 405

B

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

2
FILED
SEP 29 1900



ACTING CHAIRMAN

~~A 198~~

DEPARTMENT OF THE INTERIOR,
Office of the Assistant Attorney-General.
WASHINGTON.

July 16, 1894.

John S. Cobb et al.,

v.

The Cherokee Nation.

Alleged Cherokee Citizenship.

The Secretary of the Interior:

Sir:

The claimants in this case are John S. Cobb, who married one Rebecca Haffett; S. E. Payne, who married Martha A. Haffett; and Dr. Moses Bell, who married Sarah Jane Haffett. These men claim right to citizenship by reason of intermarriage with women of Cherokee blood.

The three women named, Rebecca, Martha A., and Sarah Jane, were sisters, and claimed to be Cherokees by blood. They were admitted to citizenship by the Supreme Court of the Cherokee Nation in 1870 and 1871. Afterwards it was determined by the Adair Commission that the decree of the Supreme Court was obtained by fraud, and on December 7, 1877, the National Council passed an act declaring these parties and their families to be intruders, and directing their removal.

The parties entered what may be styled appeals to the Department from this action of the Cherokee authorities.

These several appeals have been submitted to me for examination and report as to the correctness of the findings of the Cherokee authorities, whereby these appellants were declared to be intruders in the Cherokee Nation.

Counsel for the Cherokee Nation insist that the Department of the Interior has no jurisdiction of this matter, and in support of that contention have filed an elaborate argument. They cite, first, the decision of the United States Supreme Court in volume 117 U. S. page 288, known as the "Cherokee Trust Funds Case," in which the Supreme Court held that the Cherokee Nation had the exclusive right of determining the question of citizenship within the Cherokee Nation. Counsel also cite the first article of the agreement made between the United States and the Cherokee Nation, dated December 19, 1891, and approved by Congress March 3, 1893, the first paragraph of which is as follows:

"First. That all persons now resident, or who may hereafter become residents, in the Cherokee Nation, and who are not recognized as citizens of the Cherokee Nation by the constituted authorities thereof, and who are not in the employment of the Cherokee Nation, or in the employment of citizens of the Cherokee Nation, in conformity with the laws thereof, or in the employment of the United States Government, and all citizens of the United States who are not resident in the Cherokee Nation under the provisions of treaty or act of Congress, shall be deemed and held to be intruders and unauthorized persons within the intent and meaning of section six of the treaty of 1835, and sections twenty-six and twenty-seven of the treaty of July 19, 1866, and shall, together with their personal effects, be removed without delay, from the limits of said nation by the United States, as trespassers, upon the demand of the principal chief of the Cherokee Nation."

Prior to the approval of this agreement by Congress, the Department had held uniformly that it had the power to look into the question of alleged citizenship in the Cherokee Nation, in order to determine whether persons alleged to be intruders by the Cherokee Nation should or should not be forcibly ejected therefrom by the United States authorities. The Department acted upon the opinion given by Mr. Attorney-General Devens (16 Op. 404). That opinion was based

upon the treaties of 1835 and 1866 between the United States and the Cherokee Nation. Those treaties obligated the United States Government to protect the Indians in the Cherokee Nation against intruders and to remove them therefrom.

While the Department recognized the right of the Cherokee Nation under those treaties to determine who were and who were not citizens of that nation, yet, acting upon the opinion of Attorney-General Devens, the Department claimed the right to be satisfied that a person found to be an intruder by the authorities of the Cherokee Nation was in fact an intruder, before he would be forcibly ejected. This ruling was adopted and followed by the Department, because neither the treaty of 1835 or that of 1866 provided that the United States government should accept as final a decision by the authorities of the Cherokee Nation on the question of citizenship, and act thereon on the demand of the constituted authorities of said Nation. It will be seen, however, that the agreement of 1891, approved March 3, 1893, does provide that no one shall be a citizen of the Cherokee Nation unless he is recognized as such by the constituted authorities thereof, and that all persons not so recognized shall be deemed and held as intruders and shall, together with their personal effects be removed without delay from the limits of said nation by the United States as trespassers, upon the demand of the principal chief of the Cherokee Nation. Thus it will be seen, by the terms of this agreement, the Cherokee Nation is to be the sole judge of the right of any person to citizenship within that nation, and that when a person is declared not to be a citizen but an intruder, he shall be ejected

therefrom by the United States authorities on demand of the principal chief of the Cherokee Nation.

Where it is claimed by one who is declared by the Cherokee Nation to be an intruder, that he falls within some one of the exceptions contained in the first paragraph of article two above quoted, then it would be the duty of the Department to inquire and determine whether or not such person comes within the exceptions found in said paragraph. The exceptions are as follows: "Persons in the employment of the Cherokee Nation, or in the employment of citizens of the Cherokee Nation in conformity with the laws thereof, or in the employment of the United States Government, or citizens of the United States who are resident in the Cherokee Nation, and that question has been decided against him by the constituted authorities of said Nation, then the Department has no right, in my opinion, to inquire into the correctness of the decision of that question, because the constituted authorities of the Cherokee Nation are to be the sole judges of such question, and the plain and simple duty of the United States Government is to remove such person as an intruder on demand of the principal chief of the Cherokee Nation.

No one of the appellants in the cases now before me claims to come within either of the exceptions set forth in the first paragraph of article two, but all claim to be "citizens of the Cherokee Nation!" "The constituted authorities" of the Cherokee Nation do not recognize their claim, and I advise that the Department has no jurisdiction to inquire into the correctness or propriety of the determination made in these cases by the authorities of the Cherokee Nation.

The papers submitted to me are herewith returned.

Very respectfully, John I. Hall.
Assistant Attorney-General.

~~Handwritten scribble~~
e
~~Handwritten scribble~~
Hos

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE WESTERN STATES
FILED
MAR 26 1901

~~Handwritten signature~~
ACTING CHAIRMAN

ONE COPY

Handwritten initials

COMMISSIONERS
HENRY L. DAVIS,
TAMM BERRY,
THOMAS B. HICKMAN,
C. R. BUCKLEWIRE.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLWARD.

Muskogee, Indian Territory, March 26th, 1901.

Received of the Commission to the Five Civilized Tribes
one copy of the testimony in the matter of the enrollment of
Hannah Flippins as a citizen of the Cherokee Nation.

Wm. P. Thompson

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mrs. Hannah Flippins,

Vinita, Indian Territory,

Madam:

On the 29 day of September, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1894, (28 Stats, 221).

The act of May 31, 1900, (31 Stats, 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above

H.F-2.

quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

RECORDED. *T. J. P. [Signature]*
MAY 1905

Encl. Y-405.
Copy to W.F. Thompson,
Vinita, I.T.
Register.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAR 9 1902



ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

WILLIAM L. BURNETT
SECRETARY

McKees, Indian Territory, April 9, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the matter of the application for enrollment as a Cherokee citizen of Hannah Flippins, refused by the Commission under the provisions of the act of Congress approved May 31, 1900, in its decision of this date, and which has this day been separately transmitted in duplicate to the Department.

This application will be found in said decision as No. 405; it is entitled Hannah Flippins, and is known as a Cherokee Enrollment application.

Respectfully,

Acting Chairman.

Through the Commissioner
of Indian Affairs.

1 enclosure S.A.405.

1728

101

101

101

101

COMMISSION TO THE FIVE CIVILIZED

FILED

JUN 16 1902



ACTING CHAIRMAN

(Copy)

Refer in reply to
the following:
Land.
23516-1902.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

Washington, April 26, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

Herewith is forwarded for the consideration of the department, memorandum of the Commission to the Five Civilized Tribes in the matter of the application of Hannah Flippin for enrollment as a Cherokee citizen. The applicant was rejected by the Commission.

From the record it appears that this applicant applied to the Dawes Commission, September 8, 1896, for admission to Cherokee citizenship and was admitted by said Commission; that subsequently appeal was taken by the Cherokee Nation to the United States Court and the judgment of the Commission was reversed.

Under the provision of the Act of Congress approved May 31, 1900, the Commission had no authority to enroll said applicant.

I respectfully recommend that the decision of the Commission rejecting this application be affirmed.

Very respectfully,
Your obedient servant,
A.C. TORNER,
Acting Commissioner.

E.S.S.

L.

(Copy)

D.C. No. 8268-1902.

28601.

DEPARTMENT OF THE INTERIOR.

I.T. D.2682-1902.

WASHINGTON.

WR.

L.R.S.

May 12, 1902.

The Commission

to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

Under date of April 26, 1902, the Acting Commissioner of Indian Affairs transmitted your record and memorandum in the application of Hannah Flippin, No. 405, for enrollment as a citizen of the Cherokee Nation, which application was rejected by your Commission, under the provisions of the Act of May 31, 1900 (31 stats., 221).

From the record it appears that said applicant made application for enrollment to your Commission on September 8, 1896, which application was granted but subsequently an appeal was taken by the Nation to the United States Court and therein the judgment of your Commission was reversed. Accordingly, under the provisions of said Act of May 31, 1900, your Commission has no authority to enroll said applicant, and the recommendation of the Acting Commissioner that your decision rejecting said application be approved, is concurred in by the Department, and it is accordingly affirmed.

A copy of the report of the Acting Commissioner is inclosed herewith.

Respectfully,

Thos. Ryan.

1 Inclosure.

Acting Secretary.

ED.

COMMISSION TO THE FIVE CIVILIZED

FILED

JUN 16 1902

 ACTING CHAIRMAN

COPY.

Chero. Mem. 405.

Mackogee, Indian Territory, May 27, 1902.

August Piggins,

Vinita, Indian Territory.

Dear Madam:

You are advised that the Commission is in receipt of a letter from the Secretary of the Interior dated May 13, 1902, approving the decision of the Commission communicated to you on April 9, 1902, refusing to enroll you as a citizen of the Cherokee Nation.

You are further advised that the refusal as now communicated to you is final.

Yours truly,

(SIGNED).

T. B. Needles.

Acting Chairman.

Commissioner in Charge.

Registered.

COMMISSION TO THE FIVE CIVILIZED

FILE

JUN 16 1902

[Handwritten signature]
AT THE OFFICE

COPY.

Chero. Mat. 405.

Muskogee, Indian Territory, May 27, 1902.

Willie P. Thompson, Esq.,
Attorney for Hannah Flippins,
Vinita, Indian Territory.

Sir:

You are advised that the Commission is in receipt of a letter from the Secretary of the Interior dated May 12, 1902, approving the decision of the Commission communicated to you on April 9, 1902, refusing to enroll Hannah Flippins as a citizen of the Cherokee Nation.

You are further advised that the refusal as now communicated to you is final.

Respectfully,

(SIGNED).


T. D. Needles.

Acting Chairman
Commissioner in Charge.

Registered.

COMMISSION TO THE FIVE CIVILIZED

FILED
JUN 16 1902


ACTING CHAIRMAN

COPY.

Chero. Mem. 405.

Muskogee, Indian Territory, May 27, 1903.

W. W. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1903, rejecting the application of Hannah Flippins, Cherokee Memorandum No. 405, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1903.

Very respectfully,

SIGNED.

T. C. J. McCauley.

Acting Chairman.

Commissioner in Charge.

2009

THOMAS H. INGRAHAM,
COMMISSIONER.
C. S. BENTLEY,
CHIEF CLERK.

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

FORM TO BE FILLED IN BY THE ADDRESSEE

ADDRESS ONLY FOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

McIntosh, Indian Territory, September 2, 1904.

J. C. Starr,
Attorney for the Cherokee Nation,
Wixata, Indian Territory.

Dear Sir:

In accordance with your verbal request there are here-
with enclosed copies of the decision of the United States Court
for the Northern District, Indian Territory, in the matter of
the application for the enrollment of Hannah Flippin, et al.,
as citizens by blood of the Cherokee Nation.

Respectfully,



Chairman.

Encl. 2-77.

WILLIAM HENRY WHITE.
Attorney at Law.
COLUMBIAN BLDG., 416 5TH ST. N. W.
Washington, D. C.

March 7, 1905.

W. W. Hastings, Esq.,

Tablequah, Ind. Ter.

Dear Sir:

I forward herewith a copy of motion for consolidation
in re application of Hannah Flippin, et al., and motions for
review in the following cases:

Flede McGlasson, et al.
Jennie Ellis, et al.
Tennessee Ficklin, et al.
Nettie B. Derickson, et al.
Mary Jane Spinner, et al.
Mary I. Flippin for William F. Flippin.
Lula Freeman, et al.
Alice B. Fanner, et al.
James H. Flippin.
James F. Flippin.
Hannah Flippin, et al.

12 Enc.

Yours very truly,

William Henry White

Muskogee, Indian Territory, December 24, 1906.

William Henry White,
416 Fifth Street, N. W.,
Washington, D. C.

Dear Sir:

This office is in receipt of your letter of December 18, asking for an early decision in the Cherokee enrollment case of Hannah Flippin, et al.

In reply you are advised the Cherokee enrollment case of Hannah Flippin, et al., is being considered at the present time, and a decision will be rendered therein at the very earliest practicable date.

Respectfully,

18

Commissioner.

4763

REFER IN REPLY TO THE FOLLOWING

[Handwritten signature]

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

Muskogee, Indian Territory, May 8, 1894.

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

Dear Sir:

Enclosed herewith find copy of report made on November 14, 1887, to Hon. D. W. Bushyhead, Principal Chief Cherokee Nation, by J. T. Adair, Chairman Cherokee citizenship Commission, copy of proceedings had before the Cherokee Commission on citizenship in the matter of the applications for admission to citizenship in the Cherokee Nation, of Giles B. Below, et al., copy of the reservation made by one Lucy A. Briant under the treaty of July 8, 1817, and copy of the opinion rendered on July 16, 1894, by John I. Hall, Assistant Attorney-General, in the case of John O. Cobb, et al. vs the Cherokee Nation, all of which by order of the Commissioner, have been filed with and made a part of the record in the case of Hannah Flippin, et al., Cherokee N 405 and others.

Respectfully,

W. O. Beall

Acting Commissioner.

WMP
 4-Incl.

Muskogee, Indian Territory, May 8, 1906.

William Henry White,
Attorney, Columbia building,
Washington, D. C.

Dear Sir:

Enclosed herewith find copy of report made on November 14, 1887, to Hon. D. W. Bushyhead, Principal Chief Cherokee Nation, by J. T. Adair, chairman Cherokee citizenship Commission, copy of proceedings had before the Cherokee Commission on citizenship in the matter of the applications for admission to citizenship in the Cherokee Nation, of Giles D. Below, et al., copy of the reservation made by one Lucy A. Briant under the treaty of July 8, 1817, and copy of the opinion rendered on July 16, 1894, by John I. Hall, Assistant Attorney-General, in the case of John O. Cobb, et al. vs the Cherokee Nation, all of which by order of the Commissioner, have been filed with and made a part of the record in the case of Hannah Flippin, et al., Cherokee N 406 and others.

Respectfully,

Acting Commissioner.

WHS

4-Incl.

REFER IN REPLY TO THE FOLLOWING

Cherokee
N 606 et al.

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

Muskogee, Indian Territory, January 10, 1907.

W. W. 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 10, 1907, dismissing the application for the enrollment of Hannah Flippin and rejecting the applications of Fleda McGlasson, et al., for enrollment as citizens of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

respectfully,

Encl. N-121
JME

Commissioner.

William Henry White
Attorney at Law
Columbian Bldg. 415 2nd Street, N.W.
Washington, D.C.

February 15, 1907.

W. W. Hastings, Esq.,

Muskogee, Ind. Ter.

Dear Sir:

Enclosed please find herewith copy of card brief for applicants in re application of Herman Higgins, et al., for enrollment as citizens by blood of the Cherokee Nation.

I am very truly,

Enc.

JRC

Wm. H. White

Land.
8867-1907
15660- "

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Copy

February 27, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

There is forwarded herewith report of Commissioner nee Dixie dated January 10, 1907, relative to the consolidated Cherokee citizenship case of Hannah Flippin, et al., together with the decision of the Commissioner dated January 10, 1907, dismissing the application of Hannah Flippin and rejecting the applications of all the other applicants for enrollment as citizens of the Cherokee Nation.

The applicants herein are as follows: Hannah, James F., Mary I., William F., James H., Gladys, James C. Jr., and Ella May Flippin; Lulu, Nina, Frances, Nettie and Helen Freeman; Sophy E. Harrison, and Charlie Oliver Bethell; Jennie, Clarence and Dag Ellis; Belle S., Len B., Andy Heaston, Milton C., Jr., Corwin Blaine and Milton C. Bowers, Sr.; Nettie E., Callie, Dixie, Katie, Sugg, Blanche and Clabe Dirickson; Alice B., Samuel Reed, Thomas James, and Alice May Tanner; Fleda, Lunay, Sam Goode, George and Benny McGlasson; Tennessee, Agnes Dorsey, Samuel, Eugene, Mary, and Leo Nancy Picklin; Mary Jane, Osheshee or Baby, Charlie, Emmett and Heber Skinner; Theodore and Bertha Ericksten; Ray E. Ross and Bertha Diamond.

Certain of the petitioners herein have heretofore been denied the right to enrollment by the Commission to the Five Civilized Tribes, which action was subsequently affirmed by the Department. On February 15, April 12 and 20, 1905 (L.T.D. 1486-3566-1905), the cases as to those heretofore denied were consolidated and remanded to the Commission with direction to hear and decide them on their merits.

The Commissioner finds from the evidence that it is fully established that Hannah Flippin, now deceased, was the granddaughter of one John Bryant, now deceased, who for many years prior to his death in 1855, at the age of eighty, lived in Gibson County, Tennessee, is the common ancestor of all the other applicants herein, and that none of the applicants herein possess any Cherokee blood other than such as they may have obtained as descendants of John Bryant; that certain of the applicants together with the deceased ancestors of others herein, are identified on the Cherokee pay roll of 1866, but that none of them except James F. Flippin, who is identified on the Cherokee census roll of 1896 as an intermarried Cherokee citizen, nor any ancestor through whom by any possibility they might obtain rights to Cherokee citizenship, can be identified on any other roll of the Cherokee Nation.

It further appears from the record that on September 25, 1864, Hannah Flippin and her children were admitted to Cherokee citizenship by the "Spears Court", and that on August 19, 1867,

the decree of the "Spears Court" admitting Hannah Flippin and her children as above, was declared to be null and void to all intents and purposes, by the "Adair Court", on account of having been procured by fraud.

Mr. Bixby concludes that the evidence introduced before the Adair Court was sufficient to warrant the decision rendered; and that the evidence in this case fails to establish that John Bryant, deceased, was possessed of any Cherokee blood or ever was a citizen of that Nation, and recommends that the application of all of the persons mentioned in the first paragraph hereof, with the exception of Hannah Flippin, be denied, Hannah Flippin having died prior to September 1, 1902, the case is dismissed as to her.

After a careful examination of the record in this case the Office is of the opinion that the decision of the Commissioner is warranted by the facts and it is recommended that it be approved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

A.J.V. - HL

D.C. 12400

COPY

J.Y.Br.

DEPARTMENT OF THE INTERIOR,

I.T.O. 5762-1907.

WASHINGTON.

W.H.

IRS

DIRECT

March 1, 1907.

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

Sir:

January 10, 1907, you transmitted the record in the matter of the application for the enrollment of Hannah Flippin, et al., as citizens of the Cherokee Nation, together with your decision of the same date, adverse to all the applicants in the case.

Reporting February 27, 1907 (Land 3867-07), the Indian Office concurs in said decision. A copy of its letter is inclosed.

Your decision is hereby affirmed. The papers in the case and a copy hereof have been sent to the Indian Office.

Respectfully,

(Signed) Jesse N. Wilson,

Assistant Secretary.

1 inc. and 4 for Ind. Of.

A F W

3-1-07

REFER TO ONLY TO THE FOLLOWING:
Cherokee
H 405. et al.

473

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

Muskogee, Indian Territory, April 4, 1907.

V. V. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, rejecting the application for the enrollment of Hannah Flippin, et al., as citizens of the Cherokee Nation, was affirmed by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Chas. Rogers
Acting Commissioner.

Encl. C-50
LMC

REFUSED

CORD FORWARDED DEPARTMENT

Y OF DECISION FOR APPLICANT

APPLICANT

COPY OF DECISION FORWARDED

ATTORNEY FOR APPLICANT

COPY OF DECISION FORWARDED

ATTORNEY FOR CHEROKEE NATION

JAN 10 1907

ACTION APPROVED BY SECRETARY OF WAR

MAR 1 1907

NOTICE OF DEPARTMENTAL ACTION

FORWARDED APPLICANT

NOTICE OF DEPARTMENTAL ACTION

FORWARDED ATTORNEY FOR APPLICANT

NOTICE OF DEPARTMENTAL ACTION

FORWARDED ATTORNEY FOR THE

CHEROKEE NATION.

APR 4 1907

Tannah

REFUSE
ACT OF MAY 31,
MEMORANDUM.

405

RECORD FORWARDED DEPARTMENT

APR -9 1902

NOTICE OF DECISION MAILED APPLICANT

APR -9 1902

ACTION APPROVED BY SECRETARY OF INTERIOR

MAY 12 1902

**NOTICE OF DEPARTMENTAL ACTION
FORWARDED APPLICANT**

MAY 27 1902

**NOTICE OF DEPARTMENTAL ACTION
FORWARDED ATTORNEY FOR THE
CHEROKEE NATION.**

MAY 27 1902

**NOTICE OF DEPARTMENTAL ACTION
FORWARDED ATTORNEY FOR APPLICANT**

MAY 27 1902

**COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION**

Washington, D. C.

~~Indian Territory,~~

July 11,

1905

RECEIVED BY THE COMMISSIONER TO THE FIVE CIVILIZED

TRIBES one copy of the testimony in the matter of the application

of Hannah Flippin et al

Wm Henry White, Esq.
Attorney for Applicants.



WILLIAM HENRY WHITE.
Attorney at Law.
COLUMBIAN BLDG 416 5TH ST N W
Washington, D. C.



289

203261

2389

Cher Memo 406

Cher Memo 406

"R"

Rejected, None.

Cherokee Freedmen.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I.T., January 28, 1902.

In the matter of the application of Tennessee Peavy for the enrollment of herself and one child as Cherokee Freedmen; being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Tennessee Peavy.
Q How old are you? A 45.
Q What is your post-office address? A Chandler, Oklahoma.
Q You want to apply for enrollment as a Cherokee Freedman? A Yes sir.
Q Do you want to apply for any one besides yourself? A My sister.
Q How old is your sister? A I don't know exactly, she is 15 months older than I am.
Q She must apply for herself; have you got any children? A Yes sir, I have got three.
Q How old is the youngest one? A He will be 21 in March.
Q Your children will have to apply for themselves, A They will?
Q Yes. Is that child 21 last March or this March? A This March.
Q What is its name? A George Peavy.
Q Is George living? A Yes sir.
Q Living at home with you? A Yes sir.
Q Is he married? A No sir.
Q All the other children are over 21 are they? A Yes sir.
Q What is the name of your father? A Sam Catherine.
Q What was your mother's name? A Louisa.
Q Your father and mother living? A Both dead.
Q Have you ever been recognized by the tribal authorities as a Cherokee Freedman? A Mr. Bradenax said I was; I don't know whether I was or not.
Q Did you ever draw anything from the Cherokee authorities? A Never did, only just paid out a whole lot.
Q Did you ever live here? A Never did.
Q Did you ever apply to this Commission? A I thought I did.
Q Who made application for you? A My sister made the last application three years ago.
Q What was George's father's name? A George Peavy.
Q Was he a state man? A Yes sir.

All the tribal rolls of the Cherokee Nation in the possession of the Commission have been examined, and neither the name of the applicant nor her son George are found thereon.

Records of the Cherokee Nation examined and fail to disclose that either the applicant or her son was ever admitted to citizenship in the Cherokee Nation by the tribal authorities.

Records of the Commission examined and fail to disclose that the applicant or her son were admitted to citizenship in the Cherokee Nation by the Commission or the United States Court on appeal, under the provisions of the act of Congress approved June 27, 1896.

BY COMMISSION: Tennessee Peavy applies for the enrollment of herself and her son George Peavy as Cherokee Freedmen. They are not identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission, neither does it appear that they were ever admitted to citizenship by the tribal authorities or the Commission to the Five Civilized Tribes or the United States Court on appeal. This application appears to come within the provisions of the temporary injunction recently granted by Judge Joseph Gill of the United States Court for the Northern District of the Indian

W 408

IN THE MATTER OF THE APPLICATION OF

Tennessee Peery et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 407

7

Cher Memo 407

Cherokee Freedmen Rejected, Memo:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I.T., January 29, 1902.

In the matter of the application of Lizzie Johnson for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined she testified as follows:

BY COMMISSION:

- Q. What is your full name? A. Lizzie Johnson.
Q. How old are you? A. 55 years old.
Q. What is your post-office address? A. Fort Gibson.
Q. Are you living in the Cherokee Nation? A. No, at Wagoner.
Q. What is your post-office? A. Wagoner I mean, it is Wagoner, excuse me.
Q. You apply for enrollment of yourself as a Cherokee Freedman?
A. Yes sir.
Q. You apply for anyone besides yourself? A. None but the children.
Q. How old is your youngest child? A. 13 years old.
Q. How many children have you that are living at home with you and under age and unmarried? A. Two.
Q. What is the name of the eldest one? A. Arthur Rogers.
Q. How old is he? A. 15.
Q. What is the name of the next child? A. Willie Rogers.
Q. That a boy or a girl? A. Both boys.
Q. How old is Willie? A. He is 14, going on 15.
Q. Are these children all living? A. Yes sir.
Q. Who is their father? A. Morris Rogers, - Isaac Rogers is the father of one of them and the other one is William Morris.
Q. Who is Arthur's father? A. Isaac Rogers.
Q. Who is Willie's father? A. William Morris.
Q. Was Willie's name Willie Rogers or Willie Morris? A. Willie Morris.
Q. Are you married? A. No sir.
Q. What was the name of your last husband? A. Aaron Johnson.
Q. Is he living or dead? A. Dead.
Q. What is the name of your father? A. Dr. Main was my father in Fort Smith when he was living.
Q. What is the name of your mother? A. Ann.
Q. Do you claim your right to enrollment through your mother or your father? A. My mother.
Q. Did you ever draw any money? A. I drew for one child.
Q. Did you draw for yourself? A. No sir.
Q. Where were you born? A. On the line, between Fort Smith and the Cherokee Nation.
Q. On which side of the line? A. Between the Choctaw and the Cherokee.
Q. Were you born in the Choctaw Nation? A. Cherokee Nation, no sir, I wouldn't be a Cherokee citizen if I was born in the Choctaw Nation.
Q. How long did you live there? A. I will tell you the truth, I couldn't tell; I have been there ever since I could remember, might near it;
Q. Where were you the first you can remember? A. I was in Fort Smith.
Q. How long did you stay there? A. I don't know, my people is all dead.
Q. About how many years was it? A. I couldn't say and tell the truth.
Q. Where did you go when you left Fort Smith? A. Bogart.
Q. In the Cherokee Nation? A. Yes sir.
Q. How long did you stay there? A. I stayed there as long as my children was born there, nearly.
Q. Then where did you go to? A. Came to Fort Gibson, I stayed there a long time; I just couldn't tell.

Q What is your mother's last name? A Some called her Ann Pack and some called her Ann Rogers.

Q What did you call her? A I didn't call her anything, because I don't remember her at all.

Q You don't know whether name was? A Not only just what the people that raised me told me; they are all dead.

Q Did you ever draw any money for these children at the last payment? A No sir.

Q You have never drawn money for yourself? A No sir.

Q Nor for Arthur? A No sir.

Q Nor for Willie? A No sir, none but Nona.

Q These children have never been recognized as citizens? A I don't know sir.

Q Did you ever make application for the enrollment of these children? A My husband did, but he said they couldn't be found; I know we were on the Wallace roll all right.

Q Did you ever apply to this Commission? A No sir.

Q Did you ever apply to the Cherokee Tribal authorities, the Cherokee National Council? A No sir.

All the rolls of the Cherokee Nation in the possession of this Commission have been examined and applicant nor her children aren't identified thereon.

The records of the Commission made in accordance with the act of Congress approved June 10, 1896, examined and fail to disclose that either the applicant or her children were admitted to citizenship in the Cherokee Nation by the Commission or the United States Court on appeal.

The records of the Cherokee Nation examined and fail to disclose that either the applicant or any of her children were ever admitted to citizenship in the Cherokee Nation by act of the Cherokee National Council or Commission on Citizenship.

Q Was Isaac Rogers a colored man? A No sir, he was kin to Walter Lowrey.

Q Was he a Cherokee Freedman? A Yes sir.

Q Were you married to him? A Married like all the Cherokee people did I guess.

Q Married by a preacher? A Yes sir.

Q Did you ever have a marriage certificate? A No sir.

Q How long did you live with him? A About five years.

Q Were you married to Will Morris? A Yes sir.

Q Was Isaac Rogers dead when you married Will Morris? A Yes sir.

Q Who married you to Will Morris? A Man at Fort Smith by the name of Satterfield.

Q Who married you to Isaac Rogers? A I don't know, it was a colored preacher.

Q How long has Isaac Rogers been dead? A He died about six months before Arthur was born.

Q Was Will Morris a state man? A No sir.

Q Was he a Cherokee? A Yes sir.

Q Has he ever been recognized as a citizen? A I don't know whether he had or not, I never heard him say; I always heard him say he belonged in the Cherokee Nation.

Q About how old would Isaac be if he were living now? A I declare I couldn't tell you.

Q Older than you? A He was younger than I am.

Q About how much younger? A I couldn't tell you, that, I guess ought to know; he was kin to him.

The Tribal rolls of the Cherokee Nation in the possession of the Commission examined and neither the name of Isaac Rogers nor Will Morris appear of record thereon.

- Q Did Isaac Rogers ever have any children? A Got one more.
 Q What was its name? A I don't know now, I forgot, it has been so long since I saw it.
 Q Was it a boy or a girl? A Boy.
 Q Who was its mother? A Harriet Hornberry.
 Q Isaac Rogers ever live in Coweesee District? A Not while I knew him he didn't.
 Q How long has he been dead? A I declare I couldn't tell you.
 Q He died before Arthur was born didn't he? A Yes sir.

BY COMMISSION: Lizzie Johnson applies for the enrollment of herself and two children, Arthur Rogers and Willie Morris, as Cherokee Freedmen. Neither the applicant nor her children are identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission; neither does it appear that they were ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or Commission on Citizenship, or the Commission to the Five Civilized Tribes or the United States Court on appeal, under the provisions of the act of Congress approved June 10, 1896.

This application appears to come within the provisions of the temporary injunction which was granted by Judge Joseph Gill of the United States Court, Northern District of the Indian Territory, which forbids this Commission to receive, consider or make any record of any applications of this character, consequently the application of Lizzie Johnson for the enrollment of herself and her minor children will be reported to the Commission for rejection under the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review and consideration, and the applicant will be notified at a later date of the action of the Department as regards her said application.

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 January 30, 1902.

M. D. Green
C. L. Medinow

Commissioner.

MA02

IN THE MATTER OF THE APPLICATION OF

Lizzie Johnson et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MARCH 3, 1909

MEMORANDUM.

Cher Memo 408

Cher Memo 408

Cherokee Freedmen Rejected, Memo.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 30, 1901.

In the matter of the application of Jim H. White for the enrollment of himself, wife and three children as Cherokee Freedmen; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A Jim H. White.
Q How old are you? A I am 24 years old.
Q What is your post-office address? A Bora, Arkansas.
Q Are you living in Arkansas? A No sir.
Q What district in the Cherokee Nation are you living in? A Sequoyah.
Q You apply for the enrollment of your self as a Cherokee Freedman?
A I just come in as to my mother, she enrolled here sometime ago, and we was mother's childrens.
Q Do you want to enroll? A Yes sir, Millie White was my mother's name.
Q What is your father's name? A Gil White.
Q Is he living? A Yes sir.
Q Is your father a state man? A No sir.
Q What is he, a Cherokee Freedman? A Yes sir.
Q What is the name of your mother? A Millie White.
Q Is she living? A Yes sir.
Q Is she a Cherokee Freedman? A Yes sir; she was enrolled here you remember, she enrolled here sometime ago.
Q Well she didn't enroll you, you are too old, you will have to enroll yourself; have you ever drawn any money from the Cherokee Nation? A No sir.
Q Are you on any rolls? A No sir.
Q Have you ever been recognized in any manner as a Cherokee citizen? A No sir.
Q Do you want to apply for any one besides yourself? A I have some children.
Q What is the name of your oldest child? A My oldest child is Samantha White.
Q How old is she? A She is five years old.
Q What is the name of the next one? A Next one is Birdie White.
Q How old is she? A He is three years old.
Q What is the name of the next one? A Next one is Etta White.
Q How old is she? A She is three years old.
Q Is that all? A Yes, my wife.
Q Yourself and three children? A Yes sir, three children and my wife.
Q Are these children living? A Yes sir.
Q Are the living with you? A Yes sir.
Q Who is the mother of the children? A Sarah White.
Q Do you apply for her? A Yes sir.
Q Is she living? A Yes sir.
Q How old is she? A She is 23 years old.
Q Is she a Cherokee Freedman or a state woman? A She is a state woman.

Q She has never been recognized as a Cherokee citizen? A No sir.
A All the rolls of the Cherokee Nation in the possession of the Commission have been examined and neither the applicant, his wife nor any of his children are found of record thereon.

The records of the Commission made in accordance with the provisions of the Act of Congress approved June 12 1876 examined and fail to disclose that the applicant, his wife or any of his children ever made application to the Commission

to the Five Civilized Tribes, or the United States Court on appeal from the decision of the Commission, under the provisions of said act.

Records of the Cherokee Nation examined and fail to disclose that either the applicant, his wife or any of his children were ever admitted to citizenship by the Cherokee National Council or Commissions on Citizenship.

BY COMMISSIONER: Jim N. White applies for the enrollment of himself, his wife, Sarah White and his three children, Samantha, Birdie and Etta White, as Cherokee Freedmen; neither the applicant, his wife nor any of his children are identified on any of the tribal rolls of the Cherokee Nation in the possession of this Commission, neither does it appear that they were ever admitted to citizenship in the Cherokee Nation by act of the Cherokee National Council or commissions on Citizenship, the Commission to the Five Civilized Tribes or the United States Court on appeal. This application appears to come within the provisions of the temporary injunction recently granted by the Honorable Joseph Gill, Judge of the United States Court for the Northern District of the Indian Territory, which forbids this Commission to receive, consider or make any record of applications of this character, consequently the application of Jim N. White for the enrollment of himself, his wife and three children as Cherokee Freedmen will be reported to the Commission for rejection under the provision of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

A copy of the record of the proceedings had in the matter of this application will be forwarded to the Secretary of the Interior for his review and consideration, and the applicant will be notified at a later date of the action of the Department.

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 January 30, 1902.

C. R. Buckmaster

Commissioner.

M 408

IN THE MATTER OF THE APPLICATION OF

James H. White et al
FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900
MEMORANDUM.

Cher. Memo 409

Cher Memo 409

Cherokee Freedman Rejected, Name.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 30, 1902.

In the matter of the application of Harry White for enrollment as a Cherokee Freedman; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A Harry White.
Q How old are you? A I am 23 years old.
Q What is your post-office address? A My post-office is Dora,
Dora Arkansas? A Yes sir.
Q Are you living in Dora Arkansas? A No sir.
Q What district in the Cherokee Nation are you living in? A I
am living in Sequoyah.
Q You apply for the enrollment of yourself as a Cherokee Freedman?
A Yes sir.
Q Do you apply for any one besides yourself? A No sir.
Q You have no wife nor children? A No sir.
Q What is the name of your father? A Gib White.
Q What is the name of your mother? A Millie White.
Q Your parents both living? A Yes sir.
Q Do you claim a right to enrollment through your mother? A Yes sir.
Q Have you ever been recognized as a citizen of the Cherokee
Nation? A No sir.
Q Have you ever drawn any money? A No sir.
Q Have you ever applied for enrollment prior to this time? A No
sir.

All the rolls of the Cherokee Nation in the possession of this Commission have been examined and the name of the applicant does not appear of record thereon.

The records of this Commission made in accordance with the act of Congress approved June 10, 1896, have been examined, and fail to disclose that the applicant was ever an applicant for admission before this commission or the United States Court on appeal, under the provisions of said act.

The records of the Cherokee Nation have been examined and fail to disclose that the applicant was ever admitted to citizenship by the Cherokee National Council or Commissions on citizenship.

BY COMMISSION: Harry White applied for the enrollment of himself as a Cherokee Freedman. He is not identified on any of the tribal rolls of the Cherokee Nation in the possession of the Commission, neither does it appear that he was ever admitted to citizenship in the Cherokee Nation by the Tribal authorities of said nation or the Commission to the Five Civilized Tribes of the United States Court on appeal. This application appears to come within the provisions of the temporary injunction recently granted by the Honorable Joseph Gill, Judge of the United States Court for the Northern District of the Indian Territory, consequently this Commission is without authority to receive, consider or make any record of application of Harry White to be enrolled as a Cherokee Freedman, and his said application will be reported to the Commission for rejection.

A copy of the record of this application will be forwarded to the Secretary of the Interior for his review and consideration, and the applicant will be notified of the final decision of the Department.

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 January 30, 1902.

C. R. Reed

Commissioner,

154
200

M 409

IN THE MATTER OF THE APPLICATION OF

Harry White, s

FOR ENROLLMENT AS

CHEROKEE CITIZENS
REFUSED

ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo 410

Cher Memo 410

Register.

REGISTERED
George B. ...

THE COMMISSION TO THE HAWAIIAN ISLANDS.

When the same is made known to the Commission.

The Secretary's reply upon this subject is communicated to the
Commission.

M 410

At the same time of the proceedings, the Secretary's reply is
communicated to the Commission. The Secretary's reply is
communicated to the Commission. The Secretary's reply is
communicated to the Commission.

The Commission to the Hawaiian Islands is a body of
commissioners appointed by the President of the United States
to inquire into the condition of the Hawaiian Islands and
to report thereon to the President. The Commission was
organized in 1820 and has since that time been engaged
in a long and arduous task. It has held numerous public
hearings and has received many suggestions from the
people of the Hawaiian Islands. It has also conducted
extensive investigations into the various problems
confronting the Hawaiian Islands. The Commission's
reports have been of great value to the President and
to the people of the Hawaiian Islands.

L.A.-B.

COPY.

Wadagoo, Indian Territory, April 9, 1900.

Mrs. Polly Andrews,

Fort Gibson, Indian Territory,

Respondent

On the 22 day of August, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of your minor child Mary Ann Andrews as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicant above named has never been enrolled by the tribal authorities of the Cherokee Nation, and that her name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that she has not been admitted to citizenship by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 12, 1898, (30 Stat., 221); nor does it appear that she is the lawful descendant of any person so enrolled, or admitted.

The act of May 21, 1900, (31 Stat., 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of

P.A.-2.

such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, decided that Mary Ann Andrews is not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of your said child as a citizen of said Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By SIGNED

James B. Blyden

Acting Chairman.

Register.

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

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Chero. Num. 410.

Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 8, 1902, rejecting the application of Polly Andrews for the enrollment of her child, May Ann Andrews, as a citizen of the Cherokee Nation; Cherokee Num. No. 410, was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,


Acting Chairman.

CHEROKEE NATION

IN THE MATTER OF THE APPLICATION OF

Mary Ann Andrews

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo 411

Cher Memo 411

100-4050

Quarantine Inspection

BY Wm. J. ...

THE COMMISSION TO THE JAIL DIPPED TRIP.

has been the same as in the case of the Commission.

The Commission's report will be published in the

report on the subject.

of the Commission, with a view to the Commission's

and the Commission's report will be published in the

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A copy of the report of the Commission to the

has been the same as in the case of the Commission.

of the Commission, with a view to the Commission's

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A copy of the report of the Commission to the

has been the same as in the case of the Commission.

The Commission's report will be published in the

of the Commission.

subject will be published in the Commission's report.

20411

COMMISSION

100-4050

COPY.

McKagoo, Indian Territory, APR 9 1902

Mr. Robert Johnson,
Westville, Indian Territory,

Sir:

On the 17 day of July 1900, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of your wife Eliza Jane Johnson, and your two minor children, William Robert Johnson and John Coleman Johnson, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of the Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1900, (28 Stats. 121).

The act of May 21, 1900, (21 Stats. 211), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory,

R. J. Hill,

who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior'.

The Commission has, therefore, on this day decided that your wife and your two minor children above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of your wife and your two minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By *Tama Bixby.*

Council and Executive Commission.

Encl. N-411,
Register.

68

COMMISSIONERS
HERRY L. DAVIS,
THOMAS B. NEEDLES,
C. R. BECKURIDGE.

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

ALLISON L. AYLESWORTH,
SECRETARY

REFER IN REPLY TO THE FOLLOWING
Cherokee-411

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

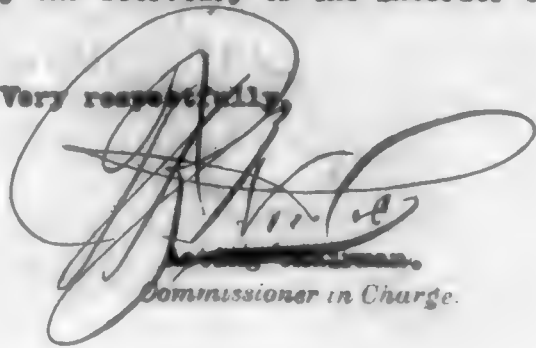
Muskogee, Indian Territory, May 20, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Eliza Jane Johnson et al, Cherokee Memorandum No. 411, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Commissioner in Charge.

72 411

IN THE MATTER OF THE APPLICATION OF

Elija Johnson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 412

Cher Memo 412

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUL 9 1900

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[Handwritten signature and scribbles]

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Department of the Interior,
Commission to the Five Civilized Tribes,
Fairland, I.T., July 9, 1900.

In the matter of the application of Cleid O. Braught, for himself and on behalf of his wife and minor children, for enrollment as Cherokees; being duly sworn, and examined by Commissioner Hadden, he testified as follows:

- Q What is your name? A Cleid O. Braught.
Q How old are you? A 60.
Q What is your post office address? A Fairland.
Q Where do you live? A I live three miles south.
Q Do you make your residence there? A Yes, sir.
Q How long have you lived there? A 18 or 19 years.
Q Where did you live prior to that time? A In Kansas.
Q Did you move from Kansas to the Cherokee Nation? A Yes, sir, I married in the Cherokee Nation.
Q Did you move direct here? A Yes, sir.
Q Are you a Cherokee? A No, sir.
Q What do you make application as? A Under my wife as a Cherokee.
Q What is the name of your father? A David Braught.
Q Is he living? A No, sir.
Q He is not on any of the rolls of the Cherokee Nation? A No, sir.
Q How long have you lived in the Indian Territory? A 19 years.
Q Have you been outside of the Indian Territory within the past three years to reside? A No, sir, just out and right back.
Q Have you ever been enrolled by the Cherokee tribal authorities? A No, sir.
Q Does your name appear upon any of the authenticated rolls? A No, sir, I think not.
Q Did you ever apply to the Cherokee tribal authorities for citizenship in the Cherokee Nation? A No, sir.
Q Did you apply in 1898 to the Commission to the Five Civilized Tribes? A I did.
Q Were you admitted or rejected by the Commission? A I never got any answer from them; that is in Cynthia Shastock and others there I think.
Q You say you don't know whether you were admitted or rejected? A No, sir.
Q Did you ever receive any notice? A No, sir, I never did.
Q You say you don't know whether you were admitted or rejected by the Dawes Commission in 1898? A I never had any notice from the Dawes Commission.
Q Are you married? A Yes, sir.
Q Under what law were you married? A Under the Cherokee law.
Q Have you your marriage license and certificate? A Yes, sir, there it is.
Q Where were you living at the time of your marriage? A I was living in Kansas.
Q You married in Kansas? A No, sir, I married here.
Q What was your wife's name before she married? A Cynthia A. Shastock.
Q Is she living? A Yes, sir.
Q Is her name on the 1898 authenticated roll of the Cherokee Nation? A I think not.
Q Is her name on the 1894 strip payment? A I think not.
Q Is it on the 1896 Census roll? A I don't think it is.
Q Did you ever apply to the Cherokee Nation? A No, sir.
Q Did she apply to the Dawes Commission in 1898? A Yes, sir.
Q You never got any answer? A No, sir.

Gleed G. Brought - 2.

- Q In what district of the Cherokee Nation does she belong?
A In the Delaware district.
Q What was the name of her father? A Rainey Chastean.
Q Is she a Cherokee, your wife? A Yes, she is a Cherokee by blood.
Q Was your wife's father a Cherokee? A No, sir, he was a white man.
Q What was the name of your wife's mother? A Judy Chastean.
Q Was she a Cherokee? A She was Cherokee by blood.
Q To what district did she belong? A In this district, the Delaware.
Q Was she ever upon any of the Cherokee rolls? A I don't think she was, I can't say.
Q What proportion of Cherokee blood does your wife claim? A 1/16.
Q Have you any children under 21 years of age and unmarried, for whom you desire to make application? A I have five.
Q Did you apply for the citizenship of these children when you applied for your own citizenship to the Dawes Commission in 1898? A I don't know how the papers are made out, whether they are there or not.
Q What do you claim these children to be? A They are part Cherokee.
Q Have they ever been upon any of the rolls of the Cherokee Nation?
A No, sir.
Q Have yourself, your wife, or your children ever been recognized by the Cherokee Nation as citizens? A No more than my marriage certificate.
Q Have you ever received any payments, you or your wife or your children? A No, sir.
Q Have you applied? A Yes, sir.
Q Were you refused? A They refused to pay me.
Q Give the names and ages of your children under 21 years of age, and living with you. A Willie E. Brought, born September 29, 1883, Bella Beares, born April 1, 1886, Roy Tibbets, born September 14, 1886, Lisetta Getta, six years old.
Q Are all of these children living in the Cherokee Nation? A Yes, sir.

The names of Gleed G. Brought and Cynthia A. Brought, together with their children, Willie E., Bella E., Roy T., and Lisetta G., upon examination, are not found upon the authenticated rolls of 1880 as citizens of the Cherokee Nation, nor upon the rolls of 1894 or 1896, or any other authenticated rolls of the Cherokee Nation, and it appears from the records of this Commission, and of the United States Court, that Cynthia A. Brought et al. applied to the Commission to the Five Civilized Tribes in 1896 for admission as Cherokee citizens, and the record shows the following judgment: Citizenship Docket B., page 434, Dawes Commission Case 551^o, Cynthia A. Brought et al. against the Cherokee Nation; filed September 2, 1898; answer filed; application denied; appealed, judgment sustained; Court No. 158.

The application for the enrollment of said parties is hereby refused. You will be permitted to offer any additional evidence in the form of statements, affidavits or other proper papers, which you may desire to present to the Commission at this time in connection with your application, and you will be advised in writing in the near future what notice this Commission has taken, in extenso, and permitted to take what steps you deem proper. The testimony in this case, together with any documents and papers which you may desire to file, will be forwarded to the Honorable Secretary of the Interior when the rolls of the citizens of the Cherokee Nation are forwarded to him for approval.

Cleid G. Braught. - 3.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he reported the testimony of the above named witness, and that the foregoing is a full, true and correct translation of his stenographic notes.

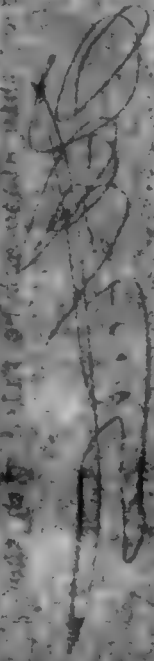
Bruce C. Jones

Sworn to and subscribed before me this the 5th day of July, 1900.

[Signature]

JUL 5 1900
J. L. JONES
COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR

DEPARTMENT OF THE INTERIOR
COMMISSION ON THE FIVE CIVILIZED TRIBES
F. I. B. D.
JAN 30 1902



Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 28, 1902.

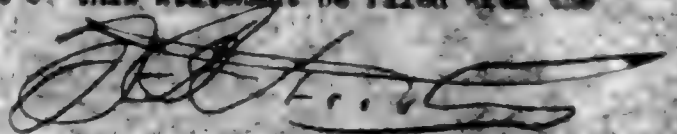
In the matter of the application of Cloid S. Braught for the enrollment of himself, wife and minor children as citizens of the Cherokee Nation.

On the 27th day of July, 1900, Cloid S. Braught appeared before the Commission and made application for the enrollment of himself, his wife and five minor children as citizens of the Cherokee Nation. Neither the applicant, his wife, nor any of his children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission. Neither does it appear that they were ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or Commissions on Citizenship. It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1894, that Cynthia S. Braught et al were applicants before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act; that their application was denied, and an appeal taken to the United States Court for the Northern District of Indian Territory, where the judgment of the Commission was sustained. The applicant, his wife and children were listed by the examining official on Cherokee Roll Card Field No. R. 7.

For the reason that neither the applicant, his wife, or his children are identified on any of the tribal rolls or were ever admitted to citizenship by the tribal authorities, the Commission to the Five Civilized Tribes, or the United States Court on appeal, it is directed that Cherokee Roll Card Field No. R. 7 be cancelled, and the same listed in the Cherokee Roll as a non-enrolled person, and the same reported to the Commission for rejection under the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

It is directed that copies of this statement be filed with the testimony in the above case.



Commissioner.

Department of the Interior
Bureau of Indian Affairs

General Land Office

FILED

THE COMMISSION TO THE LAND CLAIMED INDIANS

has upon the same for some years for the Commission.

The Bureau has a large number of land claims which are being investigated for their validity.

The Indians' title to land of the predecessors' has been investigated and their claims have been found to be valid.

It is the policy of the Government to give the Indians the benefit of the doubt in all cases where there is any question as to the validity of their claims.

There are

7412

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES

FILED
1902

There are also many other land claims which are being investigated for their validity. The Commission has a large number of land claims which are being investigated for their validity.

The Commission has a large number of land claims which are being investigated for their validity. The Commission has a large number of land claims which are being investigated for their validity.

Charcoal-ville

COPY.

Chicago, Indian Territory, April 21, 1908.

Mr. Cloyd G. Brought,

Fairland, Indian Territory,

Sir:

On the 5 day of July, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of your wife, Martha A. Brought and your four minor children, Willie E. Brought, Belle Laura Brought, Roy Herbert Brought and Minnie Corie Brought as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory or appeal, in accordance with the provisions of the act of June 10, 1894, (25 Stat., 222).

The act of May 21, 1900, (31 Stat., 211), provides:

That said Commission shall continue to exercise all authority hereinbefore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and only and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that yourself, your wife and your four minor children above named, are not citizens of the Cherokee Nation and only and lawfully enrolled or admitted as such, and that pursuant to the provisions of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your wife and your four minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a transcript of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSIONER OF THE FIVE CIVILIZED TRIBES.

By Fams Bixby.

~~Commissioner of the Five Civilized Tribes~~

13

COMMISSIONERS
HENRY L. DAVIS.
TAMM BIXBY.
THOMAS S. NEEDLES.
C. R. BRCKINRIDGE.

ALLISON L. AVLESWORTH.
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

RECORDED AND INDEXED TO FIVE CIVILIZED TRIBES
CHAS. H. H. 617

Muskogee, Indian Territory, May 27, 1908.

V. V. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory

Sir:

You are hereby advised that the Commission's decision of April 9, 1908, rejecting the application of Chas. H. Knight et al., Cherokee Nation, No. 617, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on May 13, 1908.

Very respectfully,

Acting Chairman.

CHAS. H. H. 617

(C O P Y)

—Copy—

LAND:
28582-1902
102738-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

December 12, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of May 12, 1902 (I.T.B. 2816-1902), affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Cleid S. Brought for the enrollment of himself by intermarriage, and his wife and four minor children as citizens by blood of the Cherokee Nation, I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 15, 1906, enclosing a motion to reconsider and review this case under Section 1 of the Act of Congress approved April 26, 1906 (34 Stat.L., 137).

In addition to the applicants in the case of Cleid S. Brought et al., this motion to reconsider includes the names of Alice James, H. T. Chastain, John Chastain, Dennis Chastain, Corydon Chastain, Rosa Langford, Abba Essex and Rainy Evans.

The Commissioner says that Alice James, John Chastain, Corydon Chastain and Rosa Langford were applicants before the Commission to the Five Civilized Tribes for admission to citizenship in the Cherokee Nation under the provisions of the Act of June 10, 1898; that their applications were denied by the Commission; and an appeal

taken from its decision on behalf of Aline James, John Chastain, and Corydon Chastain, and the Commission's decision adverse to them was sustained. There was no appeal taken on behalf of Rosa Langford from the original decision adverse to her. It is presumed from the motion filed that the appeal mentioned by the Commissioner as having been prosecuted was to the United States Court for the Northern District of Indian Territory.

The Commissioner says that a careful examination of the records of his office fails to show that any application has been made to the Commission to the Five Civilized Tribes or to the Commissioner for the enrollment of these claimants as citizens of the Cherokee Nation prior to December 1, 1905, and that the Commission and the Court had jurisdiction under the Act of June 10, 1896, over the cases of these claimants. He recommends that their claims for Cherokee citizenship be denied.

The Commissioner also says that the records of his office do not show that any application has been made for citizenship in the Cherokee Nation by H. T. Chastain, Dermis Chastain, Abba Essex and Rainy Evans within the time limited by law, nor are there any records of any applications having been made to the Commission for the admission of these claimants to citizenship in the Cherokee Nation under the Act of June 10, 1896, and their names are not identified on any of the tribal rolls of the Cherokee Nation in the possession of his office.

The Office is of the opinion that the motion is without merit, and recommends that it be denied in as far as it applies.

to the case of Cloid G. Braught et al.; that as to the other applicants named in the motion no action be taken thereon.

The record in the case of Cloid G. Braught et al. is enclosed herewith.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

KVE-KH

D.C. 85558-1906.

(C O P Y)

Y.P.

DEPARTMENT OF THE INTERIOR,

LLB

WASHINGTON.

I.T.D. 25142-1906.

December 17, 1906.

L.R.S.

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

Sir:

The Department is in receipt of your letter of November 15, 1906, submitting a motion for review of the claims to citizenship in the Cherokee Nation of Cynthia A. Braught, Alice James, H. T., John, Dennis, and Corydon Chastain, Rosa Langford, Abba Essex, and Rainy Evans.

As you state, there is nothing material in the motion which has not heretofore been considered in connection with the case of Cynthia A. Braught et al. The Department therefore adheres to its decision of May 12, 1902, in that case.

It appears from your report that the names of Alice James, John Chastain, Carden Chastain, and Rosa Langford can not be identified on any of the tribal rolls of the Cherokee Nation in your possession, and no record can be found of their having been admitted to citizenship in the nation or recognized as citizens of such nation. No case involving the application for their enrollment has ever been before the Department. It does appear, however, that they were applicants for enrollment in the Cherokee Nation in 1896, and that their applications were rejected.

You state that the records of your office fail to show that any application was made within the time limited by law for the enrollment of H. T. Chastain, Dennis Chastain, Abba Essex, and Rainy Evans as citizens of the Cherokee Nation. It does not appear that any application for their enrollment was made under the Act of June 10, 1896. Their names can not be identified on any of the rolls of the Cherokee Nation in your possession.

The Department finds nothing in the motion which would justify it in ordering a further hearing so far as any of the parties to the motion are concerned.

The motion mentions no law under which it is supposed the parties could be enrolled, and the Department knows of no such law. It is accordingly denied, as recommended by you and the Indian Office in its letter of December 12, 1906, submitting your report.

The papers received with the Indian Office letter have been returned to it. A copy of its letter is inclosed.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 4 to Ind. Of.

COPIED BY ORDER OF THE FOLLOWING:
Cherokee
N 412.

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

Muskogee, Indian Territory, January 7, 1907.

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

Dear Sir:

You are hereby advised that a motion for a rehearing in the Cherokee enrollment case of Cynthia A. Brought and others, was denied by the Secretary of the Interior, December 17, 1906.

For your information, a copy of Departmental decision referred to is enclosed herewith.

Respectfully,

Encl. N-18
JME

Commissioner.

M 412

IN THE MATTER OF THE APPLICATION OF

Cloud G. Braught

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 413

Cher Memo 413

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskegee, I. T., February 8, 1902.

In the matter of the application of William Mendenham Dugger for the enrollment of himself and his six minor children as citizens by blood, and for the enrollment of his wife as a citizen by intermarriage of the Cherokee Nation, said Dugger being duly sworn testified as follows:

Examination by the Commission:

- Q What is your name? A William Mendenham Dugger.
Q How old are you? A I am 39.
Q What is your post office address? A Wyback is my post office.
Q Are you living in the Creek or Cherokee Nation? A Cherokee Nation.
Q Do you apply for yourself as a citizen by blood? A Yes, sir.
Q How much blood do you claim? A I claim one-quarter.
Q Do you apply for anyone besides yourself, wife or children?
A I could apply for my children, of course; I have a family.
Q Well, do you apply for them? A Yes, sir.
Q What is the name of your eldest child under 21 years of age?
A Annie Sarahann.
Q How old is she? A 17.
Q What is the name of your next one? A Cynthia Arvinda.
Q How old is she? A She is 14.
Q The next one? A The next one is Ota.
Q How old? A She is ten years old.
Q What is the name of the next child? A Emory Jet.
Q How old is he? A He is eight years old.
Q The next child? A The next one is Fred B.
Q How old is he? A He is four years old.
Q What is the name of the next one? A Cooper Lafayette.
Q How old is he? A Two years old.
Q Any other children? A That is all.
Q Are these children all living? A Yes, sir.
Q Are they all living with you? A Yes, sir.
Q Who is the mother of your children? A My wife, of course.
Q What is her name? A Jennie Dugger.
Q Is she living? A Yes, sir.
Q Is she a Cherokee or white woman? A She is a white woman.
Q Do you make application for her enrollment? A Yes, sir; I suppose so; I don't understand the law, of course, but then I suppose I have the name.
Q How old is she? A She is 39, same age as myself.
Q Is she living? A Yes, sir.
Q She is a white woman you say? A Yes, sir.
Q Have you ever been recognized as a Cherokee citizen?
A No, sir, I haven't; just by birth recognition of course.
Q Did you ever draw any money? A No, sir.
Q Did you ever apply to the tribal authorities for enrollment?
A No, sir.
Q Did you ever apply to this Commission before for enrollment?
A No, sir.
Q Have any of your children ever drawn any money? A No, sir.

Neither the applicant nor his wife or any of his children are identified on any of the rolls of the Cherokee Nation now in the possession of this Commission.

The records of the Cherokee Nation examined and fail to

disclose either the applicant, his wife or children were ever admitted to citizenship by the tribal authorities.

The records of the Commission made in accordance with the Act of Congress approved June 10, 1896, examined and fail to disclose that either the applicant, his wife or children ever made application to the Commission to the Five Civilized Tribes for admission to citizenship in the Cherokee Nation.

Q. How long have you lived in the Cherokee Nation? A. I have been here a year the 26th of this last November.

Q. Never been here before that? A. I have been here but never made it my home before that.

COMMISSION: William K. Dugger applies for the enrollment of himself and his six minor children, Annie S., Gurta A., Ota, Memory J., Fred B. and Gosper L. Dugger, as citizens by blood of the Cherokee Nation and for the enrollment of his wife, Leona Dugger, as a citizen by intermarriage of the Cherokee Nation. Neither the applicant, or his wife or his children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission. Neither does it appear that they were ever admitted to citizenship in the Nation by the tribal authorities, or the Commission to the Five Civilized Tribes or United States Court on appeal. This application appears to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." Consequently the application which William K. Dugger makes for himself and his children as citizens by blood and his wife as a citizen by intermarriage will be listed for rejection.

---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.

Subscribed and sworn to before me this February 10, 1902.

Commissioner.

Page 10
July 1, 1902

UNITED STATES DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REPORT OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES

CHAPTER I. THE HISTORY OF THE COMMISSION

The Commission, as stated in the report, was organized in 1891, and its first report was published in 1892.

The Commission was organized by the Secretary of the Interior, and its first report was published in 1892. The Commission was organized by the Secretary of the Interior, and its first report was published in 1892.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REPORT
1902

The Commission was organized by the Secretary of the Interior, and its first report was published in 1892. The Commission was organized by the Secretary of the Interior, and its first report was published in 1892.

The Commission was organized by the Secretary of the Interior, and its first report was published in 1892. The Commission was organized by the Secretary of the Interior, and its first report was published in 1892.

COPY

Muskogee, Indian Territory, April 3, 1902.

Mr. William Henderson, Deputy,
Squaw, Indian Territory,

Sir:

On the 4 day of February 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and four of your minor children, Anna Savannah Dugger, Curtis Irvin Dugger, (the Dugger), Henry Det Dugger, Fred S. Dugger and Osgar Lafayette Dugger, as citizens by blood of the Cherokee Nation and for the enrollment of your wife, Leona Dugger, as a citizen by intermarriage of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory, or upon any occasion with the provisions of the act of June 18, 1900, (32 Stat., 811).

The act of May 31, 1902, (32 Stat., 221), provides:

P. S. L. 100.

That said Commission shall continue to exercise all authority heretofore conferred on it by law. It shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a member of such tribe through and duly and lawfully enrolled or admitted to such and its refusal or such applications shall be final and unreviewable by the Secretary of the Interior.

The Commission has, therefore, in this day decided that yourself, your six minor children and your wife, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provisions of law above recited, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself, your six minor children and your wife as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are advised that the Commission has on this day reported a recommendation of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be fully communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE SEVEN CIVILIZED TRIBES.

By John D. ...

Commissioner of the Bureau

John D. ...
Commissioner

287

COMMISSIONERS
HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKENRIDGE.

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

REPLY TO THE FOLLOWING
Cherokee Name-413

ALLISON L. AVLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

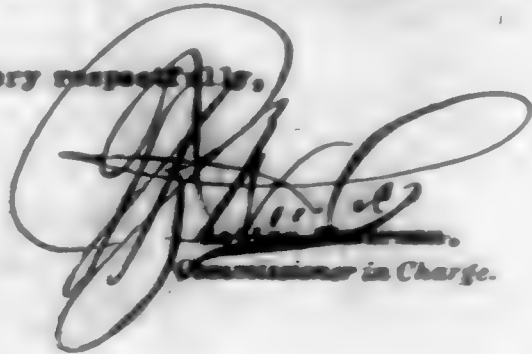
Muskogee, Indian Territory, May 29, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of William Edmondson Dugger et al, Cherokee Memorandum No. 413, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Commissioner in Charge.

IN THE MATTER OF THE APPLICATION OF

William E. Duggins et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF JULY 3, 1900
MEMORANDUM.

Cher Memo 414

Cher Memo 414

Enclosed and return to Bureau on file February 10, 1958.

[Handwritten signature]

James Stewart

Testimony as a free and complete transcript of his autobiographic
recorded the testimony and proceedings in this case and from the
letter to the Commission to the five classified copies he submitted
to the Commission, being first only marked paper and as attached.

CONFIDENTIAL

by the Commission.

by proof of the Charles Nelson and be fitted for the action
permanently and not otherwise, because and since now, as citizens

consequently the application which now is being made for
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and such a situation should be that when circumstances are

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yet of the laws to have it in law. It is a right not

Memorandum

Department of the Interior,
Commission to the Five Civilized Tribes,
Washago, I. T., February 8, 1908.

In the matter of the application of Mary Agnes Ross for the enrollment of herself and two children as citizens by blood of the Cherokee Nation; said Ross being duly sworn testified as follows:
Examination by the Commission:

APPEARANCES:

Judge J. E. Thomas, Attorney for Applicants;
Mr. W. W. Hastings, Attorney for Cherokee Nation.

- Q What is your name? A Mary Agnes Ross.
Q How old are you? A 22.
Q What is your post office address? A Turley.
Q Is that in the Indian Territory? A Yes, sir.
Q What Nation is it in? A Cherokee.
Q In what district in the Cherokee Nation do you live? A Well I couldn't tell you, it is 25 miles from Tulsa.
Q What direction? A North.
Q Do you apply for enrollment as a Cherokee by blood?
A Yes, sir.
Q Do you apply for anyone besides yourself? A No, sir.
Q No children? A Yes, I have two children.
Q What is the name of your older child? A Bessie.
Q How old is she? A Five years old.
Q What is the name of the next one? A Clara.
Q How old is that child? A Two years old.
Q Are these children both living? A Yes, sir.
Q Are they living with you at home? A Yes, sir.
Q What is the name of your father? A John E. Banight.
Q Is he living or dead? A He is living.
Q Is your father a Cherokee or white man? A Cherokee.
Q What is the name of your mother? A Susan Banight.
Q Is she living? A Yes, sir.
Q Is your mother a Cherokee? A No, sir, she is a white woman.
Q What is the name of your husband? A John Ross.
Q Is he living? A Yes, sir.
Q Is he a Cherokee? A No, sir; he is a Choctaw.
Q When were you married to him? A It was in '96.
Q Have you ever been recognized as a citizen of the Cherokee Nation?
A No, sir.
Q Have you ever given any money? A No, sir.
Q Did you ever apply to the tribal authorities for admission to citizenship? A No, sir.
Q Did you ever apply to this Commission or your parents ever apply for you? A No, sir; never did.

The tribal rolls of the Cherokee Nation in the possession of this Commission examined and the name of applicant is not found thereon.

The records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship by the tribal authorities.

The records of the Commission made in accordance with the Act of Congress approved June 10, 1896, examined and fail to disclose that the applicant was ever admitted to citizenship by the Commission to the Five Civilized Tribes or by the United States Court on appeal.

Mary A. Ross, et al.--2.

COMMISSION: Mary A. Ross applies for the enrollment of herself and two children, Beasia and Clara Ross, as citizens by blood of the Cherokee Nation.

Neither the applicant or her children are identified on any of the tribal rolls of the Cherokee Nation. Neither does it appear that they were ever admitted to citizenship by the tribal authorities of the Cherokee Nation, the Commission to the Five Civilized Tribes or United States Court on appeal. This application seems to come within the provisions of the Act of Congress approved June 10, 1896, which Act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

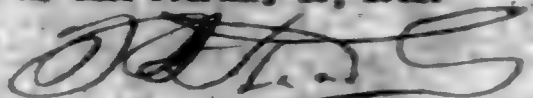
Consequently the application which Mary A. Ross makes for herself and two children, Beasia and Clara Ross, as citizens by blood of the Cherokee Nation will be listed for rejection by the Commission.

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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,



Subscribed and sworn to before me this February 10, 1902.



Commissioner.

Department of the Interior
Bureau of Indian Affairs

Washington, D.C.

July 10, 1902

Mr. [Name]

Department of the Interior

Mr. [Name]

THE COMMISSION TO THE LAND CLAIMS TRIBUNE

has been the case in the past and will be in the future.

The Commission, a body of five members, will be organized in the

Secretary.

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M 414

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of the [unclear]

COPY.

Muskogee, Indian Territory, April 9, 1902

Mrs. Mary Agnes Ross,
Turley, Indian Territory,

Nadine

On the 8 day of February 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Beacie Ross and Clara Ross as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (28 Stat. 281).

The act of May 31, 1900, (31 Stat. 281), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary

COMMISSIONERS
HENRY L. DAVIS
TAMM DIXIE
THOMAS B. NEEDLES
C. R. BRUCKENRIDGE

ALLISON L. AVERSWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee Memo-414

ADDRESSES ONLY IN
COMMISSION TO THE FIVE CIVILIZED TRIBES

Hastings, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,

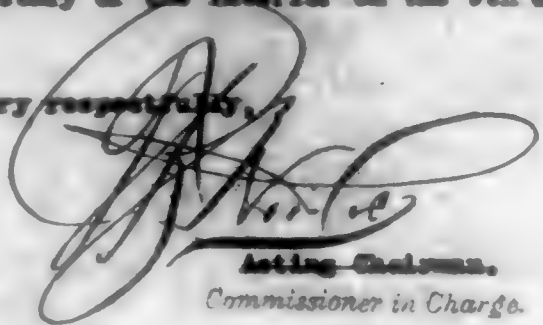
Attorney for Cherokee Nation,

Hastings, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Mary Agness Ross et al, Cherokee Memorandum No. 414, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Acting Chairman.

Commissioner in Charge.

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IN THE MATTER OF THE APPLICATION OF

Mary Agnes Ross et al
FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF _____ 1890
MEMORANDUM

Cher Memo #15

Cher Memo #15

Cherokee Rejected, Memo.

Department of the Interior/
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 12, 1902.

In the matter of the application of Nathan Miller for the enrollment of himself and two children as Cherokees by blood, being sworn and examined, he testified as follows:

(Applicant also applies for enrollment of his wife.)

BY COMMISSIONER:
Q What is your name? A Nathan Miller.

Q How old are you? A I will be 45 years old in March.

Q What is your post-office address? A Muskegee.

Q Are you living in the Creek or the Cherokee Nation? A I am living in the Cherokee Nation.

Q You apply for enrollment as a Cherokee by blood? A Yes sir.

Q What district in the Cherokee Nation do you live in? A Canadian.

Q You apply for anyone besides yourself? A Yes sir, my mother.

Q Your mother will apply for herself? A She has before.

Q What is her name? A Elizabeth Miller.

Q You mean she has applied to this Commission? A No sir, she has not been able to get out for several years.

Q She will have to take her application separately; give me the name of your wife? A Sadie.

Q Is your wife living? A Yes sir.

Q How old is she? A 27 years old.

Q What is the name of your eldest child? A Oldest child's name is Adalee.

Q How do you spell it? A A-d-a-l-e-e.

Q How old is she? A She is four years old, the 6th day of July.

Q Next child? A Peter Alva.

Q How old is he? A He will be two years old the 25th of July.

Q Is that all the children? A That's all; just them is all there is.

Q Have you ever applied to the tribal authorities for admission to citizenship in the Cherokee Nation? A I have attorneys that said I have.

Q Were you admitted or rejected do you know? A I never was rejected and never was admitted.

Q Well, did you ever apply? A Yes sir.

Q Was no action taken on your case? A They went before the council in '90 and '91 and '92, and they never taken any action on it.

Q Then you never were admitted? A No sir.

Q Did you ever apply to this commission in 1896 for admission to citizenship? A No sir, not myself I didn't.

Q Did any of your people apply? A My mother did.

Q In '96, that is about 6 years ago? A Yes sir, I think so. It was the Elizabeth Miller case that was before the Commission.

Q Is that your mother's name, Elizabeth Miller? A Yes sir.

Q What is your mother's full name? A Betay Bearpaw before she married Miller.

Q Who was your attorney at that time, Hunt, of Fort Gibson? A He was an Arkansas fellow, I forget his name now; he was at Fort Gibson; he come up from Arkansas and stayed about Fort Gibson.

Q What was his name, J.D. Hunt? A Yes sir, that was his name.

BY COMMISSIONER: It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, on page 2, Booklet A, that Betay Miller and others were applicants before the Commission for admission to citizenship in the Cherokee Nation. That the application was filed on the 18th day of August, 1896; that the answer of the Cherokee Nation was filed, and that the application was denied by the Commission at Vinita, Indian Territory on the 12th day of October, 1896; it further appears that an appeal was taken by the applicant from the decision rendered by the United States Commission to the United States Court for the Northern

District of the Indian Territory, where the decision of the Commission was sustained. It further appears that the applicant in this case, Nathan Miller, was embraced in said application.

Records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship in the Nation by the Cherokee National Council or Commission on citizenship.

Neither the applicant, nor his wife, nor any of his children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of this Commission.

- Q What is the name of your father? A Thomas Miller.
- Q What is your wife's father's name? A He was a Tracy.
- Q Is a white man? A Yes sir, he has been dead several years.
- Q What is your wife's mother's name? A I don't know.
- Q Was she a white woman? A Yes sir.
- Q Are these two children of yours living? A Yes sir.
- Q Are they your children by Sadie Miller? A Yes sir.

BY COMMISSIONER: Nathan Miller applies for the enrollment of himself, his wife, Sadie Miller and his two children, Adalee and Peter Alva Miller, as citizens of the Cherokee Nation. Neither the applicant, his wife or children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission; nor does it appear that they were ever admitted to citizenship by act of the Cherokee National Council or Commission on citizenship. It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that the applicant's name was embraced in an application made to the Commission for admission to citizenship by Betsy Miller and others; that the application was denied by the Commission, and an appeal taken to the United States Court for the Northern District of the Indian Territory; where the decision of the Commission was sustained.

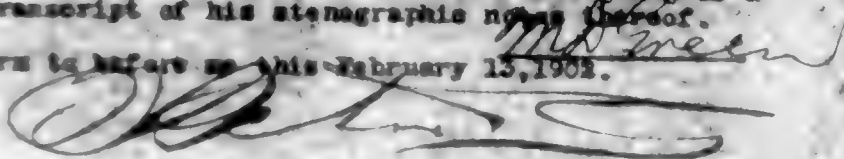
It appears from the testimony in this case that this application comes within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently, the application that Nathan Miller makes for the enrollment of himself, his wife, and two minor children will be listed for rejection.

H. B. 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 February 13, 1902.



Commissioner.

COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Nathan Miller,
Muskogee, Indian Territory,

Sir:

On the 18 day of February 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Adalbe Miller and Nancy Alva Miller, as citizens by blood of the Cherokee Nation and for the enrollment of your wife, Maria Miller, as a citizen by intermarriage of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authority of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, [25 Stat. 521],

The act of May 21, 1900, [21 Stat. 521], provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person

N. 2-2.

for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and if refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you, self, your two minor children and your wife above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of you, self, your two minor children and your wife as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By (SIGNED) James Birchby
General Agency Commission.

Encl. 2-116,
Registers

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

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Chas. Mem. 415.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Nathan Miller et al., Cherokee Mem. No. 415, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,



Acting Chairman.

IN THE MATTER OF THE APPLICATION OF

Nathan Miller et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Other Memo 416

Other Memo 416

Cherokee Rejected Memo.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 12, 1902.

In the matter of the application of Nathan Miller for the enrollment of his mother, Betsy Miller, as a Cherokee by blood; being sworn and examined he testified as follows:

BY COMMISSION:

- Q Give me your name again? A Nathan Miller.
Q How old are you? A 46 years old the 26th day of March.
Q What is your post-office address? A Muskogee.
Q Do you desire to make application for enrollment of your mother as a Cherokee by blood? A Yes sir.
Q How old is she? A She was born in 1826, March 26th.
Q Is she physically unable to appear in person before the Commission? A Yes sir, and have been for two years.
Q Is she confined to her bed? A Yes sir.
Q What is her name? A Betsy Miller.
Q Where does she live? A 10 miles east of here, in Coatesneck Band, Canadian District? A Yes sir.
Q Does she claim to be a Cherokee by blood? A Yes sir.
Q How long has she resided in the Cherokee Nation? A Ever since '85.
Q Was she ever admitted to citizenship in the Nation by an act of the Cherokee National Council or Commission on citizenship?
A No sir.

Commission: Records of the Cherokee Nation examined and fail to disclose that the said Betsy Miller was ever admitted to citizenship in the Nation by the Cherokee National Council or Commission on citizenship.

The tribal rolls of the Cherokee Nation in the possession of this Commission examined, and the name of Betsy Miller does not appear of record thereon.

- Q Did your mother ever apply to this Commission for admission to citizenship in the Cherokee Nation? A Yes sir.

BY COMMISSION: It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that Betsy Miller, who is fully identified as the applicant, in this case, applied to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act; that her application was filed on the 15th day of August 1894; and the answer of the Cherokee Nation was filed thereto, and the application denied by the Commission at vinita, Indian Territory, on the 12th day of October, 1896. It further appears that an appeal was taken from the decision rendered by the Commission to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission was sustained.

BY COMMISSION: Nathan Miller applies for the enrollment of his mother, Betsy Miller, as a citizen by blood of the Cherokee Nation. He avers that his mother is physically unable to appear in person before the Commission and make application for her enrollment. She is not identified on any of the tribal rolls of the Cherokee Nation in the possession of this Commission, neither does it appear that she was ever admitted to citizenship by the tribal authorities. It appears from the records of the Commission that she was denied enrollment by the Commission under the provisions of the Act of Congress approved June 10, 1896; that an appeal was taken therefrom, and to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission

was sustained. This application appears to come within the provisions of the Act of Congress approved May 31, 1900, which act provides:

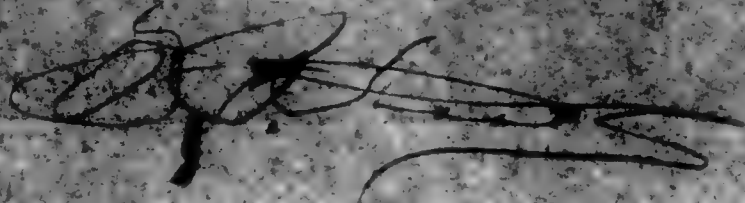
"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently the application which the applicant, Nathan Miller makes for the enrollment of his mother, Betsy Miller, will be listed for rejection by the Commission.

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

M.D. Green

Subscribed and sworn to before me this February 13, 1902.



Commissioner.

Posters
No. 1-1-18

Acting Chairman

DA
James E. P. ...

THE COMMISSION TO THE ...

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COPY.

Muskogee, Indian Territory, April 9, 1902.

Mr. Nathan Miller,
Muskogee, Indian Territory,

Sir:

On the 12 day of February 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of your mother, Betsy Miller, as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicant above named, has never been enrolled by the tribal authorities of the Cherokee Nation, and that her name does not appear upon the tribal rolls of the Cherokee Nation, now in the possession of this Commission; that she has not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1900, (30 Stat. 221).

The act of May 31, 1900, (31 Stat. 221), provides:

" That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and law-

F. D. - 2.

fully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that your mother, above named, is not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of your mother as a citizen of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known by this Commission.

SEE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By James Bixby

Acting Chairman.

Encl. - 2-418,
Register.

COMMISSIONERS
HENRY L. DAVIS,
TARD BILBY,
THOMAS B. NEEDLER,
C. E. BRICKNORRIDGE.

ALLISON L. AVLENSPOETH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Case, No. 416.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1908.

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

SIR:

You are hereby advised that the Commission's decision of April 6, 1908, rejecting the application of Henry Miller, Cherokee Case No. 416, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1908.

Very respectfully,


Acting Chairman.

W-111
IN THE MATTER OF THE APPLICATION OF

Betsy Miller

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

ME...

Cher Memo #17

Cher Memo #17

Cherokee Rejected Memo.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 12, 1902.

In the matter of the application of Nathan Miller for the enrollment of his sister, SILVYRAH MILLER, as a citizen by blood of the Cherokee Nation; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A Nathan Miller.
Q How old are you? A 46 years old the 26th day of March.
Q What is your post-office address? A Muskogee.
Q For whom do you now desire to make application? A My sister, Silvyrarah Miller.
Q How old is she? A 54 years old.
Q Is she living at this time? A Yes sir.
Q Where does she live? A In Canadian District.
Q What is her post-office address? A Muskogee.
Q Why does she not appear in person before the Commission? A She is unable to get around.
Q Is she physically unable to appear? A It might be possible to get her here, but she is not able to get around; take her out she would probably be down in bed for a couple of weeks.
Q What is her father's name? A Thomas Miller.
Q What is her mother's name? A Betsy Miller.
Q Was your sister ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or commissions on citizenship? A No sir.

BY COMMISSION: Records of the Cherokee Nation examined and fail to disclose that the applicant's sister was ever admitted to Cherokee citizenship by the Cherokee National Council or commissions on citizenship.

Tribal rolls of the Cherokee Nation in the possession of the Commission have been examined and applicant's sister is not identified thereon.

- Q Was the name of your sister embraced in the application made by your mother, Betsy Miller, in 1896, for admission to citizenship in the Cherokee Nation? A Yes sir.

BY COMMISSION: It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that Betsy Miller, mother of the applicant, applied to this Commission for admission to citizenship in the Cherokee Nation under the provisions of the act of Congress aforesaid; that the application was filed on the 10th day of August, 1896; that the answer of the Cherokee Nation was filed thereto, and the application of Betsy Miller et al denied by the Commission on the 18th day of October, 1896; it further appears that an appeal was taken from the decision of the Commission to the United States Court for the Northern District of the Indian Territory, where the judgment of the Commission was sustained.

The applicant in this case is identified as Silvyrarah Miller and was embraced in the application made by said Betsy Miller, and others.

BY COMMISSION: Nathan Miller applies for the enrollment of his sister, Silvyrarah Miller, as a citizen of the Cherokee Nation. The applicant's sister, the said Silvyrarah Miller, is not identified on any of the tribal rolls of the Cherokee Nation now in the possession of this Commission; neither does it appear that she was ever admitted to citizenship in said nation by the Cherokee National Council or commissions on citizenship; it appears from the records of the

Commission that had been submitted in the application made by Harry Miller to this Commission for admission of himself and others to citizenship in the United States under the provisions of the act of Congress approved June 18, 1908, which application was filed with me as acting Secretary of the Commission on the 11th day of July, 1914, and the same was referred to the members of the Commission for their consideration.

That said application was read and considered by the Commission on the 14th day of July, 1914, and the same was referred to the members of the Commission for their consideration, and the Commission on the 14th day of July, 1914, advised that the application of Harry Miller and others for admission to citizenship in the United States under the provisions of the act of Congress approved June 18, 1908, was not a naturalization case, and that the same should be referred to the Secretary of the District.

Consequently, the application of Harry Miller for the naturalization of his name, Harry Miller, will be referred to the Secretary of the District.

I, D. W. [Name], being first duly sworn, depose that the foregoing is a true and correct copy of the application of Harry Miller and others for admission to citizenship in the United States under the provisions of the act of Congress approved June 18, 1908, and that the same was read and considered by the Commission on the 14th day of July, 1914, and the same was referred to the members of the Commission for their consideration.

Subscribed and sworn to before me this 14th day of July, 1914.



Cherokee-2-217,

COPY.

McAlester, Indian Territory, April 9, 1908.

Mr. Nathan Miller,
McAlester, Indian Territory,

Sir:

On the 12 day of February 1908, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of your sister, Silveriah Miller, as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicant above named, has never been enrolled by the tribal authorities of the Cherokee Nation, and that her name does not appear upon the tribal rolls of the Cherokee Nation, nor in the possession of this Commission; that she has not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory en banc, in accordance with the provisions of the act of June 18, 1906, (34 Stat. 228),

The act of May 31, 1908, (35 Stat. 221), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person

H.M.-3.

for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that your sister, above named, is not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of your sister as a citizen of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Wm. Rixby

Acting Chairman.

Encl. B-417.
Register.

COMMISSIONERS
HENRY L. DAVIS,
TAMM DIXBY,
THOMAS B. NEEDLES,
C. R. BRUCKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

ANSWER IN REPLY TO THE FOLLOWING

CHERO. MEM. 417.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Nathan Miller for the enrollment of his sister, Silvryrah Miller, as a citizen of the Cherokee Nation: Cherokee Memorandum No. 417, was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Acting Chairman.

Commissioner in Charge.

IN THE MATTER OF THE APPLICATION OF

Siboyrah Miller

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1908

MEMORANDUM

Cher memo 418

Cher Memo 418

In the matter of the application of Thomas Albert Miller for the enrollment of himself and his children as Cherokee citizens by blood; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A Thomas Albert Miller.
Q How old are you? A I am 36 years old.
Q What is your post-office address? A Muskogee.
Q Do you make application for enrollment as a Cherokee by blood?
A Yes sir.
Q Do you apply for anyone besides yourself? A My children.
Q How many children have you? A Six.
Q Give me the name of the oldest child? A Joseph Riddle Miller.
Q How old is he? A 20 years old.
Q Name of the next one? A Nora May.
Q How old is she? A Eight.
Q Next child? A Gladys.
Q How old? A Six.
Q Next child? A I have got two more in there now; twins, one is named Henry Richard and Thomas Milton, twins, boys, three years old.
Q What is the name of the next one? A Huma Jackson.
Q Is that a boy or a girl? A Boy.
Q How old is he? A Nine months old.
Q Is that all the children? A Yes sir.
Q Are they all living? A Yes sir.
Q Are they all living with you? A Yes sir.
Q Who is the mother of the children? A Addie Miller.
Q Is she living, A Yes sir.
Q Is she a Cherokee or a white woman? A She is a white woman.
Q Have you ever been admitted to citizenship by the Cherokee National Council or commission on citizenship? A No sir.
Q Does your name appear upon any of the tribal rolls? A No sir.

BY COMMISSION: The records of the Cherokee Nation examined and fail to disclose that either the applicant or his children were ever admitted to citizenship by the Cherokee Tribal Council or commissions on citizenship;

Neither the applicant nor any of his children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of this commission.

- Q Was your name embraced in the application which was made by your mother to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A Yes sir, and I suppose part of my children.
Q Did you ever go by any other name besides Thomas Albert? A I go by Albert sometimes Albert, and Thomas.
Q Who is Henry Miller? A He is dead; he is my brother.
Q Who is John Miller? A Here he stands right here, (Pointing to man) Just three of us.

BY COMMISSION: It appears from the records of the Commission that the applicant's mother, Betsy Miller, made application to this Commission for admission to citizenship in the Cherokee Nation under the provisions of the act of Congress approved June 10, 1896; that her application was filed on the 18th day of August, 1896, and the answer of the Cherokee Nation filed thereto; that the application was denied by the Commission at Vinita, Indian Territory on the 12th day of October 1896; an appeal was taken from the decision rendered by the Commission, to the United States Court for the Northern District

COPY.

Washington, Indian Territory, April 9, 1899.

Mr. Thomas Albert Miller,
Mustang, Indian Territory.

Sir:

On the 12th day of February, 1899, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your wife, children, Joseph Milton Miller, Rosa May Miller, Clara Miller, Henry Richard Miller, James Milton Miller and Ezra Jackson Miller, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the individuals above named have never been enrolled by the proper authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission, that they have not been enrolled in citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the Act of June 15, 1899, (30 Stat. 221).

On the 21st day of May, 1899, (30 Stat. 221), provided

That said Commission shall continue to exercise all authority conferred upon it by law. And it shall not receive, exercise or execute any power or jurisdiction of any Federal Court in Indian Territory.

who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that you and your six minor children above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provisions of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your six minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day transmitted a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSIONER TO HIS FIVE COUNCILS TRIBES.

BY- (SIGNED)

Jams Birby

Acting Chairman.

Encl. - 4-115.
Register.



COMMISSIONERS.
HENRY L. DAVIS.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REPLIED IN REPLY TO THE FOLLOWING
Case, No. 410.

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

DEAR SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Thomas Albert Miller et al., Cherokee Case, No. 410, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 10th day of May, 1902.

Very respectfully,

Acting Chairman.

M 418

IN THE MATTER OF THE APPLICATION OF

Thomas Albert Miller et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo 419

Cher Memo 419

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M419

DEPARTMENT OF COMMISSION TO THE FIVE CIVILIZED TRIBES

APR 1902

RECORD BOOK

RECORD BOOK

COPY

Lawrence, Indian Territory, April 9, 1902.

Mr. John Alfred Miller,
Lawrence, Indian Territory,

Sir:

On the 12 day of February 1902, you appeared before the Commission of the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, [Quinton Miller, Wesley Miller, [unclear] Miller, Dallas Miller and Louis Miller, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the qualifications there named have never been supplied by the United States of the Cherokee Nation, and that said names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission of the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory in appeal, in accordance with the provisions of the act of June 16, 1902, (32 Stat. 281).

The act of May 21, 1902, (32 Stat. 281), provides:

COMMISSIONERS
HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRACKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

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

REFER TO DEPT. TO THE FOLLOWING

Chero. No. 419.

Muskogee, Indian Territory, May 27, 1908.

V. V. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1908, rejecting the application of John Alfred Miller et al., Cherokee No. 419, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1908.

Very respectfully,



Allison L. Aylesworth.

IN THE MATTER OF THE APPLICATION OF

John Alfred Miller et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF

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REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Other Memo 420

Other Memo 420

(Name.)

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 11, 1908.

In the matter of the application of Lucinda Martin for the enrollment of herself and child as citizens of the Cherokee Nation; said Martin being sworn and examined testified as follows:

By the Commission:

- Q What is your name? A Martin.
- Q Full name? A Lucinda Martin.
- Q How old are you, Mrs. Martin? A I am going on 47.
- Q What is your post office address? A Fort Gibson.
- Q Are you living in the Cherokee nation? A Yes, sir.
- Q What district do you live in? A In, what is the district.
- Q Living right at Fort Gibson? A About ten miles from Fort Gibson.
- Q Which way? A East; Manard is my post office, one of them.
- Q Is Manard your post office? A Yes, sir, I get my mail over there.
- Q You are living in Tahlequah district; do you apply for enrollment as a Cherokee by blood? A Yes, sir.
- Q How much Cherokee blood do you claim? A Right.
- Q Do you claim for anyone besides yourself? A Yes.
- Q Two children? A Yes, sir.
- Q How old are they? A One is 27, one 18.
- Q The one that is 27 is of age, must apply for himself; now give me the name of the one that is 18 years old? A Earnest Smith.
- Q How old is he; 18 years? A Well, he is 18 past.
- Q Is this child living? A Yes, sir.
- Q Is he living with you? A Yes, sir.
- Q Who is the father of this child? A Walter Smith.
- Q Is he living? A No, sir.
- Q Was he a Cherokee or white man? A No, well he was Cherokee.
- Q Did he ever prove his rights as a Cherokee? A No, sir.
- Q He was never recognized? A I guess not.
- Q What was your father's name? A Scott.
- Q What is his first name? A Michael.
- Q Is your father living or dead? A He is dead.
- Q Was he a Cherokee or white man? A He was white man, I guess.
- Q What was your mother's name? A Perilla.
- Q Is she living? A No, sir.
- Q Was she a Cherokee? A Yes, sir.
- Q How long have you lived in the Cherokee Nation?
- A I have been here nine years going on ten.
- Q Have you ever been recognized as a citizen? A No, sir, not in full.
- Q You have never drawn any money? A No, sir.
- Q Did you ever apply to the Cherokee National Council for admission to citizenship? A Yes, sir.
- Q To the Council? A Well, I sent papers, but I never got them back.
- Q To whom did you send the papers? A My I don't recollect who it was.
- Q Well, what post office was it sent? A I sent to Muskogee, I think.
- Q How long ago was that? A It has been about five years ago.
- Q That was to this commission in 1896 wasn't it?
- A Yes, sir.
- Q I am talking about the Cherokee Nation now; did you ever apply to the authorities of the Cherokee Nation for admission to citizenship? A Yes, sir, to Tahlequah.

-2-

Q How long ago? A It has been about three or four years ago.
 Q Did they enroll you? A No, sir; they said that that Council was just about through when my papers got there.
 Q What was your name at that time? A Parkinson.
 Q How often have you been married? A Four times.
 Q What was the name of your first husband? A Giss.
 Q Full name? A John Harris Giss.
 Q Is he living or dead? A He is dead.
 Q Was he a Cherokee? A No, sir.
 Q What was the name of your next husband? A Walter Smith.
 Q Is he living? A No, sir, he is dead and Parkinson is dead.
 Q Was Earnest's father? A Yes, sir.
 Q What was the name of your next husband? A Arthur Parkinson.
 Q Is he living? A No, sir.
 Q Is he a Cherokee or white man? A He claims to be Cherokee.
 Q Was he ever recognized as a Cherokee citizen?
 A I don't know.

Commission: The records of the Cherokee Nation have been examined and fail to disclose that the applicant was ever admitted to citizenship by the Cherokee tribal authorities.

The records of the Commission made in accordance with the Act of Congress approved June 10, 1896, examined and fail to disclose that the applicant ever made application to this Commission for admission in the Cherokee Nation.

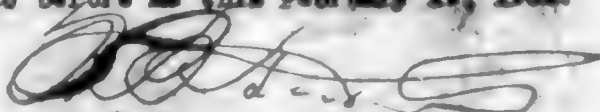
Neither the applicant nor her child are identified upon the tribal rolls of the Cherokee Nation now in the possession of the Commission, and the various rolls have been examined.

Lucinda Martin applies for the enrollment of herself and her son, Earnest Smith, as citizens by blood of the Cherokee Nation. Neither the applicant nor her son appear to have been admitted to citizenship by the tribal authorities of the Cherokee Nation, or by the Commission to the five civilized Tribes. Neither she nor her son are identified upon any of the tribal rolls now in the possession of this Commission. This application appears to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." Consequently the application which Lucinda Martin makes for herself and her son, Earnest Smith, will be listed for rejection under the provisions of the Act above quoted.

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

Subscribed and sworn to before me this February 19, 1902.

J. O. Rosson


Commissioner.

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M 420

DEPT. OF THE INTERIOR
BUREAU OF LANDS
WASHINGTON, D. C.
MAY 19 1902

1909

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P. M. - 1913

COPY.

The robes-4-430.

Mustang, Indian Territory, April 8, 1902.

Mrs. Lucinda Martin,
Mustang, Indian Territory,
Oklahoma.

On the 11 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your one minor child, Ernest Smith, as citizens by blood of the Cherokee Nation.

It appears from the witnesses offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (30 Stat. 521).

The act of May 21, 1900, (31 Stat. 521), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or have any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

S. N. - 9.

The Commission has, therefore, on this day decided that you and your one minor child, above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your one minor child as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

BY SIGNED, Tams Bixby.

Acting Chairman.

Encl. N-130.
Register.

COMMISSIONERS
HERRY L. DAVIS,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRACKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ANSWER IN REPLY TO THE FOLLOWING

Chero. Mem. 480.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Estina Martin et al., Cherokee Mem. No. 480, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 19th day of May, 1902.

Very respectfully,


Allison Aylesworth.

M 420

IN THE MATTER OF THE APPLICATION OF

Lucinda Martin et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED
ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo 421

Cher Memo 421

Cherokee Rejected Memo.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D. C., February 13, 1896.

In the matter of the application of George Thomas Miller for the enrollment of himself and son alike as Cherokee citizens by blood; being sworn and examined he testified as follows:

BY COMMISSIONER:

- Q What is your name? A George Thomas Miller.
Q How old are you? A 24 last October.
Q What is your post-office address? A Summit, Indian Territory.
Q Is that in the Creek Nation? A Yes sir.
Q Indian Territory? A Yes, I live in the Indian Territory, and get my mail in the Creek, - Cherokee I mean.
Q You apply for the enrollment of yourself as a Cherokee by blood?
A Yes sir.
Q You apply for anyone besides yourself, any wife or children?
A Yes, sir, one.
Q One child? A Yes sir, one child.
Q You don't apply for your wife? A Yes, she is on the roll.
Q Is your child on the roll too? A No it aint on the roll.
Q Has your wife been enrolled by the Commission? A Yes sir, she is a Cherokee by blood.
Q What is her name? A Mary A. Miller.
Q What was her name before you married her? A Mary A. Schoonover.
Q Is she living? A Yes sir.
Q How old is she? A She is about 18.
Q What is her father's name? A Henry Schoonover.
Q What is her mother's name? A Annie Schoonover.
Q Is her mother a Cherokee? A Yes sir.
Q Your wife is a recognized citizen? A Yes sir.
Q When were you married to her? A Last October was a year, 25th of last October was a year ago.
Q How that was after she had been enrolled by her father? A Yes sir.
Q And she is enrolled under her maiden name, Mary A. Schoonover?
A Yes sir.

BY COMMISSIONER: It appears from the records of the Commission that the applicant's wife Mary A. Schoonover, has been listed for enrollment by the Commission, under her maiden name, on Cherokee roll card field number 2346, consequently the application which George Thomas Miller makes for her enrollment and for the enrollment of her child, will not be embraced in this application, his wife having been duly enrolled.

- Q What is the name of your father? A John Miller.
Q What is your mother's name? A Nancy Miller.
Q Your father and mother both living? A Yes sir.
Q Have you ever drawn any money from the Cherokee Nation? A No sir.

Commissioner: All the rolls of the Cherokee Nation now in possession of this Commission have been examined and the applicant's name does not appear thereon.

Records of the Cherokee Nation have been examined and it does not appear that applicant was ever admitted by the Cherokee National Council or commissions on citizenship.

- Q What was your grandfather's name? A Betsy Miller.
Q Was your own name embraced in the application which she made to this Commission in 1894 for enrollment as a Cherokee? A I can't tell you.

BY COMMISSIONER: It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that the applicant's grandmother, Betsy Miller, and others, were applicants before the Commission for admission to citizenship in the Cherokee Nation, and that the application was filed with the Commission on the 18th day of August, 1894;

that the answer of the Cherokee Nation was filed thereto, and the application of Peter Miller and others denied by the Commission, at Vinita, Indian Territory, October 12, 1896; it further appears that an appeal was taken from the decision rendered by the Commission to the United States Court for the Northern District of the Indian Territory, where the judgment of the Commission was sustained.

The applicant in this case is fully identified as having been embraced in said application.

BY COMMISSION: George Thomas Miller applies for the enrollment of himself as a Cherokee by blood. He is identified on none of the tribal rolls of the Cherokee Nation now in the possession of the Commission, nor does it appear that he was ever admitted to citizenship in the Cherokee Nation by the tribal authorities. It further appears from the record of the Commission that his name was embraced in an application made by his grandmother for admission to citizenship in the Cherokee Nation under the provisions of the act of Congress approved June 10, 1896, which application was denied, and the judgment of the Commission sustained on appeal to the United States Court for the Northern District of the Indian Territory.

This application appears to come within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently, the application of George Thomas Miller for enrollment of himself as a citizen by blood of the Cherokee Nation will be listed for rejection.

H. B. 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. B. Green

Subscribed and sworn to before me this February 14, 1902.



Commissioner.

COPY.

Lawrence, Indian Territory, April 9, 1900.

Mr. George Thomas Miller,
Muskogee, Indian Territory,
Sirs

On the 15 day of February, 1900, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory as provided, in accordance with the provisions of the act of June 16, 1900, (30 Stat. 211)

The act of May 31, 1900, (31 Stat. 211,) provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

A. T. M. - 2

The Commission has, therefore, on this day decided that you are not a citizen of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself as a citizen of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CHEROKEE TRIBES.

SIGNED,

James Birchby

Acting Chairman

Encl. 1-22.
Register.

818

COMMISSIONERS
HENRY L. DAWES
TAMM DIXIEY
THOMAS B. NEEDLES
C. B. BRACKENRIDGE

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

REFER IN REPLY TO THE FOLLOWING
Case, No. 421.

ALLISON L. AYLESFORTH
SECRETARY

Washoe, Indian Territory, May 27, 1902.

V. W. Hastings, Esq.,
Attorney for Cherokee Nation,
Washoe, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of George Thomas Miller, Cherokee Name, No. 421, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 19th day of May, 1902.

Very respectfully,

Acting Chairman.

M

IN THE MATTER OF THE APPLICATION OF

George Thomas Miller

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY

MEMOR

Cher Memo Hdd

Cher Memo 422

711 432

Subscribed and sworn to before me this 1st day of March 1962.

MAR 4 1962

ACTING CHAIRMAN



COMMISSIONER OF LABOR

The undersigned, a Notary Public in and for the State of New York, do hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of Directors of the National Labor Relations Board, held on the 1st day of March, 1962, at New York, New York, and that the same were read and approved by the Board at the said meeting.

Handwritten signature

Notary Public in and for the State of New York, do hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of Directors of the National Labor Relations Board, held on the 1st day of March, 1962, at New York, New York, and that the same were read and approved by the Board at the said meeting.

The undersigned, a Notary Public in and for the State of New York, do hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of Directors of the National Labor Relations Board, held on the 1st day of March, 1962, at New York, New York, and that the same were read and approved by the Board at the said meeting.

The undersigned, a Notary Public in and for the State of New York, do hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of Directors of the National Labor Relations Board, held on the 1st day of March, 1962, at New York, New York, and that the same were read and approved by the Board at the said meeting.

Cherokee Rejected Name.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Muskogee, I. T., February 13, 1902.

In the matter of the application of Roxie Lena Bell Milstead for the enrollment of herself and child as Cherokee citizens by blood; being sworn and examined she testified as follows:

BY COMMISSIONER:

- Q What is your name? A Roxie Lena Bell Milstead.
Q How old are you? A I will be 21 the 22nd day of February.
Q What is your post-office address? A Checotah.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q Do you apply for anyone besides yourself? A The baby.
Q What is the baby's name? A Mabel Elizabeth.
Q How old is she? A Seven months old and nine days.
Q What is its father's name? A J. B. Milstead.
Q Is he living? A Yes sir.
Q Is he a Cherokee or a white man? A He is a white man.
Q Is this the baby here? (Pointing to infant in mother's arms.)
A Yes sir.
Q What is the name of your father? A John Miller.
Q And what is the name of your mother? A Nancy Miller.
Q What was your grandmother's name? A Betsy Miller.

BY COMMISSIONER: All the rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of the applicant does not appear thereon. Neither does it appear that she was ever admitted to citizenship by the tribal authorities of the Cherokee Nation.

- Q Was your name embraced in the application which was made by your grandmother, Betsy Miller, to this Commission for enrollment in 1896?
A Yes sir.

BY COMMISSIONER: Upon an examination of the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, it appears that the applicant's grandmother, Betsy Miller, and others, made application to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act, that the application was filed on the 18th day of August, 1896; that the answer of the Cherokee Nation was filed thereto, and that the application was denied by the Commission at Vinita, Indian Territory October 12, 1896. It further appears that an appeal was taken from the decision rendered by the Commission to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission was sustained. It further appears that the applicant in this case was embraced in said application. She is identified therein as Roxie Miller, the child of John Miller.

- Q Have you ever drawn any money from the Cherokee Nation? A No sir.

BY COMMISSIONER: Roxie Lena Bell Milstead applies for the enrollment of herself and daughter Mabel Elizabeth Milstead, as citizens by blood of the Cherokee Nation; neither the applicant nor her child are identified on any of the tribal rolls of the Cherokee Nation now in the possession of this Commission; nor does it appear that the applicant herself was ever admitted to citizenship in the Cherokee Nation by the tribal authorities. She is duly identified as having been one of the applicants embraced in the application made by her grandmother Betsy Miller to this Commission under the provisions of the act of Congress approved June 10, 1896, for admission to citizenship in the Cherokee Nation; said applica-

tion was denied by the Commission and the judgment sustained by the United States Court, on appeal. This application appears to come within the provisions of the act of Congress approved May 31, 1902, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior."

Consequently, the application of Marie Loue Nell Milstead for the enrollment of herself and daughter Mabel Elizabeth Milstead, will be listed for rejection.

E. 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.

E. D. Green

Subscribed and sworn to before me this February 13, 1902.

[Signature]

Commissioner.

REPORT
NO. 100-100

YORK UNIVERSITY

BY (NAME) James Smith

THE COMMISSION TO THE NEW ORLEANS AREA

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THE COMMISSION TO THE NEW ORLEANS AREA

COPY.

Cherokee-4-422.

Mustang, Indian Territory, April 9, 1902.

Mrs Marie Lena Belle Milstead,

Wheatab, Indian Territory,

Edmont.

On the 15 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your one minor child, Isabel Elizabeth Milstead, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named, have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of the Commission, that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1896, (29 Stat. 521).

The act of May 31, 1900, (31 Stat. 521), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

R.L.B.N.-2.

The Commission has, therefore, on this day decided that you and your one minor child above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your one minor child as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the case is next brought to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tames Birby

Acting Chairman.

Encl. B-122.
Register.

23

COMMISSIONERS
HENRY L. DAWES.
TAMM BIRBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
ALLISON L. AYLESWORTH.
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Chero. Mem. 423.

ADDRESSES ONLY IN
COMMISSION TO THE FIVE CIVILIZED TRIBES

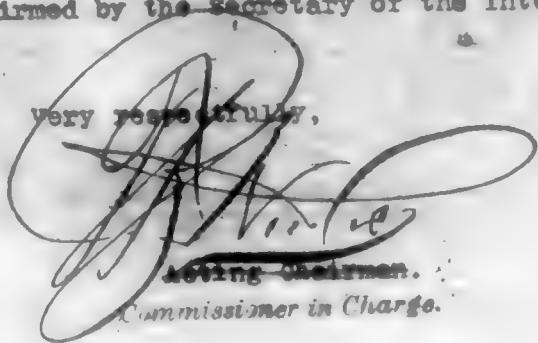
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Roxie Lena Bell Milstead et al., Cherokee Memorandum No. 423, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Acting Chairman.
Commissioner in Charge.

M 422

IN THE MATTER OF THE APPLICATION OF

Rose L B Miltland et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM,

Cher Memo 423

Cher Memo 423

711.423

Subscribed and sworn to before me this September 14, 1905.
true and complete transcript of his stenographic notes thereof.
and proceeding in this case and that the foregoing is a

[Handwritten signature]
Commissioner.

FILED
MAR 4 1902

[Handwritten signature]

Cherokee Rejected, Name.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 23, 1902.

In the matter of the application of Mattie May Culberson for the enrollment of herself and four children as Cherokees by blood; being sworn and examined she testified as follows:

BY COMMISSIONER:

- Q What is your name? A Mattie May Culberson.
Q How old are you? A I was 30 the 3rd day of October.
Q What is your post-office address? A Stone Bluff.
Q Where is that? A Creek Nation.
Q Did you make application for enrollment as a Cherokee? A Yes sir.
Q Do you claim to be a Cherokee by blood? A Yes sir, I do.
Q How much Cherokee blood do you claim? A I don't know how much I am I don't know.
Q What was your father's name? A John Howell.
Q Is he living or dead? A He is dead.
Q Was he a Cherokee or a white man? A He was a Cherokee.
Q What was the name of your mother? A Her name was Martha.
Q Is she living? A No sir.
Q Was she a white woman? A Yes sir.
Q Do you apply for anyone besides yourself, any children? A My own children.
Q Give me the name of the oldest one? A Ida May Culberson.
Q How old is she? A She is 11 years old.
Q Name of the next child? A Della Ethel.
Q How old is she? A She is nine years old.
Q Name of the next one? A Bertie Lee Culberson.
Q B-i-r or B-o-r, tie? A B-i-r.
Q How old is she? A She is seven years old.
Q Name of the next child? A William McKinley.
Q How old is he? A He is four years old.
Q Next child? A That's all.
Q Are these children all living? A Yes sir.
Q Are they all living at home with you? A Yes sir.
Q What is their father's name? A William Culberson.
Q Is he a Cherokee or a white man? A He is a white man.
Q Have you ever been recognized by the tribal authorities as a Cherokee citizen? A No sir.
Q Have you ever drawn any money? A No sir.
Q Is your name on any of the rolls? A I don't know.

All the rolls of the Cherokee Nation in the possession of the Commission have been examined and the name of applicant and her children are not identified thereon.

- Q Did you ever apply to the Cherokee Tribal authorities for admission to citizenship in the Cherokee Nation; that is, to the Cherokee National Council or commissions on citizenship; did you ever apply to them? A You mean at Tahlequah?
Q Yes, to be enrolled? A I went to Tahlequah and applied for it and they said they wouldn't give me a trial without letting me on and they said they would let me in if I would pay them one hundred dollars; I told them I wouldn't pay any hundred dollars, I could get it without; they said well you can get it after it goes before the Dease Commission; you are entitled to it; they said they could not try me without letting me in.
Q They didn't admit you at all? A No sir.

Records of the Cherokee Nation examined and fail to dis-

close that the applicant was ever admitted to citizenship in the Cherokee Nation by the National Council or commissions on citizenship.

Q Did you ever apply to the Dawes Commission in 1896 for admission to citizenship? A Yes sir.

Q Under what name did you apply? A Hattie Culberson.

Q Was this application made in the name of your father? A Yes sir.

COMMISSION: It appears from the records of the Commission to the Five Civilized Tribes made in accordance with the act of Congress approved June 10, 1896, that John Howell and others made application to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act. The application was filed on the 8th day of September, 1896, that the answer of the Cherokee Nation was filed thereto, and the application denied by the Commission at Fort Smith, Arkansas, on the 24th day of November, 1896. It further appears that an appeal was taken from the decision of the Commission denying these applicants to the United States Court for the Northern District of the Indian Territory, where the decision of the Commission was sustained.

Upon an examination of the papers filed in this case, it is found that the applicant, Hattie May Culberson, her daughter, Ida May Culberson, Delila E. Culberson, Birtie Culberson, are identified as having been embraced in said application, which was denied.

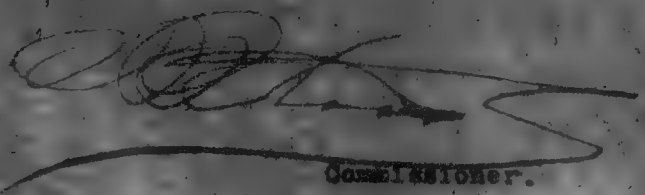
BY COMMISSION: Hattie May Culberson applies for the enrollment of herself and four children, Ida May Culberson, Delila Ethel Culberson, Birtie Lee Culberson and William McKinley Culberson as citizens of the Cherokee Nation. Neither the applicant nor her children are identified upon any of the tribal rolls of the Cherokee Nation now in the possession of this Commission, and it does not appear that they were ever admitted to citizenship in the Nation by the tribal authorities of the Cherokee Nation. It further appears from the records of the Commission that the applicant and her three older children were embraced in an application made by the applicant's father, John Howell, to this Commission under the provisions of the act of Congress approved June 10, 1896, which application was denied by the Commission, and the judgment of the Commission sustained on appeal to the United States Court for the Northern District of the Indian Territory. This application appears to come within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently, this application which Hattie May Culberson makes for the enrollment of herself and children will be listed for rejection.

12
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of.

Subscribed and sworn to before me this February 14, 1902.



Commissioner.

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Volter G. ...

Mr. ...
Isaac ...

THE COMMISSIONER OF THE LAND OFFICE ...

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE ...

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1917

COPY.

Neenago, Indian Territory, April 9, 1902.

Mrs. Hattie May Calhoun,
P.O. Box 1077, Indian Territory,
Muskogee

On the 15 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your four minor children, Ida May Calhoun, Willie Frank Calhoun, Elvira Lee Calhoun and William Ma Elmer Calhoun, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the said names above named, have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (31 Stat. 221).

The act of May 31, 1900, (31 Stat. 221), provides

That said Commission shall continue to exercise all necessary jurisdiction conferred on it by law. But it shall not receive, consider, or take any report or any application of any person.

for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and only and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that you and your two minor children above named, are not citizens of the Cherokee Nation and only and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your two minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final action.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Tams Bixby.

Acting Chairman.

Encl. N-121.
Register.

COMMISSIONERS
HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRACKINRIDGE.

ALLISON L. AYLESWORTH.
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Case. Nos. 125.

McIntosh, Indian Territory, May 27, 1908.

Y. V. Hartings, Esq.,

Attorney for the Cherokee Nation,

McIntosh, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1908, rejecting the application of Mary I. Flippin for the enrollment of her son, William T. Flippin, Cherokee Name No. 125, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1908.

Very respectfully,


Acting Chairman.

CHERO. NAT. 125.

328

SECRETARY
ALLEN L. GILBERTSON
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
CHAS. MEM. 425.

Hedgero, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Hedgero, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Mattie May Culberson et al., Cherokee Mem. No. 425, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,

Acting Chairman.

1902 May 28

M 23

IN THE MATTER OF THE APPLICATION OF

Hattie May Culberson et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED.

ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo H24

Cher Memo H24

Memo 424

Notes enclosed.

Recorded in a file and complete transcript of his stenographic
report of the testimony and proceedings in this case, and that the
report of the Commissioner to the State Division states he correctly
1. O. Rosen, being that the report stated that as the en-

Subscribed and sworn to before me this February 18, 1908.



Commissioner.

RECORDED
FEB 19 1908

page 11 of 11
Refer to Section 14 of the Commissioner's
report of the testimony and proceedings in this case, and that the
report of the Commissioner to the State Division states he correctly

Name.

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

In the matter of the application of Martha Prince for the enrollment of herself and one child as citizens of the Cherokee Nation; said Martha Prince being duly sworn, testified as follows:
By the Commission:

- Q What is your name? A Martha Prince.
Q How old are you? A 48.
Q What is your post office address? A Muskegee.
Q Do you apply for enrollment as a Cherokee by blood?
A Yes, sir.
Q How much Cherokee blood do you claim? A About one-half.
Q Do you apply for anyone besides yourself?
A My two daughters.
Q How old are they? A The eldest one is 20 and the next one is 17.
Q Are they married? A The eldest one is.
Q She will have to apply for herself; give me the name of the next child? A Eddie.
Q Is that a boy or girl? A Girl.
Q How old is she? A She will be 17 Tuesday.
Q What is her father's name? A James H. Prince.
Q Is he living or dead? A Living.
Q Is he a Cherokee or white man? A White man.
Q Have you ever been recognized as a citizen of the Cherokee Nation in any manner? A No, sir, except that my mother.
Q Did you ever draw any money? A No, sir.
Q Did you ever apply to this Commission for enrollment?
A Not myself, my mother did.
Q What was your mother's name? A Betsey Miller.
Q What was your father's name? A Thomas Miller.

Commission: It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that the applicant's mother, Betsey Miller, applied to this Commission under the provisions of said Act for admission to citizenship in the Cherokee Nation; that the application was filed on the 18th day of August, 1896; that the answer of the Cherokee Nation was filed thereto, and the application denied by the Commission at Vinita, Indian Territory, October 12, 1896. It further appears that an appeal was taken by the applicants from the decision of the Commission rejecting them to the United States Court for the Northern District of Indian Territory, and that the decision of the Commission was sustained.

It further appears that the applicant in this case, Martha Prince, is fully identified as having been embraced in the application made by her mother, which application was denied by the Commission and judgment sustained by the United States Court on appeal.

Martha Prince applies for the enrollment of herself and her daughter, Eddie Prince, as citizens by blood of the Cherokee Nation.

It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that the applicant applied to this Commission for admission to citizenship in the Cherokee Nation under the provisions of said Act; that her application was denied and an appeal taken to the United States Court, for the Northern District Indian Territory and the decision of the Commission was sustained.

This price, of \$1.00, is listed for rejection by the Government.

J. O. Reeson, 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. Reeson

Subscribed and sworn to before me this February 22, 1902.



Commissioner,

Indy. 4-24-22

POPULAR QUARTERS

BY George F. Stone Director

THE COMMISSION TO THE FIVE CIVILIZED TRIBES

When the time for the report of the Commission

The Commission, a body of five members, was organized to look into the conditions of the Five Civilized Tribes.

M424

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REPORT
APR 19 1922

The Commission was organized to look into the conditions of the Five Civilized Tribes. It was organized to look into the conditions of the Five Civilized Tribes.

The Commission was organized to look into the conditions of the Five Civilized Tribes. It was organized to look into the conditions of the Five Civilized Tribes.

COPY.

Washoe, Indian Territory, April 9, 1900.

Mrs. Martha Prince,
Washoe, Indian Territory,
Indem!

On the 15 day of February, 1898, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your one minor child, Marie Prince, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Stat. 221).

The act of May 21, 1900, (31 Stat. 221), provides:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and who has not lawfully acquired or obtained as such, and the refusal of such applications shall be final when approved by the Secretary of the Interior."

The Commission has, therefore, on this day decided that you and your one minor child above named, are not citizens of the Cherokee Nation and may not lawfully be enrolled or admitted as such, and that pursuant to the provisions of law above quoted, the Commission is without authority to receive, consider, or make any record of any application for the enrollment of yourself and your one minor child as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

By JAMES SIZBY

Acting Chairman.

Encl. N-124.
Register.

COMMISSIONERS
HARRY L. DAVIS,
TAMM BAKER,
CHARLES F. HERRICK,
C. R. BURKHARDT.

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

REFER IN REPLY TO THE FOLLOWING

Char. Mem. 424.

ALLISON L. WILSON,
SECRETARY

ADMINISTRATIVE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. V. Hastings, Esq.,

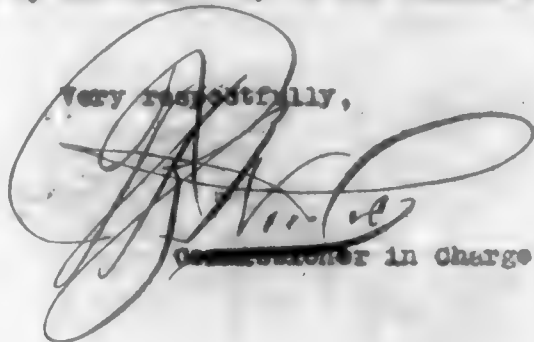
Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Martha Prince et al., Cherokee Memorandum No. 424, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 15th day of May, 1902.

Very respectfully,



Commissioner in Charge.

W. V. Hastings, Esq.

M424

IN THE MATTER OF THE APPLICATION OF

Martha Prince et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY

MEMOR.

Cher Memo 425

Cher Memo 425

(None.)

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

In the matter of the application of Bettie Thornberg for the enrollment of herself and her child as citizens of the Cherokee Nation; said Thornberg being duly sworn and examined testified as follows:

Examination by the Commission:

- Q What is your name? A Bettie Thornberg.
Q How old are you? A 20 Thursday.
Q What is your post office address? A Gibson Station.
Q In the Indian Territory? A In the Creek.
Q Do you apply for enrollment as a citizen of the Cherokee Nation by blood? A Yes, sir.
Q Do you apply for anyone besides yourself; any children?
A My baby.
Q What is her name? A Bertha Thornberg.
Q How old is she? A 14 months.
Q Is that the baby there? A Yes, sir.
Q What is its father's name? A Andrew Thornberg.
Q What is your father's name? A James Prince.
Q What is your mother's name? A Martha Prince.
Q Was your name embraced in an application which was made to this Commission in 1896 by your grandmother, Betsy Miller, for enrollment as citizens of the Cherokee Nation? A I don't know.
Q Did you apply at that time for admission? A No, sir, grandma did.
Q Was your name in that application? A Yes, sir, my name was in it.

Commission: Upon an examination of the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, it appears that the applicant's grandmother, Betsy Miller, et al., applied to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said Act; that their application was denied by the Commission and an appeal taken to the United States Court for the Northern District, Indian Territory, where the decision of the Commission was sustained. It further appears that the applicant in this case is fully identified as having been embraced in said application.

- Q/ What is the name of your grandmother? A Betsy Miller.

Commission: Bettie Thornberg applies for the enrollment of herself and her baby, Bertha Thornberg, as citizens of the Cherokee Nation.

It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that this applicant was embraced in an application made to the Commission in which under the provisions of said Act by her grandmother, Betsy Miller, and her application was denied, and an appeal taken to the United States Court, where the decision of the Commission was sustained.

This application seems to come within the provisions of the Act of Congress approved May 31, 1900, which act provides: "That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such

applications shall be final when approved by the Secretary of the Interior. Consequently the application of Bettie Thornberg for the enrollment of herself and her child, Bertha Thornberg, will be listed for rejection by the Commission.

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

J. O. Rosen

Subscribed and sworn to before me this February 16, 1906.

Commissioner.

Ch 11 723

SECTION NO 11 723

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MARCH 25, 1902.

In the matter of the application of Bettie Thornberg for the enrollment of herself and her child, as citizens of the Cherokee Nation.

On February 15, 1902, at Muskogee, Indian Territory, Bettie Thornberg appeared before the Commission and made application for the enrollment of herself and her child, Martha Thornberg, as citizens of the Cherokee Nation.

It appears that the said Martha Thornberg is the child of Bettie Thornberg and Andrew Thornberg. The record taken in this application on February 15, 1902, fails to show the citizenship of the father, Andrew Thornberg.

The tribal rolls of the Cherokee Nation now in the possession of this Commission have been examined, and the name of Andrew Thornberg can not be identified upon any of said rolls; neither does it appear that he was ever admitted to citizenship in the Cherokee Nation by the tribal authorities, by the Commission to the Five Civilized Tribes acting under the act of Congress approved June 10, 1894, or by the United States Court on appeal.

It is directed that copies of this statement be filed with the testimony heretofore taken in the matter of the application of Bettie Thornberg et al.

I, Frances S. Botolph, stenographer to the Commission to the Five Civilized Tribes, hereby certify on my official oath that I correctly recorded in full the preceding statement, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

Frances S. Botolph

100-2-10

has not been held up by any other, and in fact only
has been held up by the fact that it is not
yet a law of the State. It is not a law of the
State, and it is not a law of the United States.
It is a law of the State of New York, and it is
not a law of the United States. It is a law of
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the United States. It is a law of the State of
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and it is not a law of the United States.

DEPARTMENT OF
COMMISSIONERS

3425

has not been held up by any other, and in fact only
has been held up by the fact that it is not
yet a law of the State. It is not a law of the
State, and it is not a law of the United States.
It is a law of the State of New York, and it is
not a law of the United States. It is a law of
the State of New York, and it is not a law of
the United States. It is a law of the State of
New York, and it is not a law of the United
States. It is a law of the State of New York,
and it is not a law of the United States.

THE COMMISSIONERS OF THE STATE DEPARTMENT OF

DEPARTMENT OF

COMMISSIONERS

100-2-10

COPY.

Muskogee, Indian Territory, April 9, 1908.

Mrs. Lottie Thornberg,

Gibson Station, Indian Territory,

Muskogee:

On the 15 day of February, 1908, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your one minor child, Martha Thornberg, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1906, (30 Stat. 381).

The act of May 31, 1900, (31 Stat. 321), provides:

" That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

10-2-20

The Commission has, therefore, on this day decided that you and your one minor child above named, are not citizens of the Cherokee Nation and may not lawfully enroll or admit as such, and that, pursuant to the provisions of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your one minor child as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are advised that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

BY (SIGNED) James Bixby
Acting Chairman.

10-2-20
Secretary

224

COMMISSIONERS.

HENRY L. DAWES.
TAMM BIRBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Case, No. 422.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

McKeage, Indian Territory, May 27, 1902.

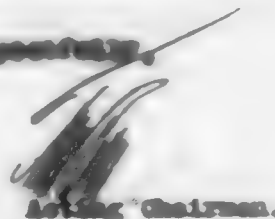
V. V. Hastings, Esq.,

Attorney for Cherokee Nation,
McKeage, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Bettie Thunberg et al., Cherokee Inds. No. 422, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Acting Chairman.

M 425

IN THE MATTER OF THE APPLICATION OF

Bettie Thornburg et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY

MEMOR

Cher. Memo. 426

Cher. Memo 426

Enclosed find report of the...

...

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...

Memorandum

A

...

...

Memo:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 18, 1902.

In the matter of the application of William Ray Matoy for the enrollment of himself and five children as Cherokee citizens by blood; being sworn and examined he testified as follows:

BY COMMISSION:

- Q What is your name? A William Ray Matoy.
Q How old are you? A I am 36 years old.
Q What is your post-office address? A My post-office address is Kiowa, Kansas, at the present time.
Q You applied for enrollment as a Cherokee by blood? A Yes sir.
Q How much Cherokee blood do you claim? A Quarterblood.
Q You apply for any one besides yourself? A Nobody but my five children.
Q What is the name of your oldest child? A George Clarence Matoy?
Q Boy or a girl? A Boy.
Q How old is that child? A He will be ten years old this July.
Q What is the name of the next child? A Next one will be eight in July.
Q What is its name? A Charles Frank Matoy.
Q Name of the next one? A Next one is a girl, Gracie Emily.
Q How old is she? A She is six.
Q Next child? A Next one is Lena Mattie.
Q How old is she? A She is four.
Q Next child? A Next one is Ethel.
Q Any middle name? A Ethel Mabel, she is only a year old; little over a year.
Q Is that all? A That's all.
Q Are these children all living? A Yes sir.
Q Who is their mother? A Their mother's name was Sara Hester.
Q She living? A Yes sir.
Q Is she a Cherokee or a white woman? A She is a white woman.
Q Do you apply for her? A No sir.
Q When were you married to her? A On the third day of February 1892.
Q Have you any evidence of your marriage? A I have not with me, I can get plenty of evidence of it.
Q Did you get out a marriage license? A Yes sir.
Q Where did you get the license? A Medicine Lodge, Kansas.
Q What is the name of your father? A I don't know.
Q Is he living or dead? A He is supposed to be dead.
Q Is he a Cherokee or a white man? A Supposed to be a white man.
Q What is the name of your mother? A I don't remember that either, she is dead too.
Q Don't you remember her name? A No sir.
Q She a Cherokee or a white woman? A Supposed to be a Cherokee.
Q Have you ever lived in the Cherokee Nation? A Not since I was four years old.
Q Have you ever drawn any money from the tribal authorities?
A No sir.
Q Have you ever been enrolled? A No sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A Never have been in an application.
Q Have you ever applied to the Tribal authorities? A No sir.
Q Did you ever apply to this Commission for enrollment? A No sir, I have not applied to the Commission yet, that is what I come here for, was to apply.

All the rolls of the Cherokee Nation now in the possession of the Commission have been examined and neither the applicant nor any of his children can be identified thereon.

Records of the Cherokee Nation examined and fail to disclose that either the applicant or any of his children were ever admitted to citizenship by the tribal authorities.

Records of the Commission made in accordance with the act of Congress approved June 10, 1896, examined and fail to disclose that either the applicant or his children applied to the Commission for enrollment as citizens of the Cherokee Nation under the provisions of said act.

BY COMMISSION: William Ray Matoy applies for the enrollment of himself and his children, George Clarence Matoy,

Charles Frank Matoy, Gracie Emily Matoy, Iena Mattie Matoy and Ethel Habel Matoy as citizens of the Cherokee Nation.

Neither the applicant nor his children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission, neither does it appear that they were ever admitted to citizenship in the Cherokee Nation by the Cherokee National Council or Commissions on citizenship, or by the Commission to the Five Civilized Tribes or the United States Court on appeal under the provisions of the act of Congress approved June 10, 1896.

This application appears to come within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently, the application of William Ray Matoy for the enrollment of himself and children as citizens of the Cherokee Nation will be listed for rejection.

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

M. D. Green

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

[Signature]

Commissioner.

COPY.

Wastage, Indian Territory, April 2, 1902.

Mr. William May Hater,
Elmer, Kansas.

Sir:

On the 15 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, George Clarence Hater, Charles Frank Hater, Gracie Emily Hater, Lena Mattie Hater, and Ethel Mabel Hater as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Stat., 522).

The act of May 31, 1900, (31 Stat., 522), provides:

" That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application

V. R. H. S.

shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that you and your five minor children above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your five minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

BY SIGNED, James Bixby

Acting Chairman.

Encl. - 5-436.
Register.

COMMISSIONERS.

HENRY L. DAWES.
TAMM BIXBY
THOMAS B. NEEDLES
C. R. BRACKENRIDGE

ALLISON L. AYLESWORTH.
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Case No. 422.

Mustagee, Indian Territory, May 27, 1902.

W. V. Hastings, Esq.,

Attorney for Cherokee Nation,

Mustagee, Indian Territory.

SIR:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of William Ray Henry et al., Mustagee Ind. T., for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 10th day of May, 1902.

Very respectfully,



Acting Chairman.

422-101-51

IN THE MATTER OF THE APPLICATION OF

William R Matoy et al

FOR THE
CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo #27

Cher Memo #27

(Memo.)

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 15, 1900.

In the matter of the application of Polly Curtis for the enrollment of herself and her child as citizens of the Cherokee Nation, said Curtis being sworn and examined testified as follows:
BY THE COMMISSION:

- Q What is your name? A Polly Curtis.
Q How old are you? A 28.
Q Your post office address? A Beggs, Indian Territory.
Q What district do you live in? A I don't know.
Q What nation is it in? A I am applying for the Cherokee Nation.
Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
Q Do you want to apply for anyone besides yourself?
A My child.
Q What is the name of your child? A Ten years old.
Q What is the name of your child? A Claude Curtis.
Q Is this child living? A Yes, sir.
Q What is its father's name? A Austin Curtis.
Q Is he a statesman? A Yes, sir.
Q Is your name embraced in an application which was made to this Commission in 1896 for admission to citizenship in the Cherokee Nation by Serena Jones? A Yes, sir.
Q What is your mother's name? A My mother's name is Betsey Webster.
Q Were you ever known by any other name other than Polly Curtis?
A Yes, sir.
Q What name? A Polly Webster, Serena Jones is my grandmother.
Q Were you ever known as Polly Johnson? A No, sir; I have an Aunt Polly Johnson.

Commission: It appears from the records of this Commission made in accordance with the Act of Congress approved June 10, 1896, that the applicant's grandmother, Serena Jones, applied to the Commission for admission to citizenship under the provisions of the Act; that the application was filed on September 18, 1896; the answer of the Cherokee Nation filed thereto, and the application denied by the Commission on the 18th day of November, 1896. It further appears that the applicants appealed from the decision of the Commission to the United States Court for the Northern District where the decision of the Commission was sustained. From the examination of the original papers in this case it appears that the applicant, Polly Curtis, was embraced in the said application which was made by Serena Jones, which application was denied, she being identified in the original papers as Polly Webster, the grandchild of Serena Jones.

Polly Curtis applies for the enrollment of herself and her son, Claude Curtis, as citizens of the Cherokee Nation. It appears from the records of the Commission that the applicant was denied admission to citizenship in the Cherokee Nation under the provisions of the Act of Congress approved June 10, 1896, and that she appealed from the decision of the Commission to the United States Court for the Northern District, Indian Territory, where the judgment was sustained. This application, therefore, appears to come within the provisions of the Act of Congress approved May 31, 1800, which Act provides:

-2-

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." Consequently the application which Pally Curtis makes for herself and her children, Claude Curtis, will be rejected. *listed for rejection*

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J. Q. 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. Q. Rossen
Subscribed and sworn to before me this February 19, 1908.



Commissioner.

COPY.

Washoe, Indian Territory, April 9, 1902.

Mrs. Polly Curtis,
Washoe, Indian Territory,
Madam:

On the 15 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your one minor child, Gladys Curtis as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1900, (31 Stat. 321).

The act of May 31, 1900, (31 Stat. 621), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

P.O.-2.

The Commission has, therefore, on this day decided that you and your one minor child above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your one minor child as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

BY Wm. James Birney

Acting Chairman.

Encl. N-497.
Register.

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

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE COMMISSION

Cher. Mem. 427.

ADDRESS ONLY TO THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 27, 1902.

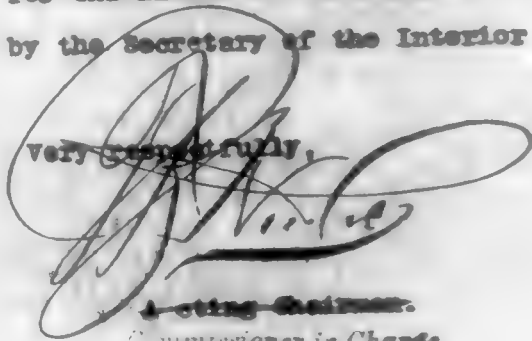
W. W. Hastings, Esq.,

Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Polly Curtis et al., Cherokee Memorandum No. 427, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Acting Chairman,
Commissioner in Charge.

CP210. PER. 501.

M 427

IN THE MATTER OF THE APPLICATION OF

Polly Curtis et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900
MEMORANDUM.

Cher Memo H28

Cher Memo H28

Q. 120

Witnessed and sworn to before me this 1st day of June 1881.

[Signature]
Notary Public

Witnessed and sworn to before me this 1st day of June 1881.

Witnessed and sworn to before me this 1st day of June 1881.

Witnessed and sworn to before me this 1st day of June 1881.

(Memo.)

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

In the matter of the application of Sallie Cherry for the enrollment of herself and two children as citizens of the Cherokee Nation; said Cherry being sworn and examined testified as follows:
BY THE COMMISSION:

- Q What is your name? A Sallie Cherry.
Q How old are you? A 37.
Q What is your post office address? A Muskogee.
Q Do you apply for enrollment as a Cherokee by blood?
A Yes, sir.
Q Do you apply for anyone besides yourself; any children?
A Children, yes, sir.
Q What is the name of your eldest one? A Nelson Cherry.
Q Is he living? A Yes.
Q How old is he? A Nine years old.
Q The name of the next child? A Vickras.
Q Is that a boy or girl? A Girl.
Q Is she living? A Yes, sir.
Q How old is she? A Seven years old.
Q Is that all, just the two children? A Yes, sir.
Q Who is their father? A James Cherry.
Q Is he a statesman? A Choctaw.
Q Have you ever applied to have these children enrolled as Choctaws? A No, sir.
Q What is the name of your father? A Wily Jones.
Q Is he living? A Yes, sir.
Q What is the name of your mother? A Serena Jones.
Q Is she living? A Yes, sir.
Q Do you claim your right to enrollment through your mother or father? A Through my mother.
Q Did your mother apply to this commission in 1896 to be admitted to citizenship? A I don't know whether exactly it was that time or not; she has applied several times.
Q Have you ever drawn a penny from the Cherokee Nation?
A No, sir.
Q Have you ever applied to be enrolled by the Cherokee Nation?
A No, sir.

Commission: Upon an examination of the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, it appears that Serena Jones, the mother of the applicant, applied for her to this Commission under the provisions of said act for admission to citizenship in the Cherokee Nation, and that the application was filed on the 12th day of September, 1896; that the answer of the Cherokee Nation was filed therein, and the application denied by the Commission of Visits, Indian Territory, November 18, 1896. It further appears that this case was appealed to the United States Court for the Northern District, Indian Territory, where the decision of the commission rejecting the applicants was sustained. It further appears from the original record in this case, that the name of Sallie Cherry, the applicant, in this case, was entered in said application which was denied.

Sallie Cherry applies for the enrollment of herself and two children, Nelson, and Vickras Cherry, as citizens of the Cherokee Nation. The records of the commission show that the said Cherry was denied citizenship in the Cherokee Nation by

the Commission and that on appeal to the United States Court for the Northern District, Indian Territory, the judgment of the Commission was sustained. This application appears to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen there, and duly and lawfully enrolled or admitted as such, and the names of such persons shall be referred to their home approved by the secretary of the Interior." Subsequently the application which calls Harry Stahl for the enrollment of herself and two children will be listed for rejection.

---1220000---

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

J. Q. Messon

Subscribed and sworn to before me this February 19, 1908.

[Handwritten Signature]

Commissioner.

M 428

100-100

The defendant has, therefore, as this day appeared and was
 and have the honor to appear and have been heard, and the witness
 appearing with me and with me and testify as follows: The defendant
 and have the honor to appear and have been heard, and the witness
 appearing with me and with me and testify as follows: The defendant
 and have the honor to appear and have been heard, and the witness
 appearing with me and with me and testify as follows: The defendant

A copy of the record of the proceedings in this case is being
 made and the defendant is being committed to the custody of the
 sheriff of this county until further order of the court.

The defendant is being committed to the custody of the sheriff
 of this county until further order of the court.

THE DEFENDANT HAS BEEN HEARD AND THE WITNESSES
 HAVE BEEN HEARD AND THE COURT HAS MADE ITS DECISION.

BY James C. [Name]

Justice of the Peace

100-100

APR 10 1902
 D
 100-100

COPY.

Washago, Indian Territory, April 6, 1908.

Mrs. Nellie Cherry,

Washago, Indian Territory,

Indian

On the 15 day of February, 1908, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children Nelson Cherry and Victoria Cherry as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1906, (32 Stat. 282).

The act of May 21, 1900, (31 Stat. 201), provides:

That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and only and lawfully enrolled or admitted as such, and its refusal or grant of such applications shall be final when approved by the Secretary of the Interior.

1.2.24.

The Commission has, therefore, on this day decided that you and your two minor children have passed, and the children of the deceased have and duly and lawfully received by will be so, and that, pursuant to the provisions of law above stated, the Commission is without authority to inquire, provide, or take any account of the inheritance for the maintenance of yourself and your two minor children or children of the deceased.

A copy of the record of the proceedings in this case is kept with original. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be only communicated to you when the same is made known to this Commission.

THE COMMISSIONER OF THE FIVE CIVILIZED TRIBES.

By James Birby,
Acting Chairman

Incl. 2-24-24,
Register.

RECORDED & INDEXED

COMMISSIONERS
HENRY L. DAWES.
TAMM DIXIE.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLIBON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Case No. 458.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Sallie Cherry et al., Cherokee Nos. 458, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Acting Chairman.

m/426

IN THE MATTER OF THE APPLICATION OF

Sallie Cherry et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 429

Cher Memo 429

a

Memorandum

MEMORANDUM FOR THE SECRETARY OF THE INTERIOR
 SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

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

FILED
 1902

ACTING CHAIRMAN

[Handwritten signature]

CONFIDENTIAL

Cherokee MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 19, 1902.

In the matter of the application of Mary Early Burton for the enrollment of herself and two children as Cherokee citizens by blood; being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Mary Early Burton.
Q How old are you? A 31.
Q What is your post-office address? A Poteau, Indian Territory.
Q You apply for enrollment as a Cherokee by blood? A Yes sir.
Q You apply for anyone besides yourself? A Two children.
Q Give me the name of the oldest child? A Durrell Burton.
Q Is that a boy or a girl? A Boy.
Q How old? A 7.
Q Name of the next one? A Lucile Burton.
Q How old is she? A 5.
Q Is that all, just two children? A That's all.
Q Are these two children both living? A Yes sir.
Q What is their father's name? A Jeff D. Burton.
Q Is he a white man? A Yes sir.
Q Have you ever been recognized by the Cherokee tribal authorities as a citizen? A No.
Q Does your name appear upon any of the tribal rolls? A No.
Q Did you apply to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A Yes.
Q Under what name did you apply? A Mary Early Burton.

Records of the Cherokee Nation examined and fail to disclose that the applicant or her children were ever admitted to citizenship in the Cherokee Nation by the tribal authorities thereof.

All the rolls of the Cherokee Nation in the possession of the Commission examined and neither the applicant nor her children ascertained thereon.

- Q What is your father's name? A Robert Donald Logan.
Q What is your mother's name? A Malissa Jane Logan.

COMMISSION: It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that Mary E. Burton and others were applicants before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act; that their application was denied, by the Commission, and no appeal taken therefrom.

- Q Were these two children, Durrell and Lucile embraced in the application which you made to the Commission in 1896? A Durrell was.
Q Lucile was not born then? A No sir.

BY COMMISSION: Mary Early Burton applies for the enrollment of herself and two children, Durrell Burton and Lucile Burton, as citizens of the Cherokee Nation; it appears from the records of the Commission that the applicant and her oldest child were denied citizenship in the Cherokee Nation by the Commission under the provisions of the act of Congress approved June 10, 1896, and that Lucile was not born when the original application was made. Consequently this application appears to come within the provisions of the act of Congress approved May 31, 1900, which is as follows:

That said commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not

receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and the refusal of such applications shall be final when approved by the Secretary of the Interior."

Mary Early Burton and her two children will therefore be listed for rejection.

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

M. D. Green

Subscribed and sworn to before me this February 19, 1902.

1902
FEB 19 1902
U.S. DEPT. OF THE INTERIOR
INDIAN AFFAIRS



Commissioner

COPY

McIntosh, Indian Territory, April 6, 1902.

Mrs. Mary Emily Burton,
Poteau, Indian Territory,

Sir:

On the 17 day of February 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, Russell Burton, and Lucile Burton as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory, on appeal, in accordance with the provisions of the act of June 10, 1898, (30 Stats. 521).

The act of May 23, 1900, (31 Stats. 221), provides:

" That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and

H. L. 2-4-10.

lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that you and your two minor children, whose names, are not citizens of the Cherokee Nation and only and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your two minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be only communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

BY SIGNED: James Bixby.

Acting Chairman,

Encl. - 2-4-10.
Register.

30A

COMMISSIONERS
HENRY L. DAWES
TAMM BIXBY
THOMAS B. NEEDLES
C. R. BRICKINRIDGE

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

REFER IN REPLY TO THE FOLLOWING
Cher. Mem. 489.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY IN REPLY
COMMISSION TO THE FIVE CIVILIZED TRIBES

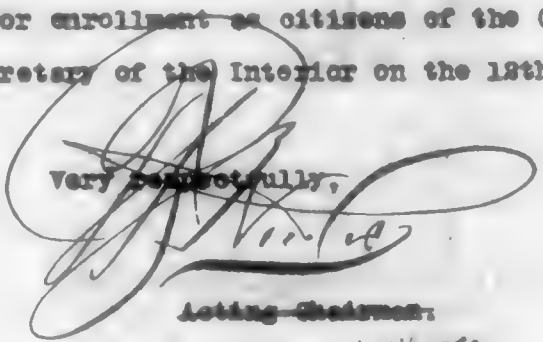
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Mary Early Burton et al., Cherokee Memorandum No. 489, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Acting Chairman.

Commissioner in Charge.

DEPT. OF THE INTERIOR

M/420

IN THE MATTER OF THE APPLICATION OF

Mary E. Burton et al

FOR ENROLLMENT AS

**CHEROKEE CITIZENS.
REFUSED**

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 430

Cher Memo 430

Cherokee MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 17, 1902.

In the matter of the application of Martha A. Garrett for the enrollment of herself and five children as Cherokee citizens by blood; being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Martha A. Garrett.
Q How old are you? A I am 46.
Q What is your post-office address? A Kulyehaha.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q Do you apply for anyone besides yourself? A Yes sir.
Q How many children? A Five.
Q Give me the names of the oldest ones? A Della Brown, I have been married twice.
Q Is she married? A No sir, I have been married twice.
Q How old is Della? A She is about 20 or 21, I don't know which it is.
Q Is she 20 years old? A Yes sir.
Q What is the name of the next child? A Next one between him and the other one, he is dead.
Q Give me the names of your children living? A Ora Bell Brown.
Q How old is she? A She is 15.
Q Name of the next child? A Cora Clementine Brown.
Q How old is she? A Dora A. Brown.
Q How old is she? A Ten years old.
Q Next child? A Dolly May Brown.
Q How old is she? A Seven.
Q What is the name of your present husband? A Freston Garrett.
Q When were you married to him? A Last November, the first.
Q Have you ever been recognized by the Cherokee tribal authorities as a citizen of the Cherokee Nation? A No sir.
Q Does your name appear upon any of the Cherokee rolls? A No sir not that I know of.

Rolls of the Cherokee Nation in possession of the Commission examined and applicants not found thereon;

Records of the Cherokee Nation examined and fail to disclose that the applicant or her children were ever admitted to citizenship by the Cherokee tribal authorities.

BY MR. HASTINGS, attorney for the Cherokee Nation:

- Q Do you remember by what name you applied to the Commission in 1896? A Well I don't know whether they put it down M.A. Brown or how.

COMMISSION: It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that Martha A. Brown and others were applicants before the Commission for admission to citizenship in the Cherokee nation under the provisions of said act.

That said application was denied by the Commission, and no appeal taken therefrom.

- Q Were all these children for whom you are now making application embraced in the application which you made to the Commission in 1896? A Yes sir.

BY COMMISSION: Mary A. Garrett applies for the enrollment of herself and five minor children, Della Brown, Ora Bell Brown, Cora Clementine Brown, Dora A. Brown and Dolly May Brown, as citizens of the Cherokee nation. It appears from the records of the Commission that all the applicants herein were

denied citizenship in the Cherokee Nation by the Commission under the provisions of the act of Congress approved June 10, 1896, and that no appeal was taken from the decision rendered. This application, therefore, appears to come within the provisions of the Act of Congress approved May 31, 1900, as follows:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently the application which Mary A. Garrett makes for the enrollment of herself and children for citizenship in the Cherokee Nation will be listed for rejection.

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 thereon.

M.D. Green

Subscribed and sworn to before me this February 19, 1902.



Commissioner.

COPY.

McAlester, Indian Territory, April 9, 1902.

Mrs. Martha A. Garrett,
 Tulsa Okla, Indian Territory,
 Okla.

On the 17 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, Della Brown, Ora Nell Brown, Core Clementine Brown, Dora A. Brown and Dolly May Brown, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1900, (30 Stat. 221),

The act of May 21, 1900, (31 Stat. 221), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person

N.A.C.-2.

for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior".

The Commission has, therefore, on this day decided that you and your five minor children above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your five minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

By (Signed) Tams Pixby
Acting Chairman.

Enc. 2-450,
Register.

528

COMMISSIONERS
HENRY L. DAWES.
TAMS DIXBY
THOMAS B. NEEDLES.
C. R. BRACKINRIDGE

ALLISON L. AYLESWORTH.
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Chero. Mem. 450.

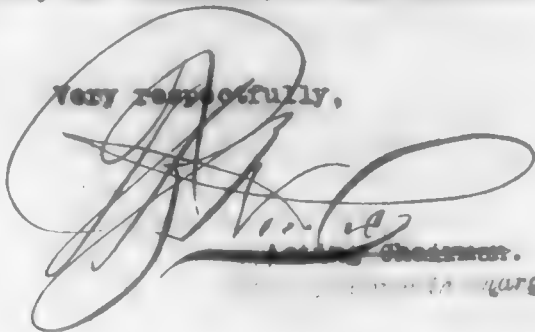
Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application, of Martha A. Garrett et al., Cherokee Memorandum No. 450, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 18th day of May, 1902.

Very respectfully,



Allison L. Aylesworth,
Secretary.

in charge

M/430

IN THE MATTER OF THE APPLICATION OF

Martha A. Garrett et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 431

Cher Memo 431

Cherokee MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 17, 1902.

In the matter of the application of Martha Jane Irvin for the enrollment of herself and five children as Cherokee citizens; being sworn and examined and testified as follows:

BY COMMISSION:

- Q What is your name? A Martha Jane Irvin.
Q How old are you? A 42.
Q What is your post-office address? A Kulyahaha, Indian Territory.
Q You apply for enrollment as a Cherokee by blood? A Yes sir.
Q You apply for anyone besides yourself? A Yes sir, five children.
Q Give me the name of the oldest one under 21 years of age and unmarried? A 20 years old.
Q Name, please? A Lula Clementine Irvin.
Q Name of the next one? A John Rigdon Irvin.
Q How old is he? A 16.
Q Name of the next one? A Lana Jane Irvin.
Q How old? A 16.
Q Next one? A Joel Thomas Irvin.
Q How old? A 14.
Q Next one? A Robert Genie Irvin.
Q How old is he? A 11.
Q Is that all? A Yes sir.
Q Are those children all living? A Yes sir.
Q Who is their father? A Robert Irvin.
Q Is he a Cherokee or a white man? A No sir, he is a white man.
Q Have you ever been recognized by the Cherokee tribal authorities of the Cherokee Nation as a citizen? A No sir.
Q Does your name appear upon any of the rolls? A No sir, not that I know of.
Q Did you apply to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A Yes sir.

All the rolls of the Cherokee Nation in possession of this Commission examined and applicants not found thereon.

Records of the Cherokee Nation examined and fail to disclose that either the applicant or any of her children were ever admitted to citizenship in the Cherokee Nation by the tribal authorities thereof.

The record of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, examined, and it appears that Martha J. Irvin and children were applicants before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act; that their application was denied, and no appeal taken from that decision rendered by the Commission.

- Q Are you sometimes known as Mary Jane Irvin? A No sir, it is Martha Jane.
Q What name did you use when you applied to the Commission in 1896 didn't you use the name Mary Jane Irvin then? A No sir, Martha Jane.
Q Were those children all embraced in that application which you made to the Commission? A Yes sir.

(The Commission docket shows application to have been made by Mary Jane Irvin, but the original papers in the case give the name as Martha Jane Irvin.)

BY COMMISSION: Martha Jane Irvin applies for the enrollment of herself and five children, Lula Clementine Irvin, John Rigdon Irvin, Lana Jane Irvin, Joel Thomas Irvin and Robert Genie Irvin as citizens of the Cherokee Nation.

It appears from the records of the Commission that the applicants in this case were denied admission to citizenship in the Cherokee Nation by this Commission under the provisions of the act of Congress approved June 10, 1896, and that no appeal was taken from the decision rendered by the Commission. This application appears to come within the provisions of the act of Congress approved May 31, 1902, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently the application which Martha Jane Irvin makes for the enrollment of herself and children as citizens of the Cherokee Nation will be listed for rejection.

H.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.

H.D. Green

Subscribed and sworn to before me this February 19, 1902.



Commissioner.

Page 10
March 1943

Section 100

By (Signed) James C. [Name]

THE COMMISSIONER OF THE BUREAU OF INVESTIGATION

upon the same in ways known to your Commission.

The Secretary, I think, will be fully conversant with the

many questions.

1902

Interiors with a view of the proceedings, for the consideration and
the forwarding of memoranda of the matter to the Secretary of the
with enclosed. You are informed that the Commission has on this

view of the records of the proceedings in this case is per-
sistent attention to the question of the Secretary's

of the Subdivision for the execution of Justice and your five
years of service especially to Justice's conduct, or with his record
and their movement to the violation of law have dropped, the Com-
missioner and you and Justice's conduct or admitted as such,
and your five years' experience have named, are not citizens of the

The Commission has, therefore, on this day decided that you

of the Director, as your own subcommittee of the Secretary
and the Secretary of the Bureau, and the interest of your
and you are not a member of the Bureau, and you are
for your interest as a member of the Bureau in Justice's
conduct, or with his record of his conduct or his record
therefore considered as it is law, but it will not receive
the same and Commission will continue to exercise all appropriate

70431

COPY.

Mustagee, Indian Territory, April 2, 1902.

Mrs. Martha Jane Irvin,
Tully Chaha, Indian Territory.

Rebent:

On the 17 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, Lulu Clementine Irvin, John Rigdon Irvin, Lema Jane Irvin, Joel Thomas Irvin and Robert Conia Irvin, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 10, 1898, (28 Stat. 321).

The act of May 31, 1900, (31 Stat. 221), provides:

N. C. I. - 1.

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal on such applications shall be final when approved by the Secretary of the Interior".

The Commission has, therefore, on this day decided that you and your five minor children above named, are not citizens of the Cherokee Nation and duly and lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your five minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

BY (SIGNED) Jams Bixby.

Acting Chairman.

Encl. N-411.
Register.

CR

COMMISSIONERS
HENRY L. DAWES,
TANS DIXBY
THOMAS B. NEEDLES,
C. R. BRCKINRIDGE

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Memo-431

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,

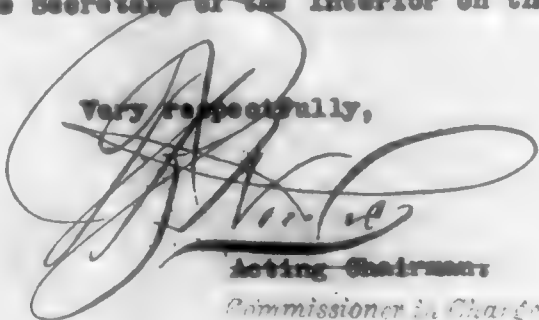
Attorney for Cherokee Nation,

Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Martha Jane Irvin et al, Cherokee Memorandum No-431- for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Acting Chairman

Commissioner in Charge

Mc 431

IN THE MATTER OF THE APPLICATION OF

Martha J. Lovin et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 432

Cher Memo 432

"K"

Cherokee MEMO:

Department of the Interior.
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 17, 1902.

In the matter of the application of Mary Lucinda Black for the enrollment of herself and five children as Cherokee citizens. Being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Mary Lucinda Black.
Q How old are you? A I am 43.
Q What is your post-office address? A Heavener, I. T. in the Choctaw Nation.
Q You apply for enrollment as a Cherokee by blood? A Yes sir.
Q You apply for anyone besides yourself? A Yes sir.
Q How many children? A Five.
Q Give me the name of the oldest one under 21 years of age and unmarried? A Lovie Glennie.
Q Is her name Black? A Yes sir.
Q Twenty years old? A Yes sir.
Q Name of the next one? A George Dannie,
Dannie or Daniel? A Dannie, Dannie.
Q How old is he? A 12.
Q Next child? A Lula B.
Q How old is she? A She is 16.
Q Next child? A Nancy Maeline.
Q How old is she? A 13.
Q Next child? A Elizabeth Jane.
Q How old? A Seven.
Q Next child? A That's all, five.
Q Are these children all living? A Yes sir.
Q Are they all living with you? A Yes sir.
Q Have you ever been recognized in any manner by the tribal authorities as a Cherokee citizen? A No sir.
Q Does your name appear upon any of the tribal rolls of the Cherokee Nation? A No sir.

Records of the Cherokee Nation examined and it does not appear that applicant or her children were ever admitted to citizenship in the Cherokee Nation by the Cherokee National council or commissions on citizenship.

All the rolls of the Cherokee Nation in the possession of the Commission examined and neither the name of the applicant or any of her children are identified thereon.

It appears from the records of the Commission made in accordance with the provisions of the act of Congress approved June 10, 1896, that Lucinda L. Black and others were applicants before the commission for admission to citizenship in the Cherokee Nation under the provisions of said act; that their application was denied by the commission, and no appeal taken therefrom.

BY COMMISSION: Mary Lucinda Black applies for the enrollment of herself and five children, Lovie Glennie Black, Nancy Maeline Black, George Dannie Black, Lula B. Black, and Elizabeth Jane Black as citizens of the Cherokee Nation. It appears from the records of the Commission that they were all denied citizenship in the Cherokee Nation by this Commission under the provisions of the act of Congress approved June 10, 1896, and that no appeal was taken therefrom. Consequently the application of Mary Lucinda Black for the enrollment of herself and five minor children as enumerated appears to come within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Therefore, the application of Mary Lucinda Black for the enrollment of herself and children will be listed for rejection.

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

M.D. Green

Subscribed and sworn to before me this February 19, 1902.

[Signature]

Commissioner.

COPY

Shoshone, Indian Territory, April 9, 1902.

Mrs. Mary Jackson Black,
Shoshone, Indian Territory,

Dear Madam:

On the 17 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your five minor children, Lovie Claude Black, George Lewis Black, John E. Black, Nancy Jackson Black and Minnie Jane Black, as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (31 Stat. 221).

The act of May 21, 1902, (31 Stat. 221), provides:

M. J. B. - 5.

That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has, therefore, on this day decided that you and your five minor children above named, are not citizens of the Cherokee Nation and duly lawfully enrolled or admitted as such, and that, pursuant to the provision of law above quoted, the Commission is without authority to receive, consider, or make any record of the application for the enrollment of yourself and your five minor children as citizens of the Cherokee Nation.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known to this Commission.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

SIGNED: James Pixby

Acting Chairman.

Encl. M-458.
Register.

COMMISSIONERS
HENRY L. DAWES,
TANS BIXBY,
THOMAS D. NEEDLES,
C. R. BRINKRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cherokee Memo-432

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES. Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Mary Lucinda Black et al, Cherokee Memorandum No. 432, for enrollment as citizens of the Cherokee Nation, was affirmed by the Secretary of the Interior on the 9th day of May, 1902.

Very respectfully,



Commissioner in Charge.

M 132

IN THE MATTER OF THE APPLICATION OF

Mary L. Black et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 11, 1900

ME...

Cher Memo 433

Cher Memo 433

Cherokee MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, Ia. T., February 17, 1902.

In the matter of the application of Lucinda Masline Webb for the enrollment of herself as a Cherokee citizen; being sworn and examined she testified as follows:

BY COMMISSIONER:

- Q What is your name? A Lucinda Masline Webb.
Q How old are you, Mrs. Webb? A 40.
Q What is your post-office address? A Foteah.
Q You apply for enrollment as a Cherokee by blood? A Yes sir.
Q You apply for anyone beside yourself? Any children under 21 years of age? A No sir, they are all of age.
Q What was the name of your father? A My father was Thomas Evans.
Q Is he living? A No sir.
Q What was your mother's name? A Ginda.
Q Is she living? A No sir.
Q You claim your right to enrollment through your father or mother? A Father.
Q Was your mother a white woman? A Yes sir.
Q Did you apply to this Commission in 1896 for admission to citizenship in the Cherokee Nation? A Yes sir.
Q Have you ever been recognized by the Cherokee tribal authorities of the Cherokee Nation as a citizen? A No sir.
Q Is your name upon any of the tribal rolls, have you ever drawn any money from the Cherokee Nation? A No sir.

Records of the Cherokee Nation examined and it does not appear that the applicant was ever admitted to citizenship in the Cherokee Nation by the tribal authorities thereof.

Rolls of the Cherokee Nation in possession of the Commission examined and applicant does not appear of record thereon.

It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that the applicant in this case, Lucinda E. Webb, applied to the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act. That her application was denied by the Commission and no appeal taken from the decision rendered.

BY COMMISSIONER: Lucinda E. Webb applies for the enrollment of herself as a Cherokee by blood. It appears from the records of the Commission that she was denied citizenship in the Cherokee Nation by this Commission under the provisions of the Act of Congress approved June 10, 1896, from which decision no appeal was taken. It would therefore appear that her present applications come within the provisions of the act of Congress approved May 31, 1900, as follows:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Consequently the application which Lucinda E. Webb makes for the enrollment of herself as a citizen of the Cherokee Nation

will be listed for rejection.

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

H. D. Green

Subscribed and sworn to before me this February 19, 1922.

[Signature]
Notary Public

Inventory
of
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COPY.

Washington, Indian Territory, April 2, 1902.

Mrs. Eugene Edwin Webb,
Tulsa, Indian Territory.

Sir:

On the 17 day of February, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence adduced in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 18, 1900, (32 Stat. 321).

The act of May 31, 1902, (32 Stat. 321), provides:

* That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any report of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, and who and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior.

The Commission has considered the report of the Special Agent in Charge of the Bureau, dated at New York, New York, on the 10th day of August, 1934, and the report of the Special Agent in Charge of the Bureau, dated at New York, New York, on the 10th day of August, 1934, and the report of the Special Agent in Charge of the Bureau, dated at New York, New York, on the 10th day of August, 1934.

A copy of the report of the Commission in this case is being furnished to you for information. You are requested that you continue to keep the Bureau advised of any developments in this case and to forward a memorandum of the status of the investigation of the Bureau with a copy of the report, for the Commission's final decision.

The Secretary's final report will be sent immediately to you when the same is available to the Commission.

Very truly yours,
The Commission on the Organization of the Executive Branch of the Government

James B. Glavin
Special Agent in Charge

RECORDED
INDEXED

28

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS S. NEEDLES,
C. R. BRECKINRIDGE.

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

REFER IN REPLY TO THE FOLLOWING
Case No. 422.

ALLISON L. AVESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Amanda S. White, Cherokee Name No. 422, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,

Acting Chairman.

M 433

IN THE MATTER OF THE APPLICATION OF

Lucinda E. Webb

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

Cher Memo 434

Cher Memo 434

Cherokee Name:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., February 17, 1902.

In the matter of the application of Malissa Jane Logan for enrollment of herself and two children as Cherokee citizens. Being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Malissa Jane Logan.
Q How old are you? A 51 now.
Q What is your post-office address? A Poteau, Indian Territory.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q Do you apply for any one besides yourself? A Yes sir, I apply for my children.
Q How old is your eldest child? A He is in his 17th year now. But when I made my application they were all under age, but one.
Q Give me the names of your children that are at home, under 21 years of age and unmarried? A I have only two, James Robert Logan is the oldest one.
Q How old is he? A 19.
Q What is the name of the next child? A Emery Donald.
Q How old is he? A He is in his 17th year.
Q Is that all, these two children? A That's all I have got under age now.
Q Are these two children living? A Yes sir.
Q Are they living at home with you? A Yes sir.
Q What is their father's name? A Robert Donald Logan.
Q Is he a white man? A Yes sir.
Q Have you ever been recognized in any manner as a citizen of the Cherokee Nation by the tribal authorities? A No I guess not.
Q Does your name appear upon any of the tribal rolls? A No sir, I guess not.
Q Did you make application to this Commission in 1896 for the enrollment of yourself and children? A Yes sir, I reckon that is the year.
Q Well were these two children, James Robert and Emery Donald embraced in that application? A Yes sir.

Rolls of the Cherokee Nation in possession of the Commission have been examined and applicants are not identified thereon.

Records of the Cherokee Nation examined and fail to disclose that either the applicant or her children were ever admitted to citizenship by the Cherokee tribal authorities.

It appears from the records of the Commission made in accordance with the provisions of the Act of Congress approved June 10, 1896, that Malissa J. Logan and children applied to this Commission for admission to citizenship in the Cherokee Nation under the provisions of this act. That their application was denied, and no appeal taken therefrom.

BY COMMISSION: Malissa Jane Logan applies for the enrollment of herself and two children, James Robert Logan and Emery Donald Logan as citizens by blood of the Cherokee Nation. It appears from the records of the Commission that the applicant and her children were denied citizenship in the Cherokee Nation by this Commission under the provisions of the act of Congress approved June 10, 1896, and that no appeal was taken from the decision of the Commission.

Consequently this application appears to come within the provisions of the act of Congress approved May 31, 1900, which provides:

"That said commission shall continue to exercise all au-

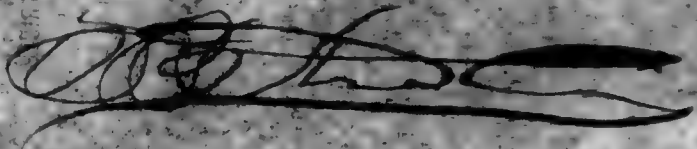
thority heretofore conferred on it by law, but it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

Therefore, the application of Malissa Jane Logan for the enrollment of herself and two minor children will be listed for rejection.

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

M.D. Green

Subscribed and sworn to before me this February 19, 1908.



Commissioner.

SECRET
CONFIDENTIAL

YOUR QUARTERS

BY ORDER: James D. ...

THE COMMISSION TO THE LIAISON OFFICERS

After the case is open refer to this Commission.

The Commission's first order will be data communication to the
and must be clear.

Inspector, with a copy of the Commission's for the communication
and forwarded a memorandum to the Commission to the Secretary of the
and advised. You are authorized that the Commission has an extra

A copy of the report of the Commission is also to be
submitted to the Secretary of the Commission.

of the Commission for the Secretary of the Commission, and have the report
forward to the Secretary of the Commission, and have the report
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Inspector, and have the Secretary of the Commission, and have the report
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of the Inspector.
The Commission will be just as satisfied as the Secretary
of the Commission, and have the Secretary of the Commission, and have the report
and have the Secretary of the Commission, and have the report

M 484

SECRET

COPY.

Washington, Indian Territory, April 9, 1900.

Mr. William J. ...
Agent, Indian Territory,

Sir:

On the 17 day of February 1900, you appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of yourself and your two minor children, James Robert ... and Henry Donald Logan as citizens by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that the applicants above named have never been enrolled by the tribal authorities of the Cherokee Nation, and that their names do not appear upon the tribal rolls of the Cherokee Nation nor in the possession of this Commission; that they have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory as agent, in accordance with the provisions of the act of May 19, 1900, (31 Stat. 144).

The act of May 21, 1900, (31 Stat. 144), provides:

That this Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, maintain or make any record of the application of any person

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EJH

COMMISSIONERS
HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRICKNBRIDGE.

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

REFER IN REPLY TO THE FOLLOWING
Chero. Mem. 454.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESSES ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

V. V. Hastings, Esq.,

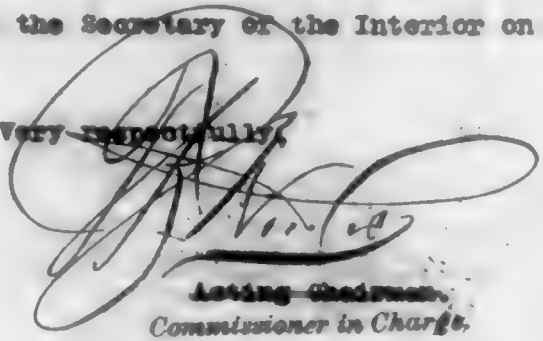
Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Malissa Jane Logan et al., Cherokee Memorandum No. 454, for enrollment as citizens of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Acting Chairman,
Commissioner in Charge.

MAY 27 1902

M/ 434

IN THE MATTER OF THE APPLICATION OF

Malissa J. Logan et al

FOR ENROLLMENT

CHEROKEE CITIZENS
REFUSED

ACT OF MAY 31, 1900.

MEMORANDUM.

Cher memo 435

Cher Memo 435

2811435

a

subscribed and sworn to

DEPARTMENT OF THE INTERIOR,
MISSION TO THE FIVE CIVILIZED TRIBES

MAILED
9 1902

ACTING CHAIRMAN

Comptroler.

MAILED
9 1902

[Handwritten signature]

file and complete records of his proceedings in this case and that the records in a
connection with the Five Civilized Tribes he collected, recorded, the
proceedings in this case, and that he is authorized to file the same in the
files of the Interior.

action will be taken for rejection.
for the purpose of being a witness of the Commission
concerning the jurisdiction of Charles C. Smith
each of the Interior.

Cherokee MEMO:

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 17, 1902.

In the matter of the application of Charity C. Thompson for the enrollment of herself as a citizen by blood of the Cherokee Nation; being sworn and examined she testified as follows:

BY COMMISSION:

- Q What is your name? A Charity C. Thompson.
Q How old are you? A I am 54, the last day of February.
Q What is your post-office address? A Monroe, I. T.
Q What nation is that in? A Choctaw.
Q Do you apply for enrollment as a Cherokee by blood? A Yes sir.
Q How much Cherokee blood do you claim? A Well my grandfather was half, they said.
Q Do you apply for anyone besides yourself? A No sir, I have got no children.
Q What was the name of your father? A Thomas Evans.
Q Is he living? A He is dead.
Q What was the name of your mother? A Lucinda Evans.
Q Is she living or dead? A Dead.
Q You claim your right to enrollment through your mother or father?
A Father.
Q Was your mother a white woman? A Yes sir.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A No sir.
Q Does your name appear upon any of the Cherokee rolls? A I guess not.
Q Did you apply to this Commission in 1896 for enrollment as a Cherokee? A Yes sir.
Q Have you a middle name? A Yes sir.
Q What is it, Charity C. Thompson? A Yes sir.

Rolls of the Cherokee Nation in possession of the Commission examined and applicant not found thereon;

Records of the Cherokee Nation examined and fail to disclose that applicant was ever admitted by the Cherokee National Council or commissions on citizenship.

It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that Charity C. Thompson was an applicant before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said act. That her application was denied by the Commission, and no appeal taken from the decision rendered. This

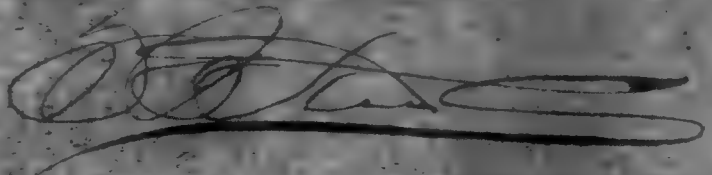
BY COMMISSION: Charity C. Thompson applies for the enrollment of herself as a citizen by blood of the Cherokee Nation. Her name cannot be found on any of the tribal rolls of the Cherokee Nation in the possession of the Commission, neither does it appear that she was ever admitted by the Cherokee tribal authorities to citizenship in that Nation. It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that this applicant was denied citizenship by the Commission under the provisions of said act and that no appeal was taken from that decision. This application appears to come within the provisions of the act of Congress approved May 31, 1900, which act provides:

"That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secre-

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

M. D. Green

Subscribed and sworn to before me this February 19, 1902.



Commissioner.

m 435

100-1-1000

THE UNITED STATES OF AMERICA

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COPY

MANAGER, INDIAN TERRITORY, April 9, 1902.

Mrs. CHARITY S. THOMPSON,
Muskogee, Indian Territory.

Sir:

On the 27 day of FEBRUARY, 1902, you appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Cherokee Nation.

It appears from the evidence offered in support of said application, that you have never been enrolled by the tribal authorities of the Cherokee Nation, and that your name does not appear upon the tribal rolls of the Cherokee Nation now in the possession of this Commission; that you have not been admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, or by the legally constituted authorities of the Cherokee Nation, or by the United States Court in Indian Territory on appeal, in accordance with the provisions of the act of June 16, 1900, (31 Stat. 521).

The act of May 26, 1900, (31 Stat. 521), provides:

"That said Commission shall continue to exercise all authority hereby given conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a citizen of any tribe in Indian Territory, who has not been a member of such tribe, and only the lawfully admitted or admitted as such, and the receipt of such applications shall be given when approved by the Secretary of the Interior."

6,625-2

The Commission has, therefore, on this day decided that you are not a citizen of the United States and duly and lawfully are held and admitted as such, and that, pursuant to the provision of law above cited, the Commission is without authority to receive, consider, or make any record of the applications for the enrollment of yourself as a citizen of the United States.

A copy of the record of the proceedings in this case is herewith enclosed. You are informed that the Commission has on this day forwarded a memorandum of its action to the Secretary of the Interior, with a copy of the proceedings, for his consideration and final decision.

The Secretary's final action will be duly communicated to you when the same is made known by this Commission.

THE COMMISSION IS THE FIVE CIVILIZED TRIBES.

BY SIGNED: Jerns Bixby
Acting Chairman.

Encl. 2-453.
Register

RECEIVED
MAY 10 1906
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

COMMISSIONERS
HENRY L. DAVIS
TAMM BIXBY
THOMAS B. NEEDLES
C. R. BRACKENRIDGE

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Chero. Mem. 455.

Muskogee, Indian Territory, May 27, 1902.

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

Sir:

You are hereby advised that the Commission's decision of April 9, 1902, rejecting the application of Charity G. Thompson, Cherokee Memo. No. 455, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 12th day of May, 1902.

Very respectfully,



Acting Chairman.

M 435

IN THE MATTER OF THE APPLICATION OF

Charity C. Thompson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

REFUSED

ACT OF MAY 31, 1900

MEMORANDUM.

**END
OF
REEL**

