

J-N^o 103.

E. W. Cotton, et al,

vs

b. & b. Nations.

N^o 90.

Southern District Court.

N^o

James Commission.

Note: The only parties ap-
plicant now in the
case are recognized
and under Clinton
No investigation necessary
Pass. papers
U.S.D.

Benton Mc Smith, et al, was

the original style of the case.

See T. No. 116

Bertie Cotton et al

Witnesses
For Claimants

E. W. Cotton,

Bertie Cotton,

Benton Nesmith,

Sam Perry,

Frank Apoleon

Wiley, S. P.

~~Chick~~
Chick
{admit by intermarriage}

E. W. Cotton et al. No 103.

- + Minnie Cotton, {admit by intermarriage}
- + Rosa Cotton {admit by intermarriage}

W. O. B.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
WM. O. BEALL,
Secretary.

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

REFER IN REPLY TO THE FOLLOWING:
Choctaw D 761

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 9, 1904.

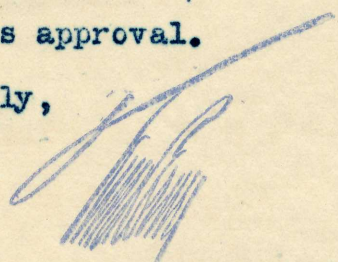
Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of this Commission rendered November 9, 1904, granting the application for the enrollment of Maud Cotten as a citizen by intermarriage of the Choctaw Nation.

You are hereby notified that you will be allowed fifteen days from the date of this notice within which to file protest against the action of the Commission in enrolling said applicant as a citizen of the Choctaw Nation. If at the expiration of that time no protest has been filed, her name will be placed upon the final rolls of the citizens of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,



Chairman.

Registered.

Incl. 7-D-761.

H.F.
960
7-D-761.

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

COPY.

In the matter of the application for the enrollment of Maud Cotten as a citizen by intermarriage of the Choctaw Nation.

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

It appears from the record herein that on April 16, 1902, the applicant, Maud Cotten (nee Dougherty), was lawfully married to Robert L. Cotten, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears as number 14997 upon the lists prepared by this Commission, under the act of Congress approved July 1, 1902 (32 Stat., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation and approved by the Secretary of the Interior on October 15, 1903; that at the time of said marriage both persons above mentioned were residents in good faith of the Chickasaw Nation, and that they lived together continuously in said nation as husband and wife from the date of said marriage up to and including September 25, 1902.

It is, therefore, the opinion of this Commission that, following the ruling of the department in the case of Ella Jones (I.T.D. 6818-1904), Maud Cotten should be enrolled as a citizen by intermarriage of the Choctaw Nation, in accordance with the provisions of the acts of Congress approved June 28, 1898 (30 Stat., 495), and July 1, 1902 (32 Stat., 641), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Tams Bixby

Chairman.

(SIGNED)

I. B. Needles.

Commissioner.

(SIGNED)

C. R. Breckinridge.

Commissioner.

Muskogee, Indian Territory,

NOV 9 - 1904

Statements

#####

7.103

In the E. W. Cotton case the said Perry testified as follows:

I knew Turner Breashears; know him to be a Choctaw Indian by blood; I also knew his daughter Nancy Breashears. The Breashears have always been recognized as Choctaws by blood.

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South McAlester, Indian Territory, May 16, 1903.

E.W. Cotton, et al.,

vs.

The Choctaw and Chickasaw
Nations.

)
)
)
)
)

R E P O R T

To Mansfield, McMurray & Cornish.

Pursuant to your letter of instructions dated May 2, 1903, I proceeded to Ada, Indian Territory, saw Sam Perry and procured from him the affidavit in the above entitled cause hereto attached, marked Exhibit "A".

My opinion is that this old darkey has been imposed upon by the applicants herein named.

Respectfully submitted.

M D Dredwell

Exhibit "A"

United States of America, }
Indian Territory } ss
Southern Judicial District }

Sam Perry being by me duly sworn says, my name is Sam Perry. I am going on 91 years of age. My post office is Ada, Indian Territory.

I knew Turner Treashears in Mississippi over sixty years ago. He never came to the Indian Territory but died in Mississippi. He had Choctaw blood in him; was about half breed. He had only one child, a daughter, to come to the Indian Territory. Her husband's name is Judge Eversaga and they live in the Choctaw Nation. I never knew Nancy Treashears. I do not know E. W. Cotton, therefore, cannot state whether or not he is an Indian.

Sam ^{his} Perry
marks

Subscribed and sworn to before me
this 9th day of May 1903.

Geo. P. Crawford
Notary Public.



a Creek woman x

Turner Brashear never lived in
Mississippi so far as I know
The family originated in Alabama
came from there to Mississippi +
then to Indian Territory

Dick ^{the} Brashear
mark

Subscribed & sworn to before me this 27th day
of October 1903

W. W. Mason

See list of
Questions
if more than one
Case depends upon
Former Questions,
make copies &
put with papers

My name is ~~Turner~~ Dick Brashears & am 82 years of age, & am a Chickasaw freed-man.

I was raised by Vaughan Brashears who was a ~~brother~~ nephew of Turner Brashears. There were a number of the Brashear men came into the Indian Country, and married Indian women.

Turner Brashears married a Vaughan woman, a Choctaw, by whom he had several children, ~~the~~ as follows; Louis, Ben, Evey, Jefferson, Billy, Tobias. The above named came to the Indian Territory. He had two daughters Elizabeth and Eliza who stayed in ~~Alabama~~ ^{Alabama} & do not remember Kiziah. Turner Brashears was a Frenchman. Evey Brashears married a white man named Corridgex. They lived near Lead water Academy. & ↑.

There were several of these Brashear men came into the country together but whether they were brothers or cousins I can't say. They were Zadee, Asa, Thomas and Alex. Zadee married a Vaughan woman, a sister I think of Turner Brashears wife. I do not know whether Asa or Thomas ever married or not and Alex married

I N D E X.

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" " Bertie Cotton 6
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TO THE DAWES COMMISSION:-

In the matter of Benton Nesmith, Iowa Bangs and G. W. Bangs, her husband, Claud Bangs, Myrtle Bangs, Bertie Bangs, Henry Bangs, Lucy Banks, Bobbie Bangs, Leonard Bangs, and Kelly Bangs, their children; Bertie Cotton, and Jennie Lind Cotton, her daughter; Thomas H. Nesmith, Lucy Forkner, and J. W. Forkner, her husband; and Julia Lee Forkner, Willie M. Forkner, their children; Lee Nesmith, and Mattie Nesmith, his wife, and Bogie Nesmith, Henry Nesmith and Grace Nesmith, their children; Minnie Cotton, and E. W. Cotton, her husband; Haidee Nesmith; Cora Cotton, and D. O. Cotton, her husband, and Hester Cotton, and White Cotton, their children.

---VS---

The Choctaw Nation.

The applicants would respectfully represent and show to this commission that Nancy Brachers is now dead, but was a Choctaw Indian by blood; that she was duly and lawfully married to Zacariah Roberts, and that there was born unto them the issue of said marriage, among other children, a girl, named Nancy Roberts; she is now dead; but she was duly and lawfully married to Alexander Nesmith, and had by said marriage, among other children, the applicant, Benton Nesmith; that the said Benton Nesmith was duly and lawfully married to Elizabeth J. Bond, and had by said marriage eight (8) children, whose names are the applicants; Iowa Banks, Thos. M. Nesmith, Bertie Cotton, Haidee Nesmith, Lee Nesmith, Lucy Forkner, Minnie Cotton, and Cora Cotton; all of whom are now living, and living in the Indian Territory, Chickasaw Nation, and have been so living for about 12 years; that the applicants, Bertie Cotton, was duly and lawfully married to D.B. Cotton, who is now dead, but that she had one child, the issue of

said marriage, whose name is the applicant, Jenie Lind Cotton; that the said D. B. Cotton had been previously married, according to the laws of the Chickasaw Nation, to one, Susan L. Leflore, who was a Choctaw Indian by blood; and that by reason of said marriage, and the blood existing in the applicant, Birdie Cotton, both she and her child, Jennie Lind Cotton, are members of the Choctaw tribe of Indians; that Iowa Nesmith was duly and lawfully married to the applicant, G. W. Bangs, and is now living with him, as his wife, and have by said marriage, as issue thereof, the applicants, Claude Bangs, Myrtle Bangs, Bertie Bangs, Henry Bangs, Lucy Bangs, Bobbie Bangs, Leonard Bangs and Kelly Bangs; that Lucy Nesmith was duly and lawfully married to the applicant, J. W. Forkner, and is now living with him as his wife, and have by said marriage, as issue thereof, the applicants, Julia Lee Forner, and Willie M. Forkner; that Lee Nesmith was duly and lawfully married to Mattie Reed, and have, as the issue of said marriage, the applicants, Bogie Nesmith, Henry Nesmith and Grace Nesmith, that Minnie Nesmith was duly and lawfully married to the applicant, E. W. Cotton, and Cora Nesmith was duly and lawfully married to the applicant D. O. Cotton, and have by the issue of said marriage, the applicants, Hester Cotton and White Cotton; that both of the Cottons, viz., D. W. Cotton and D. O. Cotton, are sons of said D. D. Cotton, with his union with Susan Leflore, who was a Choctaw indian, as above stated, and for that reason are Choctaw indians by blood, as is also the applicants, Hester Cotton and White Cotton. They say that both of the said Cottons, and the applicants, Bertie Cotton, have lands improved in the Chickasaw Nation, and are holding same as members of the Choctaw tribe of indians,

and have been known and recognized as Choctaw Indians, and their rights as such have never been disputed in any way; that by reason of the facts herein alleged, each and all of the applicants herein are members of the Choctaw tribe of indians, by blood and intermarriage, and should be enrolled as such.

Wherefore, they pray that they be enrolled as members of the Choctaw Tribe of Indians by this Commission, and for all other proper relief.

(Signed) Conner Bros.,

Attys.

Indian Territory,
Chickasaw Nation. ss.

The affiant, E. W. Cotton, says that he is one of the applicants herein, and that he believes the statements made in the foregoing application are true.

(Signed) Benton Nesmith.

Subscribed and sworn to before me,
By E. W. Cotton on this the 7th. day of Sept., 1896.

(Signed) T. E. Johnson,
Notary Public.

Indian Territory,
Chickasaw Nation. SS.

The affiant, E. W. Cotton, says that he is 30 years of age, and now lives in the Indian Territory, where he has lived all of his life. That he is the son of D. B. Cotton, who was duly and lawfully married Susan L. Leflore; and that Susan Leflore was a Choctaw Indian by blood; and that she and his father were married in the Indian Territory, according to the Chickasaw laws, and were married by Culberson Harris, District Judge of the Indian Territory; that he had been previously married in the State of Texas, and remarried according to the Indian law, as aforesaid when this affiant was 8 or 9 years old; he says that his name, as is also his brother's, D. O. Cotton's name, and in fact all of his brothers are on the Choctaw rolls of citizens; all of whom have drawn their proportional part of the annuity money paid to the Choctaw Indians, and that none of their rights as Indians have never been disputed in any way; and that this affiant is a Choctaw Indian by blood; he says that he was duly and lawfully married to Minnie Nesmith, and is now living with her in the Indian Territory, Chickasaw Nation; and has been using land all of his life, and recognized as a member of the Choctaw tribe of Indians; that his brother, D. O. Cotton, was duly and lawfully married to Cora Nesmith and is now living with him, and have two children, named Hester and White Cotton, and that he has been enjoying all the rights and privileges of an Indian citizen and has been recognized as such all his life.

(Signed) E. W. Cotton.

Subscribed and sworn to before me, by E. W.
Cotton, this the 7th. day of Sept., A.D., 1896.

(Signed) T. B. Johnson,

Notary Public.

Indian Territory,
Chickasaw Nation.

The affiant, Benton Nesmith, says that he is 68 years of age, and is living in the Indian Territory, Chickasaw Nation, where he has lived for nine years; he says that he is the son of Alexander Nesmith and Nancy Nesmith, his wife, and that they are both now dead; that his said mother, Nancy Nesmith's maiden name was Nancy Roberts, and has been dead now for about 20 years; he says that she showed the indian blood in her very plainly, and looked to this affiant very much like an indian, although he does not know the amount of indian blood she had; that the said Nancy Roberts, the mother of this affiant, was a daughter of Zachhius Roberts, who was married to one Nancy Brashers; he says that he has eight living children, whose names are: Iowa, who married one G. W. Bangs, Bertie, who married one, D. B. Cotton; Thos. M. Nesmith, unmarried; Lucy, who married one, J. W. Forkner; Lee Nesmith, who married one, Mattie Reed; Minnie, who married one, G. W. Cotton; Haidee Nesmith, unmarried; Cora, who married one, D. O. Cotton; that G. W. Bangs and wife have eight children, named, Claude, Myrtle, Bertie, Henry, Lucy, Bobbie, Leonard and Kelly Bangs; that D. B. Cotton is dead, and left one child, whose name is Jennie Lind Cotton; that J. W. Forkner and wife have two children, whose names are Julia Lee Forkner and Willie M. Forkner; that Lee Nesmith and wife have three children, whose names are Bogie, Henry and Grace Nesmith; that D. O. Cotton and wife have two children, whose names are Hester and White Cotton; and that all of said parties are now living in the Indian Territory, Chickasaw Nation. He says that his daughter, Bertie Cotton, as has E. W. and D. O. Cotton, all have lands improved in the Chickasaw Nation, and are holding the same

as members of the Choctaw tribe of Indians, and their rights to hold same as members of the said Choctaw Tribe of Indians have never been disputed in any way.

(Signed) Benton Nesmith.

Subscribed and sworn to before me,
This September 7th., 1896.

(Signed) T. B. Johnson,
Notary Public.

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Chickasaw Nation,
Indian Territory,
Third Judicial District.

This day came before me, the undersigned authority,
Sam Perry, to me personally well known, and after being first
duly sworn by me, deposes and says:

I am about 84 years of age; my post office is Wiley, Ind.
Ter.; I knew Turner Breashears, and know that he was a Choctaw
Indian by blood; I knew Turner Breashers daughter, Nancy Breashears.
The Bearshears have, to my knowledge, always been recognized as
Choctaw Indians by blood. I have no interest in the claim of
any of the parties named above.

his
Sam x Perry.
mark.

Subscribed and sworn to before me,
This the 4th. day of Sept., 1896.

R. F. French,

Notary Public.

My commission expires Nov. 16, 1898.

Benton Ne Smith, et al.

Vs. No. 90. Judgment, Southern District. March 8, 1898.

Choctaw Nation.

This day this cause coming on to be heard upon the pleadings, proof, master's report and exception filed thereto and the court being sufficiently advised: Doth order and adjudge that said report be confirmed in all respects, except that same be correct so as to admit the applicants Birtie Cotton, and Jenn Lind Cotton.

And the court being sufficiently advised in the whole case:; Doth order adjudge and decreed that the applicants E. Cotton, D. O. Cotton, Bertie Cotton, Jenny Lind Cotton, Cora Cotton, Romeo Cotton, Hester Cotton, White ~~Xx~~ Cotton, Minnie Cotton and Otto Cotton, the said Otto Cotton being the child of V. W. Cotton, be and they each and all are hereby admitted ~~tex~~ as members of the Choctaw tribe of Indians, and that they have all the rights, privileges, and immunities as such. And the clerk of this court is ordered to transmit a certified copy of this judgment to the proper authorities for their enrollment.

Benton Ne Smith,

Vs. No. 90 Judgment, Southern District, March 3, 1899.

Choctaw Nation.

On this 3rd day of March, 1899 came on to be heard the motion heretofore filed by the appellants in this cause to correct the judgment herein, and ~~the~~ appellants appeared by their attorneys, Cruce & Cruce, and appellee appeared by its attorney Stewart Lewis & Gordon, and the court having heard said motion and being well and fully advised in the premises, doth sustain the same and it appearing to the Court that the names of Remeo Cotton and Otto Cotton have been erroneously and by mistake entered in said judgment heretofore rendered in this cause and admitted to citizenship in the Choctaw Nation by said judgment, it is by the court, considered, ordered and adjudged that the names of said parties be and the same ~~are~~ ^{is} hereby corrected and reformed by striking out of the same the names of the said parties and this order is made nunc pro tunc as of the date of the rendition of said judgment. It is further considered and adjudged that this order shall not prejudice the rights of said parties in any further proceeding which they may adopt to obtain enrollment as Choctaw Citizens if any such rights they may have.

Indian Territory,
Chickasaw Nation.

The affiant, Frank Apoleon, after being first duly sworn, says:

That he is 56 years of age, and is now living in the Indian Territory, Chickasaw Nation. That he was acquainted with Nancy Brshears, who was recognized, and known by all who knew her, as a Choctaw Indian by blood, and she showed the Indian blood in her, and looked very much like an indian. I understand that she was married, but I do not know to whom, and I have heard that she is now dead, but I do not know this to be a fact.

Subscribed and sworn to before me,
This the 7th. day of September, 1896.

IN THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF INDIAN
TERRITORY, AT ARDMORE.

Benton Nesmith, et al.,)
vs)
Choctaw Nation.)

REPORT.

The application in this case alleges two sources of indian citizenship, for at least a portion of the applicants. Benton Nesmith claims to be a descendant of Nancy Brashers, a Choctaw Indian by blood. the other contention is, that D.B.Cotton married a Choctaw Indian by the name of Leflore.

I find as a matter of fact that the contention that Nancy Brashers was not a Choctaw Indian, and that the applicants in this case, who claim exclusively through her have failed to support their application with testimony. For this reason, I recommend that the following applicants who claim through Nancy Brashers exclusively, be denied enrollment: Benton Nesmith, Mrs. Elizabeth J.Nesmith, Iowa Bangs, Thomas M.Nesmith, Bertie Nesmith, Bertie Cotton, Haidee Nesmith, Lee Nesmith, Lucy Forkner,, Claud Banks, Myrtle Bangs, Bertie Bangs, Henry Bangs, Lucy Bangs, Bobby Bangs, Leonard Bangs, Kelly Bangs, Jenny Lind Cotton, Julia D.Forkner, Wm.M.Forkner, Bogie Nesmith, Henry Nesmith, Grace Nesmith, G.Wash Bangs, J.W.Forkner, Mattie Nesmith.

I find as a matter of fact that on the ___ day of _____ 18__ D.B.Cotton, who is now dead, married one Susan L.Leflore, a Choctaw Indian by blood, and there were born of this union two children: E.W.Cotton and D.O.Cotton; that said Susan Leflore afterwards died; that after her death D.B.Cotton married Bertie Nesmith, a citizen of the United States; that this marriage was

since 1876; that from this marriage there was born one child, Jenny Lind Cotton. D.O.Cotton, a son of D.B.Cotton and Mrs. Susan L.Leflore married Cora Nesmith, on the ___ day of ___ 189___ and as a result of this marriage there were born two children, Hestor and White Cotton. E.W.Cotton, the other son of D.B.Cotton and Mrs. Susan L.Leflore, married Miss Minnie Nesmith, on the ___ day of ___ 189___; that there is one child born of this union, Romeo Cotton.

I recommend that E.W.Cotton, (Romeo Cotton), Hestor Cotton, and White Cotton, and D.O.Cotton be admitted as members of the Choctaw Nation by blood and Minnie Cotton and Cora Cotton be admitted as inter-married citixens of the Choctaw Nation; that all the other applicants be denied enrollment.

(Signed) W.H.L Campbell,

Master in Chancery.

Endorsed:

(Benton Nesmith, et al., vs. Choctaw Nation; filed June 23rd, 1897, 9 A.M., Joseph W.Philips, Clerk).

3
2

IN THE UNITED STATES COURT FOR SOUTHERN DISTRICT OF THE INDIAN
TERRITORY, AT ARDMORE.

Benton Nesmith, et al, Plaintiffs,)
vs.)
Choctaw Nation, Defendant.)

Jdgment,

This day this cause coming on to be heard upon the pleadings, proof, Master's report and exceptions filed thereto, and the Court, being sufficiently advised:

Doth order and adjudge that said report be confirmed in all respects, except that same be corrected so as to admit the applicants, Bertie Cotton and Jenny Lind Cotton.

And the Court being sufficiently advised upon the whole case:

Doth order, adjudge and decree that the applicants, E.W.Cotton D.O.Cotton, Bertie Cotton, Jenny Lind Cotton, Cora Cotton, Romeo Cotton, Hester Cotton, White Cotton, Minnie Cotton and _____ Cotton, (the said _____ Cotton being a child of E.W. Cotton) Be, and they each and all are hereby admitted as members of the Choctaw Tribe of Indians, and that they have all the rights, privileges and immunities as such. And the Clerk of this Court is ordered to transmit a certified copy of this judgment to the proper authorities for their enrollment.

o
Judge.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT TISHOMINGO, INDIAN TERRITORY.

-----0-----

✓ E.W. COTTON,
✓ MINNIE COTTON, HIS WIFE,
✓ D.O. COTTON,
✓ CORA COTTON, HIS WIFE,
✓ HESTER COTTON,
MAUDE COTTON,
EFFA COTTON,) CHILDREN OF D.O. & CORA COTTON, ...)
PETITIONERS,

VERSUS

THE CHOCTAW NATION, OR TRIBE OF INDIANS,)
AND) DEFENDANTS.
THE CHICKASAW NATION, OR TRIBE OF INDIANS,)

P E T I T I O N .

TO THE HONORABLE SPENCER B. ADAMS, CHIEF JUDGE, THE HONORABLE WALTER L. WEAVER, AND THE HONORABLE HENRY S. FOOTE, ASSOCIATE JUDGES OF THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT TISHOMINGO, INDIAN TERRITORY:

Your petitioners, E.W. Cotton and Minnie Cotton, his wife; and D.O. Cotton and Cora Cotton, his wife, for themselves and for their infant children, Hester Cotton, Maude Cotton and Effa Cotton, petitioning for themselves, and as natural guardians and next friends of the said infants, would respectfully represent and show unto this Honorable Court:

F I R S T . --- That the petitioners herein, E.W. Cotton and D.O. Cotton, are Choctaw Indians by blood, having been born and reared as such in the Chickasaw Nation of the Indian Territory; that they are the legitimate offspring of D.B. Cotton and Susan LeFlore Cotton, his wife; that the maiden name of the said mother of these last named petitioners was Susan LeFlore, who was a Choctaw Indian by blood, and who was married to the said D.B. Cotton in accordance with the marriage laws of the Chickasaw Nation by the Honorable Culberson Harris, one of the District Judges of the Chickasaw Nation, then presiding as such; that these

last named petitioners, E.W. and D.O. Cotton, after their birth in the Chickasaw Nation were on the tribal rolls of the Choctaw Nation, and drew their proportionate shares of the annuities paid to the Choctaw Indians, and have lived in the Chickasaw Nation of the Indian Territory, and have been recognized as Choctaws all their lives by both the Choctaw and Chickasaw Indians, and have drawn annuities and held lands as Choctaws living in the Chickasaw Nation.

S E C O N D .---That your petitioner herein, Minnie Cotton, was duly and lawfully married to E.W. Cotton, her present husband and co-petitioner herein, at Ardmore, Indian Territory, on the _____ day of _____, 18____, before the year 1895; that her said husband, E.W. Cotton, is a Choctaw Indian by blood, as aforesaid, and has all his life lived in the Chickasaw Nation, drawn annuities as a Choctaw, and held lands as a Choctaw living in the Chickasaw Nation; that by reason of the said marriage she is an intermarried Choctaw citizen, and is entitled to all the rights, privileges, and immunities of a Choctaw Indian living in the Chickasaw Nation of the Indian Territory, under the treaties between the United States and the Choctaw Nation, and the law in force relative thereto.

That your petitioner herein, Cora Cotton, was duly and lawfully married to D.O. Cotton, her present husband and co-petitioner herein, in the Chickasaw Nation of the Indian Territory, on the _____ day of _____, 18____, before the year 1895; that her said husband, D.O. Cotton, is a Choctaw Indian by blood, as aforesaid, and has all his life lived in the Chickasaw Nation, has drawn annuities as a Choctaw Indian, and held lands as a Choctaw Indian living in the Chickasaw Nation of the Indian Territory; that by reason of said marriage, the said petitioner Cora Cotton is an intermarried citizen of the Choctaw Nation, and is entitled to all the rights, privileges, and immunities of a Choctaw Indian living in the Chickasaw Nation of the Indian Territory, under the treaties between the United States and the Choctaw Nation, and the law in force relative thereto.

T H I R D . ---Your petitioners D.O. Cotton and Cora Cotton

his wife, further represent that there has been born to them, in lawful wedlock, the offspring of their aforesaid marriage, and are yet living, three children, to-wit, the three petitioners herein, Hester Cotton, Maude Cotton, and Effa Cotton; that they are Choctaw Indians by blood, and are entitled to enrollment as such by reason of the aforesaid citizenship of their said parents; that the said petitioner, Hester Cotton, was admitted to citizenship by judgment of the United States District Court for the Southern District of the Indian Territory, at Ardmore, as hereinafter set forth; that since the rendition of the judgment of the said court admitting to citizenship the said Hester Cotton and the said D.O. Cotton and Cora Cotton, his wife, petitioners herein, your petitioners Maude Cotton and Effa Cotton have been born, the legitimate issue of the said D.O. Cotton and Cora Cotton, his wife; that by reason of the premises, the said Maude and Effa Cotton are Choctaw Indians by blood, and are entitled to be enrolled as such, and to share in all the rights, privileges, and immunities of Choctaw citizens living in the Chickasaw Nation; that due proof of the birth of the said Maude Cotton and Effa Cotton was made to the said Commission to the Five Civilized Tribes, and the names of the said Maude and Effa Cotton were duly enrolled by the said Commission on the rolls of the Choctaw Nation, in legal form, upon receipt of the proof of the said births.

F O U R T H . --- Your petitioners further would represent that on the 7th day of September, 1896, the petitioners E.W. Cotton, Minnie Cotton, his wife, D.O. Cotton, Cora Cotton his wife, and Hester Cotton applied to the Honorable Commission to the Five Civilized Tribes for enrollment as members of the Choctaw Nation on the rolls of the said Commission; that said application was in writing; that said application was heard by said Commission and the said last named petitioners were refused admission and ultimate enrollment as Choctaws by the said Commission; that said petitioners within sixty days thereafter, and within the time limited by the law, appealed to the United States District Court

for the Southern District of the Indian Territory, sitting at Ardmore, from the said refusal of said Commission to place their names on the rolls of the members of the Choctaw Nation; that upon final hearing of said appeal in said Court, on the 8th day of March, 1898, the said petitioners E.W.Cotton, Minnie Cotton, D.O.Cotton, and Cora Cotton, and Hester Cotton were by the judgment of said court duly admitted to citizenship as members of the Choctaw Nation, or Tribe of Indians, in a judgment rendered in a case on the Citizenship Docket of the said court, styled BENTON NESMITH ^{ET ALS.} VS. THE CHOCTAW NATION, No. 90; that the said Maude Cotton and Effa Cotton have been born to the said D.O.Cotton and Cora Cotton, as aforesaid, and their births proven to the Commission to the Five Civilized Tribes, and by said Commission their names have been entered upon the rolls of the Choctaw Nation, as aforesaid, upon receipt of the proofs of the said births.

F I F T H . --- Your petitioners further would represent that under the provisions of an Act of Congress passed and made effective on the first day of July, 1902, providing for and creating this court, at a session of this Honorable Court held at South McAlester, I.T., on the 17th day of December, 1902, a judgment was rendered in the case of the CHOCTAW AND CHICKASAW NATIONS VS. J.T.RIDDLE AT ALS., annulling and vacating all judgments theretofore rendered by the United States District Courts in the Choctaw and Chickasaw Nations, admitting appellants from the Commission to the Five Civilized Tribes to citizenship, including the aforesaid judgment by which your petitioners herein obtained their said enrollment as Choctaws, as well as all other persons similarly situated; and though your petitioners herein are bona fide Choctaws, and are entitled to remain on the rolls as such, they are, by reason of the premises hereinbefore set forth, eliminated from the rolls of said tribe, and thereby deprived of their just and legal rights under the treaties between the United States and the Choctaw and Chickasaw tribes of Indians, and the laws enacted by the Congress of the United

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT TISHOMINGO, JUNE TERM, 1904.

E. W. Cotton, et al,

vs. No. 103.

Choctaw and Chickasaw Nations.

Burris and Bourland, Attorneys for plaintiffs.

Mansfield, McMurray & Cornish, for Defendants.

Present and presiding the Honorables Spencer B. Adams, Chief
Judge and Walter L. Weaver and Henry S. Foote, Asso-
ciate Judges.

JUNE 23, 1904. This day this cause coming on to
be heard, both plaintiffs, and defendants being ~~present~~
represented and both having announced ready for trial,
the following proceedings were had.

Mr. Burris:

If the Court please in this case we expect to show
that the applicant, E. W. Cotton is a Choctaw by blood,
and that his wife, Minnie Cotton, formerly Minnie Ne
Smith, is a white woman and an intermarried citizen of
the Choctaw Nation, by reason of her marriage to E. W.
Cotton, under the Choctaw law.

JUDGE ADAMS:

Only two applicants.

Mr. Burris:

Yes sir.

Mr. Cornish:

Do I understand that the other parties who were originally
named in the petition to this Court are not parties now.

Mr. Burris:

They are dead.

Mr. Bourland:

They are now on the approved rolls of the Choctaws,

Mr. Cornish:

Those are the children of a Choctaw woman. Those facts can easily be established.

Mr. Bourland:

We were not engaged by these parties other than Mr. Cotton and his wife, and never thought it necessary to say anything about them. Another attorney had prepared the papers in the case, and he has left the country.

Mr. Cornish:

We can all represent them.

D. O. Cotton:

I am made a party in that case. I have got a case of my own. My name was made a party to it, but I have a case of my own separate, and am not interested in this case.

JUDGE ADAMS:

What is your name?

A.--D. O. Cotton.

Q.--You a brother to the applicant here?

A.--Yes sir.

Q.--Party to it?

A.--My name is mentioned in there but I have a case of my own

Q.--Before this Court?

A.--No sir, before the Commission. That is the report from the Secretary.

JUDGE FOOTE:

We get jurisdiction from the judgment of the Court below, and the petition for appeal here. We have always determined in the cases presented before us, and do so where they wish to dismiss.

Mr. Cornish:

There is sufficient evidence to present the issues

before the Court.

JUDGE ADAMS:

You say you got your case in this court, wasn't here without you and your wife were admitted under the Act of June 10th, ninety-six, and an appeal was taken to the United States Court

Mr. Cotton:

Got in there through a mistake of my attorney, Mr. Cruce.

Mr. Cornish:

Here is the explanation of this. These persons were applicants in two cases before the Commission in nineteen ty-wix, one case of Cotton and one case of Benton Ne Smith, which corresponded with this case here. There was a proceeding before the Commission from which ~~no~~ appeal was taken admitting these persons. There was another proceeding that went on to the United States Court.

JUDGE ADAMS:

It is as to whether this part went into that petition and he says he didn't.

Mr. Cotton:

I have a case separate before the Dawes Commission.

JUDGE ADAMS:

You have been admitted.

Mr. Cotton:

Yes sir.

JUDGE ADAMS:

Got no case there now?

A.--Yes sir.

JUDGE ADAMS:

Authorize anybody to appeal this case to this court.

A.--No sir.

JUDGE ADAMS:

Cannot make a man a party unless he wants to.

Mr. Burris:

My information is this. The step mother of the party here, who claims that he didn't come into this court, made application as a court claimant for herself and her children, and the attorneys for this party simply placed him in along with her to strengthen the case.

I think that is the situation, I am informed by their attorneys who was representing his step mother that he had offered some explanation to one of the members of this Court.

Mr. Cornish:

I am making these suggestions, not with a view of embarrassing these applicants, for as heretofore stated

I know what the facts are. The fact remains, without reference to how they arose that these persons are applicants before this Court. This court and the attorneys for the Nations are not only willing but anxious that justice be done. They are here, why not let the case take its regular course. There is no doubt but that this court will render a judgment that will do justice. Two judgments will not hurt you. Why not let the matter take its course and not raise these questions.

JUDGE ADAMS:

As far as the children are concerned, that is all right, but here is a man that says somebody brought suit for him that he didn't authorize. You wantx to get out do you, you are satisfied?

A.--Yes sir. I am not interested in this case.

JUDGE ADAMS:

~~Mr. Cotton~~

Never authorized anybody to bring the suit?

A.--No sir.

JUDGE FOOTER:

Why would it not be better, these parties are in an entirely different attitude from those persons, they come here on their own appeal. They cannot dismiss their case. Let this man make an affidavit that he didn't authorize anybody to bring this suit, and we have no jurisdiction.

JUDGE ADAMS:

You were included in the Judgment of the United States Court.

Mr. Cotton:

Yessir, but I wasn't a party there.

JUDGE WEAVER:

This gentleman says that he didn't authorize his lawyers to bring this suit for him. He can impeach this record.

~~JUDGE~~
JUDGE FOOTER:

If you were admitted by the United States Court your judgment was declared void.

Mr. Cotton:

The two cases, the Ne Smith case and the Benton Nee Smith case, that my wife was interested in, I have never been appealed, never been before the Court, and I made an application before the Commission in ninety-six for my wife and children

Mr. Cornish:

These people are as much Indians as Green McCurtain, but why not let the case take its course.

Mr. Cotton:

I am not interested in this case, and I am satisfied with the case I have.

JUDGE ADAMS:

I suppose some of these attorneys have told him that he could not get justice in this court.

Mr. Cotton:

No sir, I am not interested in it, I have no case to try.

JUDGE FOOTE:

He cannot attack the record of the United States Court by oral statement, he can make an affidavit.

JUDGE ADAMS:

Go on, and we will see about it.

E. W. COTTON, being called as a witness in his own behalf, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Mr. Burris:

Q.--What is your name?

A.--E. W. Cotton.

Q.--Where do you live?

A.--Maxwell.

Q.--I. T.?

A.--Yes sir.

Q.--How old are you?

A.--Thirtyseven years old next October.

Q.--What is your citizenship?

A.--Choctaw.

Q.--By blood or intermarriage.

A.--By blood.

Q.--What was your fathers name?

A.--David Cotton.

Q.--Was he a white man or Choctaw or Chickasaw ?

A.--White man.

Q.--State your mothers name?

A.--Susan L. Cotton.

Q.--What was her maiden name?

A.--Susan Leflore.

Q.--Was she a Choctaw by blood or intermarriage ?

A.--By blood.

Q.--Is she living now?

A.--No sir, dead.

Q.--When did she die?

A.--Been seven or eight years ago. She died about 1900.

Q.--How many children did she have?

A.--Had five or six.

Q.--Will you state their names?

A.--Me, Oscar Cotton, Belle Cotton, Pink Cotton and Bob, that many living.

Q.--Have they been enrolled by the Dawes Commission to your knowledge?

A.--Yes sir.

JUDGE FOOTE:

Speaking of his brothers children.

Mr. Burris,

His brothers and sisters.

Q.--You say they have been enrolled by the Dawes Commission?

A.--Yes sir.

Q.--Have they made their filings?

A.--Yes sir.

Q.--Do you know whether or not they have received their certificates of allotment?

A.--Some of them has.

Q.--These Cotton children that you have just named, what relation to they sustain to you?

A.--Brothers and sisters.

Q.--Own brothers and sisters?

A.--Yes sir.

Mr. Burris:

I would like to offer in evidence in corroboration of the evidence of the witness a certificate from the Dawes Commission showing that these parties have been adjudged citizens of the Choctaw Nation.

Mr. Cornish:

This man's brothers and sisters.

Mr. Burris:

Yes sir.

Marked Exhibit "A".

Q.--Mr. Cotton you are a married man are you?

A.--Yes sir.

Q.--Whom did you marry?

A.--Minnie Ne Smith.

Q.--When was that?

A.--I think it was in ninety-one.

Q.--Year of ninety-one?

A.--I think it was, not positive.

Q.--What was her citizenship, Choctaw, Chickasaw or white?

A.--She was a white woman.

Q.--Under what law did you marry?

A.--Under United States law.

Q.--Did you understand Mr. Cotton that you complied with the Choctaw law in marrying your wife?

A.--Well, I understand what I was told. Dr. Folsom told me.

Mr. Cornish:

I don't think that would be competent.

Mr. Burris:

The question was do you understand that you married

Minnie Ne Smith under the requirements of the Choctaw law

JUDGE FOOTE:

Are you aware of the fact that this Court in its decision in the Trahern case held that a Choctaw man could marry a white woman under any law.

Mr. Burris:

I was not aware of that.

JUDGE ADAMS:

The Choctaw law required certain formalities where a white man married an Indian woman. No such conditions attached to the marriage of an Indian man to a white woman.

JUDGE FOOTE:

Just show that it is a valid marriage anywhere.

Mr. Burris;

Q.--Where was it you married Minnie Ne Smith?

A.--At Ardmore.

Q.--Married under the United States law?

A.--Yes sir.

Q.--What became of your license?

A.--Sent them to the Dawes Commission, while they were at Muskogee.

Q.--Don't know what disposition has been made of those licenses at this time?

A.--No sir, I don't.

JUDGE FOOTE:

Q.--You were married by a minister of the Gospel?

A.--Yes sir, John B. Smith.

Q.--Did your wife continuously reside in the Indian Territory with you up to the time of her death, if she is dead?

A.--Living with me now.

Q.--Lived with you continuously in the Indian country,
after you were duly married by a minister of the Gospel
in the Indian Territory?

A.--Yes sir.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--Have you any children?

A.--None living, had two, but they died.

Q.--Your mother was named Susan Leflore?

A.--Yes sir.

Q.--She is related to Judge Julius Folsom?

A.--I don't know exactly, I think so.

Q.--Your mother was Susan Leflore ?

A.--Yes sir.

Q.--You drew the Leased District money in nine ty-three?

A.--Yes sir.

Q.--Your name was placed on the 1893 Leased District roll?

A.--Yes sir.

Q.--Your name was placed on the 1896 census roll of the
Choctaw Nation?

A.--I think so.

Q.--You were born in the Choctaw Nation?

A.--Yes sir.

Q.--Never lived anywhere else?

A.--Lived in the Chickasaw Nation.

Q.--Never lived anywhere else except in the Choctaw and
Chickasaw Nations?

A.--No sir.

Q.--What relatives have you besides your brothers and sisters
that are enrolled?

A.--All the Leflores.

Q.--Related to the Charley Leflore family, at Limestone Gap?

A.--Yes sir.

Q.--Your wife, Minnie Cotton is a white woman?

A.--Yes sir.

Q.--When did you marry her what year?

A.--I think it was ninety-one, twenty-fourth day of December.

Q.--You were at that time a resident of the Chickasaw Nation?

A.--Yes sir.

Q.--Your home was at what place?

A.--Ardmore.

Q.--That her home also?

A.--Yes sir.

Q.--~~How long~~ How long had you lived in the Chickasaw Nation?

A.--Perhaps twenty years.

Q.--Your brother is D. O. Cotton?

A.--Yes sir.

Q.--He is the man that is present in court here now?

A.--Yes sir.

Q.--His wife is Cora Cotton?

A.--Yes sir.

Q.--Hester Cotton, Maude Cotton, and Effie Cotton his children?

A.--Yes sir.

Q.--He is your brother by the same father and mother?

A.--Yes sir.

Q.--Full brother?

A.--Yes sir.

JUDGE ADAMS:

Q.--These children that you speak of, are they the children of D. O. Cotton?

A.--Yes sir.

Witness excused.

JULIUS C/ FOLSOM, being called as a wit-

ness on behalf of the plaintiffs, after being first duly sworn, testified as follows.

DIRECT EXAMINATION.

Mr. Burris:

Q.--What is your name?

A.--Julius C. Polson.

Q.--How old are you?

A.--Seventy-three.

Q.--Where do you live?

A.--Live at Atoka, Choctaw Nation.

Q.--Are you a Choctaw?

A.--I am.

Q.--Are you acquainted with the applicants E. W. Cotton and his wife?

A.--No sir, I am not acquainted with him.

Q.--Were you acquainted with his mother?

A.--Yes sir, acquainted with his mother.

Q.--What was her name?

A.--Susan Leflore.

Q.--What was her citizenship?

A.--Choctaw.

Q.--By blood?

A.--Yes sir.

Q.--Do you know how many children she had?

A.--No sir, I don't know, they were small when I saw them.

Q.--Are you acquainted with any of the children at the present time?

A.--Not acquainted with them.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--The Susan Leflore that you speak of that married a man named Cotton, is the mother, as you generally know of these

children?

A.--Yes sir, she was known as Susan Cotton.

Q.--Who is she related to, what branch of the Leflore family was she a member.

A.--Relatives of these present Leflores here in the Choctaw Nation, Charley Leflore.

Q.--How was she related to Charley Leflore?

A.--I don't know.

Q.--Did she live always in the Choctaw Nation?

A.--No sir, she came from Mississippi something like thirty-five years ago.

Q.--She was admitted by the Choctaw Council?

A.--I don't know.

Q.--You don't know the exact relationship existing between her and the Leflores'?

A.--No sir, I don't.

Witness excused.

SIMON E. LEWIS, being called as a witness on behalf of the plaintiffs, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Mr. Burris:

Q.--What is your name?

A.--Simon E. Lewis,

Q.--Your residence?

A.--Post office is McGee, Chickasaw Nation.

Q.--How old are you?

A.--Sixty-three years old.

Q.--What is your citizenship?

A.--Choctaw by blood.

Q.--How long did you live in the Choctaw Nation?

A.--Lived there all my life.

Q.--Been in the Chickasaw Nation a short time only?

A.--Yes sir, moved here last September.

Q.--Are you acquainted with the applicant in this case,
E. W. Cotton?

A.--Yes sir, I know him.

Q.--Are you acquainted with any of the other members of the
family, his brothers and sisters?

A.--I have seen them at different times, never had any
particular acquaintance with them.

Q.--David O. Cotton, know him?

A.--Yes sir.

Q.--What relation is he to the applicant?

A.--Brother to E. W. Cotton. Call him Oscar.

Q.--I said David B. Cotton?

A.--His father.

Q.--E. W. Cotton's father?

A.--Yes sir.

Q.--What was E. W. Cotton's mother's name?

A.--Maiden name was Susan Leflore.

Q.--She married David B. Cotton?

A.--Yes sir.

Q.--The applicant, E. W. Cotton, is the son of David B.
Cotton, and Susan Leflore Cotton?

A.--Yes sir.

Q.--What was her citizenship?

A.--She was a Choctaw by blood on her father's side.

Q.--How long were you acquainted with her?

A.--I never was much acquainted with her, they came here
just a while before the war, lived down here at Fort

Towson, saw her before she married Cotton.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--How was she related to the Leflors that are now known in the Choctaw Nation?

A.--William Leflore's daughter that came here with the first emigration and went back.

Q.--How was Williams Leflore related to Charley Leflore?

A.--William Leflore was a half brother of Charley's father.

Q.--What was Charley's father named?

A.--Forbes, own brother of Greenwood Leflore.

Q.--Connected with making the roll in ninety-six?

A.--Yes sir.

Q.--The names of these persons included in the 1896 census roll of the Choctaw Nation?

A.--Yes sir, and I had a file book of A. Telle, in ninety-three.

Q.--Their names appear upon the 1893 pay roll of the Choctaw Nation?

A.--Yes sir.

Q.--And also on the 1896 census roll?

A.--Yes sir.

JUDGE FOOTE:

Q.--That include D. O. Cotton here?

A.--Yes sir. I think Mr. Cotton married after his wife died, but I don't know anything about that.

Witness excused.

DAVID O. COTTON, being called as a witness on behalf of plaintiffs, after being first duly sworn testified as follows:

DIRECT EXAMINATION.

Mr. Burris:

Q.--What is your name?

A.--David O. Cotton.

Q.--How old are you?

A.--Thirty-five.

Q.--Where do you live?

A.--Live at Springer, Indian Territory.

Q.--Are you acquainted with the applicants E. W. Cotton, and
Minnie Ne Smith Cotton?

A.--Yes sir.

Q.--What relation are you to E. W. Cotton?

A.--Brother.

Q.--What relation does E. W. Cotton sustain to Minnie Ne
Smith Cotton?

A.--Man and wife.

Q.--What was your fathers name?

A.--David B. Cotton.

Q.--Your mothers name?

A.--Susan L. Cotton.

Q.--What was the citizenship of your father prior to his
marriage to Susan L. Cotton?

A.--White man.

Q.--Your mother?

A.--Choctaw.

Q.--By blood or intermarriage?

A.--By blood.

Q.--You say that you are an own brother to E. W. Cotton?

A.--I am.

Q.--And that your mothers name is Susan L. Cotton, a
Choctaw by blood?

A.--Yes sir.

Q.--Were you present at the time your brother was married
to Miss Minnie Ne Smith Cotton?

A.--I was.

Q.--About when was that?

A.--Ninety-one, I think.

Q.--1891?

A.--Yes sir.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--You are a full brother to E. W. Cotton who was just on the stand?

A.--Yes sir.

Q.--Hester Cotton, Maude Cotton and ~~xxxxxx~~ Effie Cotton your children?

A.--Yes sir.

Q.--Where did you reside when you married ?

A.--Ardmore.

Q.--How long had you lived at Ardmore?

A.--I had lived there five or six years.

Q.--Your home was at Ardmore, in the Chickasaw Nation at that time?

A.--Yes sir.

Q.--Where she resided?

A.--Yes sir.

Q.--Under what law did you marry her?

A.--Laws of the United States.

Q.--Where did you procure your license?

A.--Ardmore.

Q.--Didn't procure a license from the tribal authorities of the Chickasaw Nation?

A.--I did not.

JUDGE FOOTE:

Q.--You are a Choctaw man?

A.--Yes sir.

Q.--Your wife lived with you continuously from that time?

A.--Yes sir.

Q.--In the Indian country?

A.--Yes sir.

Witness excused.

Mr. Burris:

That is your case.

JUDGE ADAMS:

Anything to offer.

Mr. Cornish:

No sir.

JUDGE ADAMS:

If these men are Indians and married white women, what questions are there.

Mr. Cornish:

The laws of the Choctaw and Chickasaw Nations provide that a citizen of either tribe shall be governed by the laws of his domicile. It is a question of law to be presented to the Court.

JUDGE FOOTE:

We have held in the Trahern case that if a white woman marries an Indian and comes in here and lives continuously, that she was entitled to admission. Where they married in Mississippi and moved here we held that they were entitled to citizenship.

Mr. Bourland:

If that is the decision of the Court in the case, I don't understand that additional evidence should be furnished of the laws of the Choctaws and Chickasaws in regard to marrying white people.

JUDGE ADAMS:

This man is a Choctaw. He lived in the Chickasaw Nation and married according to the United States laws.

Mr. Cornish:

The treaties provide between the Choctaw and Chickasaw Nations, that a citizen of one tribe residing in the other tribe shall be governed by the laws of his domicile in all respects as though he was a Chickasaw by blood. If he had been a citizen of the Chickasaw Nation it would have been necessary for him to have procured a license. The treaties provide that a Choctaw in the Chickasaw Nation is in all respects a Chickasa. It is a question of law. I do not understand that the Trahern case applies here.

JUDGE FOOTE:

The Trahern case was as to the rights of a Choctaw man residing in the Choctaw Nation, has no reference to any Chickasaw case at all.

Mr. Burris:

I assume this position, as well as I remember the law, to which Mr. Cornish makes reference is only applicable in case a Choctaw marry a Chickasaw, that it is not applicable in a case of intermarriage which seems to be involved in this case.

Mr. Cornish:

It wasn't my idea to argue that question now. The provision to which I refer is in the treaty of 1855, I don't remember the exact article now.

JUDGE ADAMS:

Your contention is that in accordance with the treaty of 1855 he should have married according to the Chickasaw law.

Mr. Cornish:

Yes sir th place of h's domicile.

JUDGE ADAMS:

What did that require.

Mr. Cornish:

To procure a license from the County Judge and the payment of fifty dollars.

JUDGE ADAMS:

That was when an Indian married a white woman, when a Chickasaw Indian married a white woman?

Mr. Cornish:

Yes sir.

JUDGE FOOTE:

I don't think there is any question about this man being a Choctaw. Only question is as to whether this marriage with this white woman would have to be according to the Chickasaw law. So far as the children, they are undoubtedly entitled to be admitted.

JUDGE ADAMS:

case marked submitted.

In the Choctaw and Chickasaw Citizenship Court, sitting at
Tishomingo, in the Southern District of the Indian Territory,
June Term, 1904.

E. W. Cotton, et al.,

vs.

No. 103.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this 30th day of June, 1904, this cause coming on for decision, the same having heretofore been submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that the plaintiffs, E. W. Cotton, D. O. Cotton and Hester Cotton, are entitled to be declared citizens by blood of the Choctaw Nation, and to enrollment as such, and to all the rights, privileges and immunities flowing therefrom; and the Court doth further find that it has no jurisdiction of the petitioners, Maude Cotton and Effa Cotton.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs, E. W. Cotton, D. O. Cotton and Hester Cotton, be granted, and that they be declared citizens of the Choctaw Nation by blood, and entitled to enrollment as such citizens, and entitled to all the rights, privileges and immunities flowing therefrom; and as to the petitioners Maude Cotton and Effa Cotton, the Court having no jurisdiction, their petition is dismissed; and the petition of the other parties in said cause is not passed upon in this decree.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT
TISHOMINGO, IN THE INDIAN TERRITORY,
NOVEMBER TERM, 1904.

E. W. Cotton, et al.,
vs. No. 103.
Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this the 28th day of November, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that the plaintiffs, Minnie Cotton and Cora Cotton, are entitled to be deemed citizens by intermarriage of the Choctaw Nation, and to enrollment as such, and to all the rights, privileges and immunities, personal to themselves, which flow therefrom.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiffs, Minnie Cotton and Cora Cotton, are entitled to be deemed citizens by intermarriage of the Chickasaw Nation, and to enrollment as such citizens, and to all the rights, privileges and immunities, personal to themselves, which flow therefrom.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

Department of Justice,
Choctaw and Chickasaw Citizenship Court,
Indian Territory,

....., 190.....

E. W. Cotton, v

Minnie Cotton no act v

D. O. Cotton v

Cora Cotton no act v

Hester Cotton v

Maudie Cotton —

Effie Cotton —

COMMISSIONERS:

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

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Choctaw-2795.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 20, 1903.

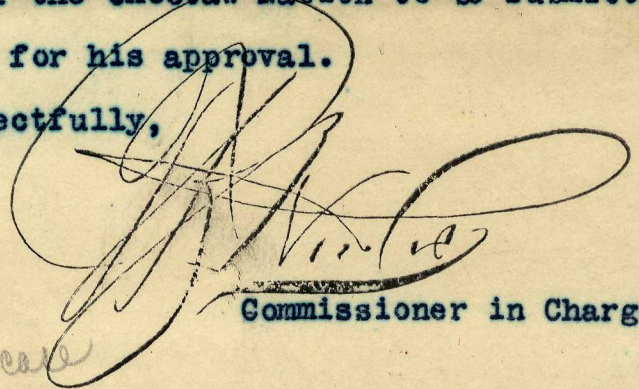
Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commission, rendered July 20, 1903, granting the application of David Nessmith for enrollment as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from this date within which to file protest against the action of the Commission in enrolling the applicant herein as a citizen of the Choctaw Nation. If at the expiration of that time, no protest has been filed, the name of the applicant will be placed upon the final rolls of the citizens of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,


Commissioner in Charge.

Registered.

Enc. IBS. 55/20

Elb Cotton case
Partie "

COPY.

7-2795

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

etc.
JRP

In the matter of the application for the enrollment of David Nessmith as a citizen by intermarriage of the Choctaw Nation.

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

It appears from the record herein that David Nessmith on August 23, 1897, was married in accordance with the laws, customs and usages of the Choctaw Nation, to Mary V. Nessmith (nee Page), a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears as number 8202, upon the lists prepared by this Commission under the act of Congress approved July 1, 1902 (32 Stat., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior on January 17, 1903; that at the time of said marriage both persons above mentioned were residents in good faith of the Choctaw Nation, and that they have lived together continuously in said Nation as husband and wife from the date of said marriage up to and including September 25, 1902.

It is, therefore, the opinion of this Commission that David Nessmith should be enrolled as a citizen by intermarriage of the Choctaw Nation, in accordance with the provisions of the acts of Congress approved June 28, 1898 (30 Stat., 495), and July 1, 1902 (32 Stat., 641), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Tams Bixby.

Chairman.

(SIGNED)

I. B. Needles.

COMMISSIONER.

(SIGNED)

C. R. Breckinridge.

COMMISSIONER.

(SIGNED)

W. E. Stanley.

COMMISSIONER.

Muskogee, Indian Territory,

JUL 20 1903

Turner Brachers

Brushers
Nancy Brachers
(Choctaw)
married
Zacarias Roberts
Zacharias -

dead
Nancy Roberts
married
Alexander Nesmith
dead

68
Benton Nesmith
married
Elizabeth J. Bond

Jowa Banks
married
C.W. Banks
Claude Banks
Myrtle
Bertie
Henry
Lucy
Bobby
Leora and
Kelly

Phos. M. Nesmith

35
Bertie Cotton
married
N. D. Cotton (dead)
Jenni Lind Cotton

Haidu Nesmith

Lee Nesmith
married
Mutter Reed
Boqui Nesmith
Henry
Grace

Lucy Forkner
married
J. W. Forkner
Julia Lee Forkner
Willie M. Forkner

Ninni Cotton
married
C.W. Cotton 30

Cora Cotton
married
D. O. Cotton
Hester Cotton
White

Bertie Cotton
married
N. D. Cotton
N. B. Cotton
Isabel Frost
Rufus P. Cotton
Robert Leonard Cotton

Prior to marriage to Bertie Nesmith
had been married Susan S. Defflow
an alleged Choctaw Indian

SUMMONS.

United States of America,

Indian Territory,

ss

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

To the United States Marshal for the Indian Territory, Northern District,

GREETING:

You are hereby Commanded to Summons Green McCurtain, Principal Chief of the Choctaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Principal Chief of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at Leihonings, by E. W. Cotton et al

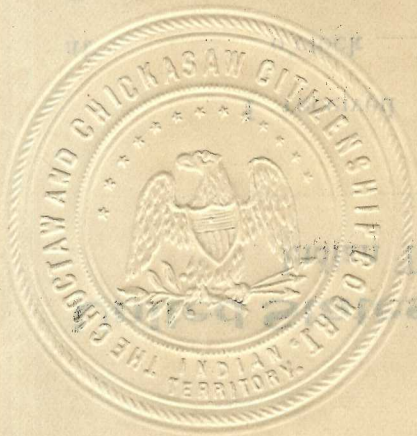
and warn him that upon his failure as said Principal Chief to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the papers, files and proceedings in the case of E. W. Cotton et al File No. 90 in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this 23 day of March A. D., 1903.

James B. Cassada Clerk.

By _____ Deputy.



RECEIVED

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

[Signature]
Clerk

I received this summons this 9th of March A. D. 1903, at 10 o'clock m. and served same by copy, as follows:

Personally on Green McCurtain, at Indian Territory,

This day of , 1903, m.

Witness the Honorable Spencer B. Adams, Chief Judge,

By Deputy.

Reple di

No 103 T

SUMMONS
IN EQUITY.

E. W. Cotton et al

vs.

Choctaw and Chickasaw Nations.

Summons issued 23 day of
March, 1903. Returnable instanter.

Marshal's Fees.

Service	- - -	\$
Miles	- - -	\$
Expenses	- - -	\$
TOTAL		\$

J. M. Perry
Attorneys for Plaintiff.
Lichomings J. T.

216

United States of America,
SUMMONS,
Choctaw and Chickasaw Citizenship Court,
Indian Territory,

South McAlester, Indian Territory, June 12, 1903.

E. W. Cotton, et al

vs. T. No. 103. Southern District No. 90

Choctaw Nation.

Birtie Cotton, et al

vs. T. No. 116. Southern District No. 90.

Choctaw Nation.

The parties applicant in this case were, with numerous other persons applicants to the Commission to the Five Civilized Tribes in 1896 in the case entitled Benton Nesmith, et al vs. Choctaw Nation. The case as originally docketed by the Dawes Commission included thirty-two applicants claiming citizenship in the Choctaw Nation as the direct lineal descendants of Nancy Brachers, (or ~~Bashears~~ or Breashears), the daughter of one Turner Breashears, alleged to have been a Choctaw Indian. In addition to the applicants by blood there were numerous applicants for enrollment as citizens by intermarriage, claiming their rights by reason of their several marriages to the descendants of the aforesaid Nancy Breashears. ^{TRP} The applicants were all denied by the Dawes Commission in 1896, and the case was appealed to the United States Court for the Southern District of the Indian Territory, and that

Court rendered a judgment March 8, 1898 sustaining the decision of the Commission as to all the applicants who ^{rely}~~reply~~ entirely upon their descent from the aforesaid Nancy Breashears, and the claims of these applicants before the federal Court and the Choctaw-Chickasaw Citizenship Court has apparently been abandoned. It is probable that the claimants who were denied by the Dawes Commission in 1896 and the United States Court in 1898 are now applicants to the Dawes Commission for identification as Mississippi Choctaws, as there are a large number of persons who have applied as Mississippi Choctaws, claiming to be the descendants of Nancy Breashears, and it is more than probable that these applicants will be found among the people so applying. ^{TD} In addition to the persons denied by the Southern District Court there were admitted several persons who claimed their right to enrollment by reason of being descendants of Susan L. Leflore, or who acquired their citizenship by virtue of the marriage of the said Susan L. Leflore with one D. B. Cotton. It appears that D. B. Cotton, a white man was married to Susan L. Leflore, an alleged Choctaw Indian by whom he had two children, E. W. and D. B. Cotton; that he lived with his Choctaw wife until her death, and then married ^eBirtie Nesmith, by whom he had one child, Jennie Lind

Cotton.

E. W. and D. O. Cotton also married and children were born to D. O. Cotton. D. B. Cotton died before the petition to the Dawes Commission *in 1896*

The persons admitted by the United States Court for the Southern District of the Indian Territory in the judgment of March 8, 1898 are as follows:

Bertie Cotton, the white wife of D. B. Cotton, deceased; Jennie Lind Cotton, the white child of D. B. Cotton and Bertie Cotton; E. W. Cotton and D. O. Cotton, children of D. B. Cotton by his Choctaw wife, Susan L. Leflore; Minnie Cotton and Corah ~~Cotton~~ Cotton, white persons intermarried with E. W. and D. O. Cotton; and Hester and White Cotton, children of D. O. Cotton and Corah Cotton.

The parties appellant before the Choctaw and Chickasaw Citizenship Court in the case entitled E. W. Cotton, et al ~~are~~ E. W. Cotton and his wife Minnie Cotton and D. O. Cotton and his wife Corah Cotton and their children Hester, Maude and Effa, the two latter children having been presumably born since 1896. The omission of the name of White Cotton from the petition is probably owing to the fact that this child has died since the submission of the original petition to the Commission in 1896.

Simon E. Lewis says that these people, E. W. Cotton and D. O. Cotton are the children of

Susan L. Leflore, who married E. B. Cotton, and have
always ^{been} recognized and enrolled on the Choctaw tribal
rolls as citizens by blood of the Choctaw Nation,
and that they and their descendants are unquestionably
entitled to enrollment as citizens of the Choctaw Nation.
There were included in the original 1896 Nesmith
application without their knowledge or consent,
and probably for the purpose of enhancing the claims
of the other applicants, the alleged ~~ancestors~~ ^{descendants} of
Nancy Breashears. ^{TPD} The parties plaintiff in the case
of Bertie Cotton, et al are Bertie Cotton, the white
wife of D. B. Cotton, deceased, who prior to his
marriage to the applicant had been married to Susan
L. Leflore, and Jennie Lind Cotton, the daughter
of the aforesaid D. B. and Bertie Cotton, being a
white child.

The question in this case is purely one of
law, as there can be no doubt that the Susan L. Le-
flore who was married to D. B. Cotton was a rec-
ognized and enrolled citizen by blood of the Choctaw
Nation.

SUMMONS.

United States of America,

Indian Territory,

ss

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

To the United States Marshal for the Indian Territory, Southern District,

GREETING:

You are hereby Comanded to Summons P. S. Moseley, Governor of the Chickasaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Governor of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at *Sihoinny*, by *E. W. Cotton et al*

and warn him that upon his failure as said Governor to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of *E. W. Cotton et al* File No. *90* in the District Court for the *southern* District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said *southern* District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge,

Walter L. Weaver and Henry S. Foote, Associate

Judges, and the Seal thereof, at South McAlester,

Indian Territory, aforesaid, this *23*

day of March A. D., 1903.

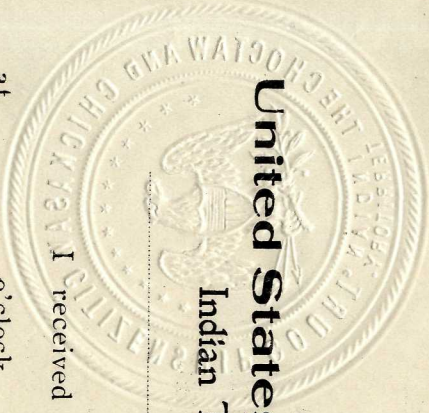
James B. Casson Clerk.

By _____ Deputy.



MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.



I received this summons this 23 day of March A. D. 1903,

at 5 o'clock m. and served same by copy, as follows:

Personally on P. S. Moseley, at Muskogee, Indian Territory,

This 23 day of March, 1903, at Muskogee, Indian Territory.

Witness the Honorable Spencer B. Adams, Chief Judge,

By _____ Deputy.

The certificate of the clerk of said court for said District, Indian Territory, has been transmitted to the Choctaw and Chickasaw Citizenship Court, and that the papers filed and proceedings in the case of _____ in the District Court for the _____ District of the _____ and you are further commanded to notify said P. S. Moseley, Governor, aforesaid, and you will make return of the summons instanter;

Duplicate
No. 103-7

SUMMONS
IN EQUITY.

E. W. Cotton et al
vs.
Choctaw and Chickasaw Nations;

Summons issued 23 day of
March, 1903. Returnable instanter.

Marshal's Fees.

Service	-	\$
Miles	-	\$
Expenses	-	\$
TOTAL			\$.....

J. M. Perry
Attorneys for Plaintiff.
Lishominyo I.T.

Choctaw and Chickasaw Citizenship Court,
Indian Territory,
United States of America,
SUMMONS.