

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

Walter W. Jones, et al.,

vs. No. 107.

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, Francis Jones or Frances Jones, Mary Melinda Jones, Walter W. Jones, Fitzhugh Lee Jones, Ruby Estella Jones, Minnie Cletus Jones, Lovis Francis Scott or Lovie Francis Scott, Hattie Myrtle Scott, Minnie Roberta Scott, Anlie McCoy Scott or Archie McCay Scott, James Walter Gamblin, Joseph Wilbern Gamblin, Indianola Gamblin, Amanda Lutoma Gamblin, Hattie Lovinia Gamblin and John H. Gamblin, are not entitled to be deemed or declared citizens of the Choctaw Nation, or to enrollment as such, or to any rights whatever flowing therefrom; and the Court doth further find that it has no jurisdiction over the petitioners, Jennie Jones, Larie Francis Scott, Emma Gamblin, Eliza Ann Gamblin or Eliza Ann Jones, Brinkley Welbourn Jones, Wm. Albert Jones, Rutherford Pennymore Jones, Amanda Melvinia Jones, Carrie Pernicia Jones, John Gandy Jones, Capitola Jones, Victoria Jones, Elizabeth May Jones, Minnie Mildred Henson, (nee Jones), or Minnie Mildred Jones, Charlie Marion Jones, Sallie Fisher Jones, William

James Jones, Garland Rutherford Jones, Reandes Jones or Reandis Jones, Nellie Rutherford Jones, Glennis Scott, Robert J. Jones, Sallie M. Jones, William Oscar Jones, George D. Jones, Walter J. Jones, Mary A. Jones, Lilburn B. Jones, Pearlle V. Jones, Lizzie B. Jones.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs, Francis Jones or Frances Jones, Mary Melinda Jones, Walter W. Jones, Fitzhugh Lee Jones, Ruby Estella Jones, Minnie Cletus Jones, Lovis Francis Scott or Lovie Francis Scott, Hattie Myrtle Scott, Minnie Roberta Scott, Anlie McCoy Scott or Archie McCay Scott, James Walter Gamblin, Joseph Wilbern Gamblin, Indianola Gamblin, Amanda Lutoma Gamblin, Hattie Lovinia Gamblin and John H. Gamblin, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom; and as to the petitioners, Jennie Jones, Larie Francis Scott, Emma Gamblin, Eliza Ann Gamblin or Eliza Ann Jones, Brinkley Welbourn Jones, Wm. Albert Jones, Rutherford Pennymore Jones, Amanda Melvinia Jones, Carrie Pernicia Jones, John Gandy Jones, Capitola Jones, Victoria Jones, Elizabeth May Jones, Minnie Mildred Henson (nee Jones), or Minnie Mildred Jones, Charlie Marion Jones, Sallie Fisher Jones, William James Jones, Garland Rutherford Jones, Reandes Jones or Reandis Jones, Nellie Rutherford Jones, Glennis Scott, Robert J. Jones, Sallie M. Jones, William Oscar Jones, George D. Jones, Walter J. Jones, ^{Mary A. Jones} Lilburn B. Jones, Pearlle V. Jones and Liz-

zie B. Jones, the Court having no jurisdiction, their petition
is dismissed.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

--: IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT :--

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Walter W. Jones, et al,
Plaintiffs,

vs.

The Choctaw and
Chickasaw Nations,
Defendants.

--: P E T I T I O N :--

Now come the petitioners, Francis Jones, Mary Melinda Jones, Walter W. Jones, Fitzhugh Lee Jones, Ruby Estella Jones, Minnie Cletus Jones; Lovis Francis Scott, Hattie Myrtle Scott, Minnie Roberta Scott, Anlie McCoy Scott; James Walter Gamblin, Joseph Wilbern Gamblin, Indianola Gamblin, Amanda Lutoma Gamblin, Hattie Lovinia Gamblin, John H. Gamblin; Jennie Jones; Larie Francis Scott, Emma Gamblin; Eliza Ann Gamblin, and respectfully represent and show to the court:

That they and each of them are now, and have been at and since all the dates and times hereinafter mentioned residents of the Chickasaw Nation, Indian Territory. That they are each and all citizens and members of the Choctaw Nation or Tribe of Indians.

That on the....day of September, 1896, and within the time prescribed by the Act of Congress approved June 10, 1896, conferring jurisdiction in citizenship cases upon the Commission to the Five Civilized Tribes, petitioners herein filed their ~~xxx~~ application with the said Commission to the Five Civilized Tribes for citizenship and membership in the Choctaw Tribe or Nation of Indians.

That, in due course of time, said Commission heard said application, and rejected the same and denied the claim of petitioners herein to citizenship in the Choctaw Nation.

That thereafter, and within the time prescribed by law, these petitioners appealed from the ~~decision~~ decision of the said Commission of the Five Civilized Tribes to the United States Court

for the Southern District of the Indian Territory, at Ardmore, wherein said appeal cause was docketed and styled "Walter W. Jones, et al, vs. Choctaw Nation, No.148".

Now your petitioners would further show that after said cause was duly appealed and lodged with the Clerk of the United States Court for the Southern District of the Indian Territory, at Ardmore, and in the month of December, 1897, the court house in the town of Ardmore was destroyed by fire, and all the papers in this case lost or destroyed; that it became necessary to substitute the same. That in said substituted application appears the names of Brinkley Welbourn Jones, Wm. Albert Jones, Rutherford Pennymore Jones, Amanda Melvina Jones, Carrie Pernicia Jones, John Gandy Jones, Capitola Jones, Victoria Jones, Elizabeth May Jones, Minnie Mildred Henson (nee Jones), Charlie Marion Jones, Sallie Fisher Jones, William James Jones, Garland Rutherford Jones, Reandes Jones, Nellie Rutherford Jones, Glennis Scott, Robert J. Jones, Sallie M. Jones, William Oscar Jones, George D. Jones, Walter J. Jones, Mary A. Jones, Lilburn B. Jones, Pearl V. Jones, Lizzie B. Jones, who would respectfully represent and show to this Honorable Court:

That they hereby make themselves parties to this suit, for the purpose of having their status in said matter determined. That the Master in Chancery for the United States Court for the Southern District of the Indian Territory, at Ardmore, passed upon and determined these parties to be citizens. That when said cause of Walter W. Jones, et al, vs. Choctaw Nation came on to be heard before said Court, these petitioners were adjudged to be citizens of said Nation and entitled to all the rights, privileges and immunities pertaining to such citizenship. That long after said judgment had been rendered and entered and became final, the court, on motion of the defendant, Choctaw Nation, entered its judgment, nunc pro tunc, on the.....day of.....1900, pre-

tending to correct said judgment rendered on the 17th day of January, 1898, admitting all the applicants in the cause of Walter W. Jones, et al, as above set out, to citizenship, on the alleged ground that said last mentioned applicants' names did not appear in the original petition filed before the Dawes Commission under the Act of June 10, 1896, thereby attempting to omit from said judgment the twenty-six applicants last above named. That said last named judgment was entered without authority of law, and is of no force and effect whatever. Your petitioners, therefore, say that said last named pretended judgment should not be considered upon the trial of this cause in this Court.

That on the 17th day of January, 1898, in said United States Court for the Southern District of the Indian Territory, at Ardmore, a full, complete and final trial was had upon the merits in said cause No. 148, styled as aforesaid, Walter W. Jones, et al, vs. Choctaw Nation, and said court therein, determined, ^{and adjudged} these petitioners, each and all, to be citizens and members of the Choctaw Tribe or Nation of Indians, and ordered and directed the said Commission to the Five Civilized Tribes to place the names of the ~~xxxx xxxxxxxx~~ petitioners herein upon the roll of citizenship of the Choctaw Nation or Tribe of Indians, as members thereof; and that petitioners herein, each and all, from and after said date, have been entitled to have their names enrolled on the official and final citizenship roll of the Choctaw Nation by said Commission to the Five Civilized Tribes. That, as to the twenty-six petitioners last above mentioned, they, as before alleged, were included in said judgment, but when said order was entered attempting to erase their names from said judg-

ment, it was stated therein that said Commission to the Five Civilized Tribes be ordered and directed to strike their names from said citizenship roll of the Choctaw Nation.

Petitioners further show that, by its judgment rendered on the 17th day of December, 1902, in a cause styled "The Choctaw and Chickasaw Nations or Tribes of Indians, plaintiffs, vs. J.T.Riddle, et al, defendants", this court adjudged and decreed all the judgments and decisions of the United States Courts in the Choctaw and Chickasaw Nations, admitting persons to citizenship and enrollment as citizens of said Nations upon appeal from the Commission to the Five Civilized Tribes, to be null and void, both as to the defendants named in said cause and all other persons claiming citizenship in the Choctaw and Chickasaw Nations by virtue of judgments rendered in the United States Courts for the Southern and Central Districts of the Indian Territory, under the Act of June 10, 1896.

Your petitioners state that they were not parties to said cause of "The Choctaw and Chickasaw Nations or Tribes of Indians, plaintiffs, vs. J.T.Riddle, et al, defendants", and are not bound by the judgment rendered therein, and that this court had no power or jurisdiction under the pleadings and evidence in that cause to set aside or vacate the judgment of the United States Court for the Southern District of the Indian Territory, at Ardmore, admitting them to citizenship in the Choctaw Nation; and that said judgment of said United States Court for the Southern District of the Indian Territory is still in full force and effect.

But petitioners state that, in as much as this court has entered its judgment and decree setting aside all the judgments of the United States Court for the Southern and Central Districts of the Indian Territory, wherein persons not specially made parties thereto but who were similarly situated to the defendants specially named in said suit of "The Choctaw and Chickasaw Nations,

or Tribes of Indians, plaintiffs, vs. J.T.Riddle, et al, defendants", the said United States Commission to the Five Civilized Tribes is denying and will continue to deny the right of petitioners herein to be enrolled as members of said tribe of Indians, unless the files and proceedings in said cause No.148, styled Walter W. Jones, et al, vs. Choctaw Nation, in said United States Court for the Southern District of the Indian Territory at Ardmore, be certified and sent to this court for further proceedings herein, and unless this court should by its decree finally determine and adjudge said petitioners to be citizens and members of said Choctaw Nation or Tribe of Indians, said Commission will refuse to enroll them as such : - - - -

N O W, T H E R E F O R E, said petitioners, still insisting upon their rights as members of said tribe and the validity and finality of said judgment of the United States Court for the Southern District of the Indian Territory, at Ardmore, admitting them to citizenship, and without waiving any of the rights adjudged and decreed to belong to them and conferred upon them by law under and by virtue of said judgment of said United States Court for the Southern District of the Indian Territory at Ardmore, said petitioners most respectfully pray that an order be made, in the nature of a writ of error or otherwise, directing the Clerk of the United States Court for the Southern District of the Indian Territory, at Ardmore, to certify and deliver to this court all files, papers, documents, evidence and proceedings had in said cause No.148, styled Walter W. Jones, et al, vs. Choctaw Nation, heretofore pending in said United States Court at Ardmore; and that all proper and necessary writs, citations and otherwise be issued by the Clerk of this Court for service upon the principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation, in order that said cause may be fully and completely transferred and lodged with this court, for all proper and lawful proceedings therein.

Gilbert Gilbert

Attorneys for Petitioners.

NO.....

IN THE CHOCTAW AND CHICKASAW
CITIZENSHIP COURT.

Walter W. Jones, et al,
vs.
The Choctaw and
Chickasaw Nations.

PETITION FOR WRIT OF ERROR.

Gilbert & Gilbert,
Duncan, I.T.,
Attorneys for Petitioners.

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

Walter W. Jones and others,
 plaintiffs

vs.

Choctaw and Chickasaw Nations,
 defendant.

Now comes J. H. Gamblin, one of the plaintiffs in the above styled and entitled cause, and represents to the Court that he cannot safely conclude the trial of said cause without the testimony of Francis Jones, who's postoffice address is Delaware, Arkansas. That said applicant expected to have this witness before this honorable Court in person and who has just returned from the said state of Arkansas where he found said witness dangerously ill. That said witness will testify that she was the wife and is the widow of James L. Jones, Indian, through whom this applicant claims citizenship. That said James L. Jones was one-fourth blood Choctaw Indian and could talk the Choctaw Language fluently. That he was also duly enrolled and recognized as a member of the Choctaw Tribe or Nation of Indians. That this applicant is not making this for the purpose of delay but the affiant states that he cannot safely proceed to trial without this testimony.

Wherefore, he prays that a day be set and that one of the members of this honorable Court may attend in person at the taking of the testimony of said witness at Delaware, Arkansas.

Indian Territory
 SS.
Southern District.

This day personally appeared John H. Gamblin, being duly sworn and on his oath states that he is one of the applicants in the above styled and entitled cause and that the several matters and facts stated faithfully in the above and foregoing application is true to the best of his knowledge, information and belief.

Subscribed and sworn to before me this the _____
day of _____, 1904.

Notary Public.

In the Choctaw and Chickasaw Citizenship Court for the Interior
Department, sitting at Tishomingo.

Walter W. Jones et als...Plaintiffs)
v.)
Choctaw and Chickasaw Nations,)
Defendants) .

Application for permission to take testimony .

Now comes the applicants in the above styled and entitled
cause and most respectfully represents to this honorable court
that the trial of this cause is set for June 24th, 1904, at Tishomingo.

That the testimony of Dr. J. T. Wharton is very material and
that applicants cannot safely proceed to trial of this cause without
the testimony of the said Wharton, who is a resident of Duncan, In-
dian Territory. That said witness, Wharton, is now physically unable
to attend the session of this court and the affiant verily believes
he will be unable to attend the session of this court on the 24th
of this month.

That affiant expects to prove by said witness that he was per-
sonally acquainted with James L. Jones, grandfather of Walter W.
Jones and a brother of Ann Jones, nee Gamblin. That he had known
him for many years and was his regular family physician. That said
James L. Jones was a member of the Choctaw tribe or Nation of Indians
by blood of one-fourth degree and that he could talk the Choctaw
language fluently. That said witness knows of his own personal knowl-
edge that the said James L. Jones was a member of the Choctaw tribe
or Nation of Indians by blood.

WHEREFORE Your applicants pray that a day be set for the taking of this testimony, in the town of Durman, Indian Territory, at the office of E. H. Bond, and that one member of this court appear and be present at the taking of said testimony.

Subscribed and sworn to before me this the 2nd day of June, 1904.

Notary Public.

Walter Jones
et al

v

Choctaw

Nation

Notary Public

Witness my hand and seal of office this 2nd day of June, 1904.

WHEREFORE YOUR APPLICANTS PRAY THAT A DAY BE SET FOR

the hearing of this petition, in the town of Dumas, in the Territory of Oklahoma, at the office of H. H. Bond, and that one member of this court appear and be present at the hearing of said petition.

and take the testimony.

Mr. Gilbert:

Yes sir.

In the Choctaw and Chickasaw Citizenship Court,
Sitting at Tishomingo, I.T., June 28th, 1904.

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Walter W. Jones, et al,

--vs--

No. 107.

The Choctaw and Chickasaw Nations.

--o--

This day this cause coming on to be heard before the
Hons. Spencer B. Adams, Walter L. Weaver and Henry S. Foote,
Judges of said Court, both the Plaintiffs and Defendants being
represented by their Counsel, the following proceedings were had
to wit;--

Mr. Gilbert;

I have an application to take testimony. (Reads it)

Judge Adams;--

We will let that go over until Thursday.

Mr. Gilbert;

There was filed before the Commission an application for
a number of applicants under the name of Walter L. Jones, et al,
and the case was then appealed to the United States Court at
Ardmore and subsequent to the Master's Report the records were
destroyed and one of the Counsel substituted the record and placed
in the record the names of some fifteen or twenty persons who
were not in the application to the Commission made in 1896.
At the time this case was prepared for transfer to this Court
my Stenographer went to Ardmore to prepare the petition
and carried into it all the names as shown in the substituted

record; I do not represent these people; I only represent those whose names appear in the original petition to the Dawes Commission.

Judge Adams;

Give the Stenographer the names of those whom you represent.

Mr. Gilbert;

I represent Francis Jones, Mary Melinda Jones, Walter W. Jones, Fitzhugh Lee Jones, Ruby Estella Jones, Minnie Cletus Jones, Lovis Francis Scott, Hattie Myrtle Scott, Minnie Reberta Scott, Anlie McCoy Scott, James Walter Gamblin, Joseph Wilborn Gamblin, Indianola Gamblin, Amanda Lutoma Gamblin, John H. Gamblin, Jennie Jones, Larie Francis Scott, Emma Gamblin, Eliza Ann Gamblin, Hattie Lovinia Gamblin.

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Mrs. Gamblin,

being duly sworn on behalf of the Plaintiffs, testified as follows;--

Mr. Gilbert;

Q.- What was your father's name?

A.- James Louis Jones.

Q.- What kin was Francis Jones to him?

A.- His second wife.

Q.- What kin was Mary Melinda Jones to him?

A.- His daughter.

Q.- What kin was Walter W. Jones to him?

A.- His grandson; his oldest child's son.

- Q.- Then Fitzhugh, Ruby and Minnie are children of Walter W. Jones?
- A.- Yes, sir.
- Q.- And therefore they are the great grandchildren of James L. Jones?
- A.- Yes, sir.
- Q.- What kin is Lovie Francis Scott to you?
- A.- My niece.
- Q.- Then Hattie Scott, Minnie Scott and Annie (or Applie, as shown in petition) are the children of Lovie Francis Scott?
- A.- Yes, sir.
- Q.- And your great nieces and nephews?
- A.- Yes, sir.
- Q.- What kin is James Walter Gamblin to you?
- A.- Son.
- Q.- Joseph Wilborn Gamblin?
- A.- Son.
- Q.- Indianola Gamblin is your grandchild?
- A.- Yes, sir.
- Q.- What kin is Amanda Lutome Gamblin to you?
- A.- Daughter.
- Q.- Hattie L. Gamblin?
- A.- She is my daughter.
- Q.- John H. Gamblin is your husband?
- A.- Yes, sir.
- Q.- When were you married?
- A.- In 1866 in the State of Georgia?

Q.- In 1866?

A.- Yes, sir.

Q.- What kin is Jennie Jones to you?

A.- She is my nephew's wife?

Q.- What kin is Larie Francis Scott?

A.- Niece.

Q.- Emma Gamblin is Joseph Gamblin's wife?

A.- Yes, sir.

Q.- Who is Eliza A. Gamblin,

A.- Myself.

C r o s s E x a m i n a t i o n .

Mr. Cornish:

Q.- How old are you?

A.- Fifty three I suppose.

Q.- What year were you born, 1851? You are fifty three now?

A.- Yes, sir.

Q.- Where were you born?

A.- In the State of Georgia.

Q.- What county?

A.- Lumpkin County.

Q.- How old were you when you left there?

A.- I have been -- I was about twenty years old, I guess.

Q.- Where were you married, before you left Georgia?

A.- Yes, sir.

Q.- In what county in Arkansas did you settle?

A.- In Pope County, near Dardnelle and Russellville.

Q.- You moved to Arkansas when you were twenty years old and lived there until what year; when did you leave there?

A.- I disremember.

Q.- How many years ago?

A.- It has been about twenty years ago, I reckon?

Q.- Where did you move to when you left Arkansas?

A.- To the Territory.

Q.- What part of the Territory.

A.- I cannot remember.

Q.- Close to where you live now?

A.- Yes, sir.

Q.- What children did your father and mother have; what brothers and sisters did you have?

A.- My father and mother had ten children.

Q.- Name all of them.

A.- Brinkley, William Albert, Mary Melinda, Levina,
Carrie Penesa, Eliza Ann, John Gamblin,

Q.- That is only seven, you said ten?

A.- There is two dead.

Q.- How old were they when they died? Were they children or were they grown?

A.- One was grown and the other one was not.

Q.- The one that was grown, what was her name?

A.- His name was Morgan, the youngest one was named Francis.

Q.- Francis is dead?

A.- Yes, sir.

Q.- And she died before she was grown?

A.- His name was Frank.

Q.- He died before he was grown?

A.- Yes, sir.

Q.- What is your name?

A.- Eliza.

Q.- Is Brinkley living?

A.- Yes, sir.

Q.- Where ?

A.- In the Territory, near where I live.

Q.- Is William A. Living?

A.- He is dead.

Q.- Did he have a family?

A.- Yes, sir.

Q.- Where do they live?

A.- Up where I live.

Q.- What are their names?

A.- Garlin Jones and William Jones.

Q.- Where does your sister Mary Melinda live?

A.- She lives close to me at my place.

Q.- Where does Levina live?

A.- She is dead.

Q.- Did she have any children?

A.- No, sir.

Q.- Was she married?

A.- No, sir.

Q.- Is your sister Carrie living?

A.- She lives in Georgia.

Q.- Has she a family?

A.- Yes, sir. She has no children, she is married.

Q.- She is married and lives in the State of Georgia?

A.- Yes, sir.

Q.- Where does your brother John live?

A.- Up near Duncan close to where we live.

Q.- Is Morgan dead?

A.- Yes, sir.

Q.- Did he have any children?

A.- No, sir, he never was married.

Q.- What brothers and sisters did your father have?

A.- I don't know whether I can remember to tell you or not?

Acy, Nancy, Wilborn.

Q.- Are there any living descendants of Acy?

A.- Well, I don't know, they were in the old state.

Q.- What ever living descendants there are of Acy, they are living in the State of Georgia?

A.- I suppose they are living there yet?

Q.- How about Nancy?

A.- I don't know.

Q.- Nancy was living in the old state?

A.- Yes, sir.

Q.- What ever children and grandchildren there are of Nancy are living in the old country?

A.- Yes, sir, so far as I know.

Q.- Your father's brother Wilborn, he is dead.

A.- Yes, sir.

Q.- He was living in the old State?

A.- Yes, sir.

Q.- And whatever descendants he has are living there?

A.- Yes, sir.

Q.- Is your mother living?

A.- No, sir, she is dead.

Q.- This lady down in Arkansas is your stepmother?

A.- Yes, sir.

Q.- She is your father's second wife?

A.- Yes, sir.

Q.- Where did he marry her?

A.- In Georgia.

Mr. Gilbert;

I now offer the record, for such purposes as it may be competent.

Mr. Cornish;

We object to the introduction of the papers referred to as the record, except such parts as may be competent under the rulings of the Court.

Mr. Gilbert;

That closes the case except the testimony of this lady in Arkansas.

Walter W. Jones, et al.,

vs.

No. 107.

Choctaw and Chickasaw Nations.

Testimony taken at Duncan, Indian Territory, on
June ²¹~~21~~st, 1904, before Hon. Spencer B. Adams, Chief Judge.

For Plaintiffs, Mr. Bond,

For Defendants, Mr. W. H. Moore.

Dr. John T. Wharton, being duly sworn, testified on
behalf of plaintiffs as follows:

Mr. Bond: State your name, age, residence and profession.

A. My name is John T. Wharton; I am 62 years old, and a
practicing physician in the town of Duncan, Indian Territory.

Q. I will ask you if you are acquainted with Mrs. Eliza
Ann Gamlin and Malindy Jones?

A. Yes sir.

Q. Did you know their father? A. I did.

Q. State what his name was? A. James L. Jones.

Q. How long were you acquainted with him, Dr?

A. I got acquainted with him, to the best of my recollection
about in the month of March, 1868.

Q. Where did he reside and where were you residing?

A. We were both living in the county of ^{Pope}~~Polk~~, State of
Arkansas.

Q. Give the Court a description of his personal appearance.

A. I was told he was a Choctaw Indian--

(Objection by defendants)

I found the gentleman had the characteristics of an
Indian. He looked like he might be at least a quarter
or half breed. I have seen some half breeds who did not
show Indian as much as he. He had high cheek bones and
the characteristics and general manners of an Indian; and

I have also heard him speak a language he told me was Choctaw.

Objected to as hearsay.

Judge Adams: Did he talk like you have heard other Choctaw Indians talk?

A. Yes sir.

Q. A language you couldn't understand?

A. I didn't understand it. He has also given me a description of when he came here along with other Indians, when they came up from Georgia; I believe he was one of the party when they came to this country. Instead of coming out with the Indians here he remained back there.

Mr. Bond: How long did you live in this neighborhood?

A. I don't remember how many years, but I lived there until he did.

Q. That was several years?

A. Several years, yes sir.

Q. Did you have an opportunity to observe him and hear him talk?

A. Yes sir.

Q. You are not related to anybody connected with this case?

A. No sir.

Q. And have no interest in it?

A. No sir.

Cross examination by Mr. Moore.

Q. Dr. Did you know or ever see either the father or mother of James L. Jones?

A. No sir, not that I know of.

Q. Who composed his family when you first got acquainted with him in 1868?

A. When I first got acquainted with him he was living with

Mr. Gamlin, and he told me Mr. Gamlin had married his daughter.

Q. How old a man was he when you first knew him?

A. I never did ask him his age, but he was a tolerably old man, 60 or 70 years old.

Q. How many years were it you knew him prior to his death?

A. It occurs to me that he told me his age was even more than that, say along in 70.

Q. How long was it you knew him?

A. Don't remember how many years; I knew him from '68 until he died.

Q. A matter of some 10 or 15 years?

A. 10 years, maybe 15; a good many years.

Q. You know where he came from to Arkansas?

A. He told me he came with the Indians?

Q. Where from, Georgia?

A. From Georgia when they moved into this territory.

Q. He stopped at Fort Smith? A. Yes sir.

Q. Did he ever tell you who his mother was, her name?

A. I don't know that he ever told me her name. He told me she was a full blood or half breed.

Q. How long after you knew him was it until you discovered what tribe he belonged to, if you ever discovered?

A. If I remember the first time I got acquainted with him I talked to him a half day. I went home with him to dinner to Mr. Gamlin's house.

Q. Are you positive he told you what tribe he belonged to?

A. He told me he was a Choctaw Indian.

Q. In your first conversation?

A. My recollection is it was in our first conversation at Berry's house that he told me the Indian language he spoke was Choctaw.

1 you know the difference between Choctaw and any other Indian tribe?

I don't know the language of any tribe, but the words he spoke were similar to the words I have heard Choctaws speak.

Q: You simply heard him speak a language which you didn't understand, and he told you it was Choctaw?

A. It sounded like Choctaw.

Q. How much did it sound like Creek? Ever hear Creek?

A. No sir.

Q. Chickasaw?

A. No sir.

Q. Any other language besides Choctaw?

A. Commanche.

Q. Did it sound like their language? *Pope*

A. No sir.

Q. You don't understand any Indian language?

A. No sir.

Q. Do you know when the family moved to the Indian territory, the Jones family? Before or after the death of James L. Jones?

A. Don't remember whether it was before or after; think possibly after, am not sure.

Q. Where did James L. Jones live when he died?

A. He lived in ^{*Pope*} ~~Pope~~ county; he died before these people moved out here.

Q. Do you remember when they moved to the Indian Territory, Dr., about when?

A. I think we have been here about--they moved the same year I did--we have been here somewhere about 12 or 14 years.

Q. You came to the Territory with them?

- Q. There ~~xxx~~ is no connection between the two families?
- A. None at all. We were good neighbors when we lived in Arkansas. When they got sick I treated them.
- Q. You are not an Indian yourself, either by blood or marriage?
- A. No sir.
- Q. Not an applicant for admission in any tribe?
- A. No sir.
- Q. Do you know when James L. Jones came to Polk County, Arkansas?
- A. I can't tell you.
- Q. Did other Indians come there with him?
- A. We told me--
- Q. I am asking for your knowledge.
- A. Then I have no knowledge.
- Q. Did you live there when he came to ~~Polk~~^{Pope} County?
- A. I don't remember whether I was there when he came or not. No, He came there good long time before I came.
- Q. When did you reach ~~Polk~~^{Pope} county, Arkansas?
- A. I think, to the best of my recollection, it was in '67.
- Q. You met Jones shortly after you reached there?
- A. The first part of March, '68.
- Q. He was at that time an old resident of the county, was he not?
- A. I think so.
- Q. And well along then in 70 years of age?
- A. Yes sir.

Re-direct examination.

- Q. Dr., You said awhile ago that you afterwards heard Choctaw Indians speak a similar language?
- A. The sounds were similar; the sounds were different from our Western Indians.

Q. You mean it ~~was~~ sounds like the language you heard

Jones speak?

A. Yes, the sounds were the same.

Re-cross examination.

Q. Who did you ever hear him talk Indian language to?

A. Myself only.

Q. Just tell us the number of times?

A. A number of them, I know he spoke certain sentences, but I don't know how extensive his knowledge of the language was.

Judge Adams:

Did he tell you when he got to Arkansas?

A. Yes sir, but I don't remember.

Q. You stated he told you he came from Georgia, are you certain about that?

A. I think that is what he told me.

Q. Do you know whether he was in Arkansas during the war or not?

A. He must have been; I was away from there during the war.

Q. What was his reason for stopping in Ark. and not coming on to the Territory?

A. He wanted to stop among a civilized people as he wanted to educate his children.

Mr. Moore: Do you know whether he was in Arkansas before the war or not?

A. No sir.

Plaintiffs next offer Mr. J. L. Hamilton as witness in their behalf, and was objected to by Mr. Moore as follows:

Mr. Moore: I want to put in a formal objection to this man testifying, as his name does not appear in the petition.

Judge Adams: I am here and will take his testimony.

Q. State your name, age and residence.

A. J. L. Hamilton is my name and Tucker is my residence. It is not a town but just a village.

Judge Adams: Indian Territory?

A. Yes sir. My age is 63.

Q. How long have you lived in the Indian Territory?

A. Five years in July.

Q. Where did you come from here? A. Arkansas.

Q. What place?

A. ^{Pope} ~~Peik~~ county, Russellville.

Q. Do you know Mrs. Gamlin and Malindy Jones? You know their father?

A. Yes sir.

Q. Where were they living when you knew them in Arkansas?

A. They lived not very far from where I lived.

Q. Were you intimately acquainted with the family?

A. With James L. Jones and Mrs. Gamlin.

Q. How long did you know James L. Jones?

A. I was acquainted with him for several years, pretty nearly from the time he came to the country, and was acquainted with him until his death.

Q. Can you approximate that; about how many years?

A. I don't believe I can; I could not be positive about that, it has been a good long while ago.

Q. You recollect his physical appearance; can you give a description of his physical appearance?

A. I don't know whether I can or not; I think I can. I think he was a tolerably large man, dark complexion. He was getting very old; I think getting gray headed; I don't know anything about his age.

- Q. As to whether he was an Indian, part Indian or white man, can you testify from his general appearance?
- A. From his general appearance it would seem that he was some part Indian.
- Q. About what degree would you say?
- A. Of course that would be guess work with me. I should suppose him to be one-fourth.
- Q. What tribe?
- A. I never thought anything about that, what tribe. From what I have seen of Indians I would take him to be a Choctaw.
- Q. Have you had ~~xxxx~~ opportunity to see other Choctaw Indians?
- A. I have seen them around Fort Smith.
- Q. You have seen Choctaw Indians? A. Yes sir.
- Q. You state from your observation he appeared to be a one-fourth Choctaw?
- A. I suppose he was, yes sir.
- Q. Do you know where he was from?
- A. I think he was from Georgia.
- Q. You stated you knew Mrs. Gamlin and Malindy Jones?
- A. Yes sir.
- Q. She his daughter? A. Yes sir.
- Q. You never heard him converse with other Indians, and don't know whether he could talk with Indians or not.

Cross-examination by Mr. Moore.

- Q. Mr. Hamilton, do you mean to tell the Court that you can look at a one-fourth blood Indian and three-fourth white and tell what tribe he belongs to?
- A. No; from his appearance and what I heard I supposed he was a Choctaw.

- Q. In answering a question you said that from his appearance you took him to be a one-fourth blood Choctaw?
- A. from his appearance.
- Q. Why didn't you take him to be a one-fourth Creek or Chickasaw?
- A. from what I heard--
- Q. Is there any difference in the appearance of a one-fourth blood Creek and a one-fourth blood Choctaw?
- A. Not that I know of.
- Q. Do you mean to say then that from his appearance you took him to be a one-fourth blood Choctaw?
- A. from his appearance and from what I heard.
- Q. In what year did you say you became acquainted with James L. Jones?
- A. A good many years ago.
- Q. Before or after the war?
- A. After the war.
- Q. When did you first go to ^{Pope}~~Peik~~ county?
- A. I was there all my life; was born and raised there.
- Q. Was Mr. Jones a resident of ^{Pope}~~Peik~~ county when you can first recollect or did he come after?
- A. He came after.
- Q. About how long after the war? Can you give an idea?
- A. Sometime after the war.
- Q. Two or three years or 8 or 10?
- A. Sometime in '70.
- Q. How far did you live from Mr. Jones during his life time?
- A. Two or three miles.
- Q. You know he was an old man don't you? A. yes sir.
- Q. How old would you take him to be when you first knew him?

- A. I suppose about my age now.
- Q. His family lived there in ~~Polk~~^{Pope} county the same as any other similar family?
- A. yes sir.
- Q. Did he own the land on which he lived?
- A. ~~Maxxixx~~ I don't know.
- Q. You don't know that he didn't?
- A. No sir.
- Q. How long did he live there two or three miles from you?
- A. Don't know; he lived there until he died.
- Q. Do you know what became of his boys?
- A. I think he lived with his son.
- Q. Were his children land owners there in Arkansas?
- A. Yes sir.
- Q. Did they vote? A. I don't know.
- Q. Pay taxes? A. I guess they did.
- Q. Send their children to school? A. yes sir.
- Q. So far as his condition of life went it was the same as that of any other reputable family in that community?
- A. yes sir.
- Q. When did you first hear that they were Choctaws?
- A. I heard it the time when I first got acquainted with him.
- Q. When did you first have it impressed upon your mind that he was a Choctaw?
- A. Just heard it those times.
- Q. At the time he reached ~~Polk~~^{Pope} county, Arkansas, who came with him? A. I don't know.
- Q. There were no other Indians there? So far as you know he and his family were the only Indians living there in ~~Polk~~^{Pope} county?
- A. So far as I know.

- Q. He didn't come with a party of roving Indians and rop off there?
- A. No.
- Q. He was a man of some property?
- A. I don't know.
- Q. You know as a fact that he was a man of some means?
- A. No sir.
- Q. What kind of a house did he live in?
- A. He lived with his children. He had a good house.
- Q. Have good stock on the farm?
- A. As good as any farmer, I guess.
- Q. You never heard him talk Choctaw?
- Q. Not that I remember. I suppose I have. He used to visit me and he might have talked his Choctaw talk, I don't know.
- Q. Who was his wife? A. I don't know.
- Q. Was she living with him then? A. Yes sir.
- Q. How old was she?
- A. I don't think she was as old as the old man.
- Q. She was a matured middle aged woman? A. Yes sir.
- Q. Do you know how old his children were? A. No.
- Q. You know who his oldest child was?
- A. There was only a few of his children I was acquainted with.
- Q. Can you tell how old his youngest child was?
- A. No sir, I don't know which was the oldest.
- Q. Did he have some children that were still children or were they all grown?
- A. I think they were all grown, don't know that he had any little children.
- Q. You were not very intimately acquainted with him?

- A. We lived two or three miles apart. ^{Pope}
- Q. When did the Jones family leave ~~Folk~~ County, Arkansas for the Indian Territory?
- A. 12 or 13 years ago I guess. Mr. Gamlin probably came first.
- Q. Before or after you?
- A. Before.
- Q. How close did you live to them while in the Territory?
- A. About two or three miles from one of the Jones.
- Q. Whose place did you live on?
- A. Mr. Gamlin's land.
- Q. Then you are a tenant of one of the applicants in this case?
- A. Yes sir, a tenant on Mr. Gamlin's place.
- Q. Are you related to the family in any way?
- A. No sir.

Re-direct examination.

- Q. Mr. Hamilton, you stated awhile ago that you thought he was a Choctaw, and that you based that opinion, in your direct examination, upon the fact that he resembled Choctaw Indians you afterwards saw around Ft. Smith?
- A. I just supposed he was of the same tribe. So far as I know I don't know anything about it.
- Q. You don't know he paid taxes, voted or got free schooling?
- A. No, I don't know anything about that; the old gentleman was very old and I don't think he had any small children.
- Q. You say you believe the Indian blood in him to be about one-fourth?
- A. I supposed it to be.
- Q. Don't you know as a matter of fact that Indians of all classes having about one-fourth blood that their methods and habits of life conform to the whiteman's everywhere?
- Objection by nations.
- A. No, I don't know.

Re-cross examination.

- Q. Mr. Hamilton what was your experience with Indians before you came to the Indian Territory?
- A. None at all.
- Q. You don't know anything about them except what you see here in the Chickasaw Nation?
- A. No.
- Q. You have not been about them much since you have been in the Territory?
- A. I have been about them some.

Plaintiffs next offer Mr. R. L. Gamlin, and the Nations offer the same objection to the taking of his testimony as offered to witness Hamilton.

Direct examination by Mr. Bond.

- Q. State your name, age, business and residence.
- A. I live here in Duncan, R. L. Gamlin is my name and I am in the real estate business.
- Q. What is your age? A. 42 years old the 25th day of October.
- Q. How long have you lived in the Indian Territory?
- A. Three years in November.
- Q. Where have you lived before you came here?
- A. I was born in Georgia, principally lived in Missouri and Arkansas.
- Q. How long did you live in Arkansas?
- A. About twenty years or 25, all told.

- Q. Whereabouts in Arkansas?
- A. Russellville and Hattievville.
- Q. What county?
- A. Russellville is in ~~Polk~~ ^{Pope} county and Hattievville is in _____ County.
- Q. Do you know Mrs. Eliza Jones and Mrs. Gamlin?
- A. Yes sir.
- Q. Did you know their father?
- A. Yes sir.
- Q. What was his name?
- A. I always knew him as Uncle Jimmy Jones.
- Q. How far did you live from James L. Jones?
- A. The first I remember of him I was between 14 and 16 years old, I went up to Missouri to my brother's and lived with him awhile. The first time I went I didn't stay long, but went back to Missouri and stayed two or three years, and came back and made my home with my brother.
- Q. How long did you say you lived there then?
- A. I lived there two or three years, I don't remember exactly.
- Q. Mr. Gamlin describe his physical appearance and complexion.
- A. He was, as well as I can remember, a tolerably large man, coarse features and a kinder dark complected fellow.
- Q. Do you know whether or not he had the appearance of an Indian?
- A. Yes sir, that was the general opinion-- Nations object.
- What I meant--
- Q. This is of your own knowledge?
- A. Yes sir, from what I know now of course I know that he was an Indian, but at that time I really didn't know anything about it much.
- Q. Did you ever hear him talk?
- A. yes sir.
- Q. What language?
- A. I have heard him talk Indian lots, but at that time I didn't know anything about it, until since I came here ~~xxxxxxx~~ and got acquainted with these Indians. I have heard him say lots they say.
- Q. Are you familiar with the Choctaw language?
- A. I know several words. I know he spoke several words they speak, but at that time I never thought of such a thing.
- Q. Was he a pretty old man when you went there?
- A. Yes, he was an old man.
- Q. Based upon the knowledge you have acquired from your contact with Indians, what degree of Indian blood would you say he had?
- A. I hardly know, but I would take him to be not less than a quarter and possibly more, the way I would figure the thing out.
- Q. Can you tell the difference between a Choctaw Indian, a Chickasaw, a Commanche or any other tribe?
- A. I can tell more difference between a choctaw and a Commanche. Of course I can tell the difference between all of them to let me be with all of them.
- Q. Your knowledge is confined to two or three tribes. You know a Choctaw when you see one?
- A. I think I do.
- Q. Is your recollection distinct enough for you to state whether ~~xxxxxxx~~ his appearance

- was that of a Choctaw Indian or not?
A. Yes sir.

Cross Examination.

- Q. What kin are you to James L. Jones?
A. Not any kin only by marriage.
Q. What kin is that?
A. We married my aunt.
Q. What was her name?
A. Fannie Gamlin.
Q. That was her maiden name? A. Yes sir.
Q. She was not an Indian was she?
A. No sir.
Q. Now, Mr. Gamlin do you undertake to tell this Court that you can look at a man who had ~~xxxx~~ as little as one-fourth blood Indian in him and tell what tribe he belonged to?
A. I can mighty nigh do it.
Q. Do you mean to say that you can tell the difference between a Choctaw and Chickasaw?
A. I don't know. I know I can between a Choctaw and a Commanche.
Q. What about a Choctaw and Creek?
A. I don't know anything about the Creeks.
Q. Do you know anything about the Seminoles?
A. No, don't know anything only since I have been here I have been handling Indians?
Q. Can you tell the difference between Choctaws and Chickasaws?
A. Don't know, might be mistaken, but between a Choctaw and Chickasaw full blood I think I can.
A. Don't you know that they are the same tribe and there is only a political difference between them?
A. They don't talk the same language.
Q. You will stand on that will you?
A. Yes sir.
Q. You were born in Georgia?
A. Yes sir.
Q. James L. Jones was born in Georgia?
A. I don't know.
Q. Was he there when you left there?
A. I didn't know anything about him until I saw him at my brothers.
Q. Do you know when he went to Arkansas?
A. I don't know about that.
Q. You never heard anybody say?
A. Yes sir, but I didn't pay any attention to it.
Q. When did you first hear he was a Choctaw Indian?
A. I heard it--we all called him a Choctaw Indian and I have heard him talk to the children.
Q. When you were in Arkansas?
A. Yes sir.
Q. Didn't you just get through saying you never heard it in Arkansas?
A. No; I never thought about it at that time, only we just called him an Indian.
Q. You never thought about what tribe he belonged to?
A. I called him a Choctaw Indian.
Q. How old was he at that time?
A. 65 or 70 years old.
Q. What year was that in, Mr. Gamlin?
A. I was small, about 15 or 16 years old when I went to my brothers, between 14 and 16, and stayed there until I was about 17 or 18 years old, around in that county, and

- made that my home. That would be somewhere about '76 or 8.
- Q. How long after that until he died?
A. I don't remember about that.
Q. Were you in ~~Folk~~^{Pope} county when he died?
A. I think I was in Missouri.
Q. How long did you live in Pope county, Arkansas?
A. I lived there off and on back and forth to Missouri 10 or 12 years. I married there.
Q. Did James L. Jones live there all the time you were in Pope county?
A. Yes sir.
Q. Do you claim any Indian blood? A. No sir.
Q. You were never an applicant? A. No sir.
Q. But are related by marriage to the applicants in this case?
A. That is my brother.
Q. Is he an applicant?
A. It is through his wife is the only way I know.
Q. Was James L. Jones a white ahired man at the time you knew him? A. yes sir.
Q. He never lived in the Indian Territory?
A. I have heard him talk about being in the Indian Territory and tell us children yarns about it, but I don't know.
Q. He came from Georgia to Arkansas didn't he?
A. I don't know where he came from. He may have went to Arkansas and come here or come here and went to Arkansas.
Q. Did he own the place on which he lived there in Pope Co?
A. No.
Q. Who did? A. My brother.
Q. Did James L. Jones own any land in Arkansas?
A. None that I know of. He made his home with my brother.

Re-direct Examination.

- Q. Mr. Gamlin, you spoke about your connection with J. H. Gamlin, he is the one you had refernce to as being your brother? A. yes sir.
Q. Do you know his wife? A. Yes sir.
Q. She is named Eliza Ann? A. Yes sir.
Q. She is the daughter of James L. Jones. Did you ever hear her speak the Indian language?
A. I have heard her talk about what her father said but I didn't know what it was.
A. You didn't understand what it was? A. No sir.

Re-cross Examination.

- Q. Who did you ever hear James L. Jones talk the Indian language to?
A. He talked it to me a hundred times, if I knew what it was.
Q. Could he carry on a conversation with you?
A. He would get the children around him and talk to us.
Q. Just to entertain the children? A. yes sir.
Q. Did you ever hear him carry on a conversation with anyone in the Indian language? A. No sir.

Re-direct examination.

- Q. You stated that certain words you heard him use you have heard since?
A. yes sir, certain words I heard him use I have heard other Indians use.

Judge Adams:

Did you ever hear him say anything about living in the Territory?

A. No sir.

Q. How far did he live from the Territory line when he lived in Arkansas?

A. I believe it is called 100 miles.

"THAT IS ALL".

M M

In the Choctaw and Chickasaw Citizenship Court,
Sitting at South Mc Alester, Ind. Ter., ~~May~~ June Term
1904.

---00---

Walter L. Jones, et al,

--vs--

No. 107.

The Choctaw and Chickasaw Nations,

---0---

Before the Hon. Spencer B. Adams, Chief Judge of the
said Court.

---0---

Appearances;

E.L. Wright, for Plaintiffs,

Manfield, McMurray & Cornish, for Defendants.

--0--

June 9, 1904, this day this cause coming on to be heard, the
following proceedings were had to-wit;

Mr. Wright; There is an application in this case, filed on the 7th,
for permission to take testimony. (Reads application)

Mr. Cornish; We think possibly that the motion as far as it sets out
what the testimony will be may be sufficient, but as to why this
man cannot come here, there is no showing made.

Judge Adams; I think myself that you had better have a certificate from
some reputable physician, showing that this man is unable to
attend Court, and we will then pass on it.

Walter W. Jones, et al.-----Plaintiffs.

vs

Choctaw & Chickasaw Nation,-Defendants.

{ In Tishomingo Docket,
{ Choctaw & Chickasaw Citizenship
{ Court.

T. L. Wright, Atty. for Plaintiffs.)
D. A. Richardson, Atty. for Defendants.)

Before H. S. Foot, Judge of
the Choctaw & Chickasaw Citizenship Court, were sworn the
following witnesses: Francis W. Jones and J. H. Gamblin for
Plaintiffs, testifies as follows: The testimony being taken
down in shorthand to be translated in longhand by Miss Myrta
Goodman, sworn as Court Stenographer.

Ques. What is your name ?

Ans. Francis Jones.

Ques. How old are you ?

Ans. 88 years old-past.

Ques. Where do you live ?

Ans. Now ?

Ques. Yes.

Ans. Logan County. Is that right ?

Ques. How long have you lived here?

Ans. Eight years last July.

Ques. Where did you live prior to that time ?

Ans. Chickasaw Nation.

Ques. What part of the Chickasaw Nation did you live ?

Ans. Near Duncan is as good as I can answer.

Ques. Do you intend to go back to the Chickasaw Nation ?

(The above question objected to by Mr Richardson-- Objection over ruled.) Exception noted.)

Ans. I may go back this winter, if I live.

Ques. Have you any land or own any property in the Chickasaw Nation ?

(The above question objected to by Mr Richardson--Objection over ruled. Exception noted.)

Ans. I have not that I know of.

Ques. Where were you born and raised ?

Ans. I was born in South Carolina--moved to Georgia when I was eight years old and was raised there.

Ques. Raised in Georgia.

Ans. Yes sir.

Ques. (By Court.)

That is all the answer to that question ?

Ans. Yes, sir.

Ques. Were you ever married ?

Ans. Not until I married Mr Jones.

Ques. What was his name.

Ans. Full name.

Ques. Yes.

Ans. James Lewis.

Ques. What name did he usually go by ?

Ans. Jim.

Ques. Who married you Mrs. Jones ?

Ans. John Sights.

Ques. What was he ?

Ans. Justice of Peace.

Ques. Where ?

Ans. Duncan County, Georgia.

Ques. Did you obtain lisencc ?

Ans. Yes, sir.

Ques. Was married regular--according to law.

Ans. Yes, sir.

Ques. How long did you live with Jim Jones.

Ans. 21 years, 6 months, and 20 days.

Ques. What year were you married in ?

Ans. 1858.

Ques. How long did you live in Georgia after you were married ?

Ans. Eight year I guess--yes, ten years.

Ques. Where did you go to when you left Georgia ?

Ans. We came to Mississippi and made one crop, then came on to Arkansas.

Ques. Now Mrs. Jones, you may tell to the Court what happened during your trip through Mississippi and Georgia into Arkansas.

Ans. Well, we stopped in May and made a crop in Tishomingo County, Mississippi. And then in October we came through Mississippi--direct route--four miles from here to Logen County, Arkansas and settled at a place called Gum Log Creek.

Ques. Who was along with you when you came on here?

Ans. John Gamblin, his wife and one child, and Mr Jones' family.

Ques. Had your husband been to this country before that time.

Ans. Yes, sir.

Ques. When did he come ?

Ans. About the date of '30. (1830)

Ques. In answer to the question of the Court the only knowledge that she has on the subject as to whether he ever came to this country or not, is what he told her.

(Objection by Mr Richardson.)

Ques. by Court.

Council for the plaintiff wishes to know what, if any objects along the road were pointed out to you by Mr Jones on the trip from Mississippi to Arkansas.

Ans. Nothing, only as he came through Memphis he told me how long we stayed there. When we came to Crawley Ridge he told me that that was the place he had camped with Indians on a trip out this way--and a mortar of stone or rock which he said they beat th eir corn in.

(Objection by Defendant.)

Ques. Did he tell you who he came with on that trip ?

Objection.)By Mr Richardson.)

Ans. Sam Jones.

Ques. Who else ?

(Objection)

Ans. His brothere William.

Ques. (By Court) Any body else.

Ans. No sir.

Ques. What relation was he to Sam Jones ?

Ans. Cousin.

Ques. Why was Sam Jones moving out here ?

Ans. He was Chief of Choctaw Nation.

(Objection) By Mr Richardson.

Ques. What relation was your husband to Sam Jones ?

Ans. Cousin, I told you.

Ques. When did your husband die.

Ans. 1880. The 18th, day of May.

Ques. You marrieed him in 1858 ?

Ans. Yes Sir.

Ques. Did you live with him up to the time he died?

Ans. I did.

Ques. Now Mrs. Jones, state, if you know-what race of people he belonged to.

Ans. I cannot do it.

Ques.

Ques. You know whether he was a white man, indian, Mexican, or what nation.

(Objection by Mr Richardson.)

Ans. I do not ~~know~~ know whether I can answer correctly-- I am about played out.

Ques. State to the best of your knowledge.

~~Ques.~~
Ques. by Court. You lived with him 20 years--what kind of a man did you think he was.

Ans. Well-I always called him a white man.

Ques. What was his general appearance. Physical &c.,

Ans. You are getting me tangled up.

(The Court had a rest of few minutes.)

Ques. His general appearance--how did he look ?

Ans. He was a farmer ~~is~~ as good an answer as I can give you I reckon.

Ques. His general appearance--how did he look.

Ans. He was tolerable dark skinned--he was tall and as straight as a shingle--dark hair and eyes--high cheeked bones.

Ques. (By Court.) Is that all you can recollect about his appearance.

Ans. Yes, sir.

Ques. Have you ever seen many indians, Mrs. Jones.

Ans. Yes, sir.

Ques. What kind of indians.

Ans. I have seen many ~~kind~~ Indians--Choctaw- -Cherokee and Chickasaw too.

Ques. Have you ever heard them talk?

Ans. Well-I have heard them talk some but I could not understand it.

Ques. Did your husband, Mrs. Jones have the appearance of an Indian?

Ans. Well--he did a little bit--yes--he resembled them a little.

Ques. Could your husband talk any indian language?

Ans. Yes, sir, some.

Ques. You have heard him talk indian language, have you.

Ans. Yes, sir.

Ques. Indian
what [^] language did he talk.?

Ans. I cannot tell you.

Ques. Have you ever heard Choctaw.

Ans. Not many--I have heard some few.

Ques. What indian language, if any, did he talk.
(Objection by Mr Richardson.)

Ans. Well now, I cannot tell you--I never was a great deal among the indians--never seed many.

Ques.

Ques. (By Court)

What you mean to say as, I understand it, is you suppose it was some Indian language, but the particular language you do not know.

Ans.

Yes, sir--that is about what it was.

Ques.

What language did he tell you it was.
(Objection by Mr Richardson)

Ans.

Choctaw.

Ques.

How many children did Mr Jones have when you married him.

Ans.

Eight.

Ques.

What were there appearance.

Ans.

They all favored their father. Dark skinned and dark haired.

Ques.

Did your husband ever go to the Indian Territory ?

Ans.

No, sir--not after we were married--he did not.

Ques.

Do you know of your own knowledge whether he went there before you were married.

Ans.

No, sir, I do not.

Ques.

When did you first go to the Indian Territory, Mrs. Jones.

Ans.

1883.

Ques.

Where did you first settle?

Ans.

Upon Red River--half mile from the Texas line.

Ques.

How long did you live there.

Ans.

A year--and from the first of July to the first of September over.

Ques. Where did you go from there when you left there ?

Ans. Pope County, Arkansas.

Ques. How long did you live in Pope County . Arkansas.

Ans. Well I cannot exactly tell you. A good many year though, I came there in 1866 and I reckon I stayed there until 1893.

Ques. Then where did you go ? If any where. Did you go any where.

Ans. Yes, I went back to the Nation in 1893--to the same settlement.

Ques. Who did you live with there.

Ans. I stayed the most of my time with George Scott and his wife, and part of the time with John Gamblin.and his family.

Ques. Did you make that your home?

Ans. Yes, sir. I made Scott's house my home but I stayed part of the time with Gamblins.

Ques. Mrs. Jones, while you were living in Arkansas before your husband died, what was the general impression as to what race of people he belonged to.

(Objection by Mr Richardson. Question not answered.)

Questions by Court.

=====

Ques.

Mrs. Jones where were you married ?

Ans.

In Lumpkin County, Georgia. In 1858.

Ques.

How long had you known your husband ?

Ans.

A little over a year I had been personally acquainted with him.

Ques.

How long had he lived there before you married ?

Ans.

I could not exactly tell you.

Ques.

Did he have all these children ?

Ans.

Yes, sir. He had eight children. Some lived with their Aunt, some with a married brother and two with him.

Ques.

Mrs. Jones, that was in Georgia.

Ans.

Yes, sir. They lived there.

Ques.

What did they do ? Worked on farm or what ?

Ans.

No, sir. The boys worked in a shoe shop. Most of them. The old man and one of them, the youngest, worked on a farm on land which they rented.

Ques.

How many years can you recollect--had you known of him personally ?

Ans.

I cannot recollect.

Ques.

Cross Examination
by
Mr. Richardson.
=====

Ques. Where were you born.

Ans. South Carolina.

Ques. Do you remember the year.

Ans. Yes, sir.

Ques. What year ?

Ans. 1817.

Ques. You said you moved to Georgia when you were eight years old.

Ans.. Yes, sir, I did.

Ques. What County in Georgia did you move to ?

Ans. Hall County.

Ques. How long did you live in Hall County ?

Ans. My father moved there when I was about eight years old, and I left there when I was about forty-five.

Ques. Were you married in that County.

Ans. No, sir, I was not.

Ques. Were you married after you left there ?

Ans. I was. After I left Hall County, I was.

Ques. Do you know where your husband was born ?

Ans. In Franklin County, Georgia.

Ques. Do you know what year he was born ?

Ans. 1801.

Ques. Do you know who his father was ?

Ans. His father was Jim Jones.

Ques. Where was Jim Jones born ?

Ans. I cannot tell you.

Ques. Do you know who your husband's mother was ?

Ans. She was a Smith.

Ques. Do you know where she was born.

Ans. No, sir, I do not.

Ques. You were married to your husband in Lumpkin County, Georgia, in 1858.

Ans. I did. (Looks like I have told it enough.)

Ques. You say he was a cousin to Sam Jones ?

Ans. That is what he said he was.

Ques. Did you ever see Sam Jones ?

Ans. No, sir.

Ques. (By Court)
Do you know anything of Sam Jones except what was told you?

Ans. Not a thing in the world.

Ques. How are you able to say that Sam Jones was a Choctaw Chief.

Ans. Because he said he was.

Ques. (By Court) Because who said he was ?

Ans. I know nothing about it except what was told me--by my husband and old Jim Smith, his Uncle.

Ques. (By Court) When was that told you.

Not answered.

Attorney for defendant moves that the testimony of witness to the effect that Sam Jones was a Choctaw Chief be stricken from the record because it has developed that the testimony is hearsay.

The motion is sustained so far as it effects any evidence given by the witness based on statements made to her as to the Choctaw blood of Sam Jones or any other evidence that the Choctaw blood by any of the parties here based on such hearsay statements. But, it is overruled as to any statements made effecting pettigree or birth.

Ques. Mrs. Jones, you say your husband was a cousin to Sam Jones.

Ans. That is always what he told me he was.

Ques. Was the relationship of your husband to Sam Jones on your fathers side or the mothers side ?

Ans. On his fathers side.

Ques. Was Sam Jones father a white man or not ?

Ans. Yes, sir, he was.

Ques.

Ques.
Sam Jones mother was an Indian.

Ans.
Yes, sir.

Ques.
Your husband was related to Sam Jones through Sam Jones
father.

Ans.
Of course, thier names was Jones.

Ques.
Thier names was Jones, you say.

Ans.
Yes, sir.

Ques.
When Sam Jones moved the indians from Georgia--where
did he move them to ?

Ans.
I cannot tell you. He moved them to A rkansas somewhere.

Ques.
Do you know what year it was that he m oved them.

Ans.
No, sir, I do not.

Ques.
Who is Walter W. Jones.

Ans.
I do not know him. Walter Irwin Jones, I know him. He
was Bunk Jones son.

Ques.
Who was Bunk Jones. (Or Burk)

Ans.
He was old Jim Jones son.

Ques.
Was he your step son.

Ans.
Yes, sir.

Ques.
Where was Bunk Jones born.

Ans.
In Georgia.

Ques.
Is this Walter Irwin Jones you are talking about Bunk
Jones son.

Ans. Yes, sir.

Ques.

Where was Walter Jones born.

Ans.

In Georgia.

Ques.

Were they all born in Georgia.

Ans.

Yes, sir, of course they were all born in Georgia.
(She is getting very tired)

Ques.

Did the Jones' ever live in Mississippi before they
stopped there and made a crop ?

Ans.

No, sir, not that I know of.

Ques.

Did this Sam Jones who was a cousin of your fathers live
in Georgia.

Ans.

I cannot tell you that.

Re-Direct.

Ques. Mrs. Jones, some time during the summer did Mr Richardson come out to see you.

Ans. Yes, sir.

Ques. Did you not on that occasion tell him that your husband, Jim Jones, was a Choctaw Indian.

Objection. Objection su s tained.

Ans. Of course I did.

Ques. by Court. Did you make that statement to council based on what your husband told you or upon your own knowledge ?

Ans. Upon what my husband told me.

Ques. ~~(xxxxxxx)~~ By Court. All the statements you have ever made were based on what your husband told you and nothin g else.

Ans. Upon what my husband told me and nothing else.

Ques. You may tell what Mr Richardson said to you when he came out here to see you.

Ans. He said so many things I could not tel l all. The first thing he said was--Do you know Walter W. Jones, and I said I did, of course I did and I know ed he had the name wrong but I did not try to correct it.

Ques. Did he tell you that they had made app lication as Chickasaw indians.

Ans. He did.

Ques. Now what else. What did you say.

Ans. I told him--"he was off of his cazip". Now that is just what I told him.

Ques. By Court.

Did you tell him all that from what your
husband told you and nothing else.

Ans.

I did.

By Court.

As I understand you--you have endeavored to tell the
Court to the best of your recollection all that you know
of this matter.

Ans.

I have.

Mr. John H. Gamblin, witness for plaintiff heretofore sworn testifies as follows, to-wit:

Ques. How old are you Mr Gamblin ?

Ans. Fifty-eight years old.

Ques. Where were you born.

Ans. In Georgia.

Ques. Where were you married, Mr Gamblin.

Ans. In Catoosa County, Georgia.

Ques. Whom did you marry ?

Ans. Liza Ann Jones.

Ques. Who was her father ?

Ans. James Jones.

Ques. What was his full name ?

Ans. James L. Jones.

Ques. Did he sometimes go by the name of Jim J ones ?

Ans. Yes, sir.

Ques. Who were you married by, Mr Gamblin?

Ans. I forget his name.

Ques. What was he--a magistrate or Justice of Peace.

Ans. He was a Justice of Peace.

Ques. Did you obtain license.

Ans. I did. (18)

Ques. (By Court)
According to the laws of Georgia ?

Ans.
Yes, sir.

Ques.
Is your wife still living.

Ans.
Yes, sir.

Ques.
You and she are living together as husband and wife ?

Ans.
Yes, sir.

Ques.
Where do you live ?

Ans.
Near Duncan, in the Chickasaw Nation, Indian Territory.

Ques.
How long have you lived there ?

Ans.
Fourteen years.

Ques.
When did you leave Georgia ?

Ans.
In 1867.

Ques.
Where did you go to from there ?

Ans.
I went to Corinth, Mississippi, then Tishomingo, County.

Ques.
How long did you stay in Mississippi.

Ans.
Hardly a year.

Ques.
Where did you go when you left Mississippi ?

Ans.
I went from Mississippi to Arkansas.

Ques.
What place in Arkansas.

Ans.
To Russellville.

Ques. How long did you live there ?

Ans. I lived there about fifteen years.

Ques. Where did you go when you left Russellville, Arkansas?

Ans. I went to the Red River in Indian Territory, nine miles north of Gainsville, Texas. Cook County.

Ques. How long did you stay there?

Ans. Only one year.

Ques. Where did you go to when you left there?

Ans. I went back to Russellville, Arkansas.

Ques. How long did you live at Russellville, Arkansas.

Ans. The last time.

Ques. Yes.

Ans. I think about three years.

Ques. Mr Gamblin what was the condition of the Territory while you were there.

Objection.

Ans. Well, I do not exactly understand the question. As to the ~~kanitkansx~~ civilization.

Ques. Yes.

Ans. Well, it was not a desirable place to live.

Ques. What was your reason for moving back to Russellville, Arkansas.

Ans. So that I could send my children to school.

Ques. Where did you go from Russellville, Ark.

Ans. I went to where I now live which has been fourteen years ago.

Ques. Have you and your family been living there continuously since that time.

Ans. Yes, sir.

Ques. Do you own property in the Indian Territory.

Ans. Yes, sir.

Ques. Mr Gamblin, were you acquainted with Jim Jones.

Ans. Yes, sir.

Ques. How long did you know him.

Ans. I have known him since 1862, I lived near him in Georgia and in Arkansas until he died.

Ques. Are you fairly well acquainted with Indians.

Ans. Well pretty well.

Ques. Have you seen a good many.

Ans. Yes, sir.

Ques. State from your knowledge of Indians and your acquaintance with Jim Jones, if you know whether or not he was an indian.

Objection.

Question objected to because the witness is not qualified to testify as an expert and because his testimony cannot be but an opinion or a conclusion.

Court.

I think the objection is well taken but let him answer it subject to the objection. (21)

Ans. From my knowledge of Indians I would take him to be a quarter-blood Indian.

Ques. What was his general appearance.

Ans. He was dark had high cheek bones.

Ques. What was the color of his hair ?

Ans. Black.

Ques. Mr Gamblin can you tell a Chickasaw from a ~~Chickasaw~~ Choctaw?

Ans. Well yes, I think I can.

Ques. Have you heard them talk.

Ans. Yes sir.

Ques. Can you recognize Choctaw language when you hear it?

Ans. Some words I can.

Ques. Some words of the Choctaw language you understand?

Ans. Yes, sir.

Ques. Did you ever hear Jim Jones speak Indian language?

Ans. Yes, sir.

Ques. State, if you know, what language he spoke?

Ans. He spoke words words that I have heard Choctaw speak.

Ques. The same words.

Ans. Yes, sir.

Ques. Have you, or have you not, had a great deal of acquaintance with Indians.

Ans. Yes, sir. I have been dealing with the Choctaws about two years.

Ques. You may state if you know whether or not Jim Jones was a Choctaw Indian.
Objection.

Ans. He was so recognized. I do not know personally.

Ques. I believe I asked if you spoke Choctaw language.

Ans. Yes.

Ques. You and your family are decendants of Jim Jones.

Ans. My wife is his daughter.

Ques. Have you had or have you not had the p rivileges of Choctaw Indians since you have been in the Indian Territory.
Objection.

Ques. Have permits been issued to you by Cho ctaw authorities.

Ans. Yes, sir.

Ques.(By Court) Have you any permits?

Objection.

Ans. Yes, sir.

Ques.(By Mr Richardson.) Were not those permits issued to you after you were admitted by the United S tates Court in 1897.

Ans. They were issued before.

Ques. Have you or have you not been enjoying the rights of the Indians in the Chickasaw Nation up to the present time.

Objection.

Objection sustained.

Ans. Yes, sir. (23)

Ques. by Court.

You say this Mr Jim Jones looked like a quarter
roon Indian.

Ans.

Yes, sir.

Ques.

Can you tell the difference of your ow n knowledge between
a quarter roon Chickasaw, Choctaw, Creek or Cherokee.

Ans.

I do not know that I can.

Ques.

You say you heard him, Jim Jones, speak words a white man
learned to be Choctaw.

Ans.

Yes, sir.

Ques.

Is that language similar to the Chickasaw.

Ans.

No, sir, not the same.

Ques.

Are the two languages according to you r knowledge, simi-
lar to each other.

Ans.

They appear to be.

Ques.Y

You know nothing about the Cherokee language.

Ans.

No, sir, I do not.

Ques.

How do you know that it was not Chero kee.

Ans.

Because I have heard the Choctaw speak the same language
I have heard Jones speak.

Ques.

Are you claiming intermarried citizenship in the Choctaw
Nation.

Ans.

Yes, sir.

Ques.

You were not married under the laws of the Choctaw Nation.

Ans.

No, sir.

Ques.

You were married in Georgia.

Ans.

Yes, sir.

Ques.

Under the laws of Georgia.

Ans.

Yes, sir.

Ques.

This man, Jim Jones, whose daughter you married you knew for twenty years up to the time of his death.

Ans.

Yes, sir.

Ques.

First in Georgia, then in Mississippi and then in Arkansas, where Jim Jones died.

Ans.

Yes, sir.

Ques.

What was Jim Jones engaged in at the time of his death.

Ans.

He was not doing anything, he was too old.

Ques.

What did he do in Mississippi?

Ans.

Farmed.

Ques.

In Georgia.

Ans.

Farmed.

Cross Examination.

Ques. You first moved into the Indian Territory in what year?

Ans. I think it was about 1884 or 1885.

Ques. You say that conditions were not ideal in the Indian Territory and you moved back to Arkansas.

Ans. Yes, sir.

Ques. You moved back to send the children to school.

Ans. Yes, sir.

Ques. (By Court)
Did your wife come back for the same purpose?

Ans. Yes, sir.

Ques. You found that the Indian Territory was not a desirable place to live.

Ans. It was not at that time.

Ques. And so, although you claim to be an inter-married Choctaw citizen and claim your title under the treaty of 1830, yet because you did not think the Choctaw Nation a desirable place to live you chose not to live there and bear the burdens of the tribual ^{Government} and help to make it a desirable place in which to live but returned to the States and after the Indians had overcome the difficulties moved back to reap the advantages of it. That was a fact was it ?

Ans. No, sir. The fact was, I went back to school my children for about four years and then went back to where I came ~~from~~ from in the Indian Territory.

Ques. Did you not know when you went back to the Indian Territory that you was going to school your children.

Ans. Yes, sir, I always knew that.

Ques. What made you go then ?

Ans. I did not know the disadvantage of school until I got there.

Ques. If you had have known that you would not have gone, would you?

Ans. Not for a while I would not.

Ques. What was your idea in going to the Indian Territory, anyway.

Ans. I went there because I thought it would suit me much better.

Ques. Just went there to live like you live here.

Ans. Yes, sir. If I could.

Ques. Did you help get this case up at the start.

Ans. Yes, sir.

Ques. Did you take the affidavit of Hiram Livingston?

Ans. Yes, sir.

Ques. Do you know Hiram Livingston ?

Ans. Yes, sir, I know him.

Ques. Did you take his affidavit.

Ans. I did not, but my attorneys did I suppose.

Ques. Your attorneys took Hiram Livingston affidavit ?

Ans. Yes, sir.

Ques. Do you know where Hiram Livingston was born ?

Ans. Ques. Where did you hear he was
I do not only from hearsay. born. Ans. In Indiana.

Ques. Reads affidavit of Hiram Livingston.

At the time that affidavit was taken you knew that
Hiram Livingston had never lived in Georgia and did not
know these parties.

Ans. Well know, I did not know anything about it.

Ques. Y
You knew Hiram Livingston when he lived over here in
Pope County did you.

Ans. I had seen him.

Ques. He was quite an old man was he not.

Ans. Yes, sir.

Ques. Did you not make a trade with Hiram Livingston by which
you agreed to support him the rest of his life if he would
give testimony in your behalf in this case.

Ans. I did not. At no time there ~~in~~ Arkansas or anywhere
else.

Ques. Do you know the Coopers and Browns and are they claim-
ing citizenship.

Ans. Yes, sir. I know them.

Ques. You say you can tell a Choctaw from a Chickasaw.

Ans. I think I can.

Ques. How can you tell the difference? What is the difference?

Ans. They do not speak the same language.

Ques. Any other way you can tell the difference?

Ans. No, there is no other way.

Ques. Do you speak the Chickasaw language.

Ans. I do not.

Ques. Do you understand it.

Ans. No, sir, only some words I hear them speak is all.

Ques. You stated in your direct examination that you understood some Choctaw.

Ans. I understand some words, I have been dealing with them for several years.

Ques. Where do you live, in what Nation?

Ans. In the Chickasaw Nation.

Ques. Yet all ~~the~~ your dealings has been with the Choctaw and the only language you know anything about is the Choctaw language.

Ans. I know some Chickasaw words that they speak.

Ques. Now tell us what are they.

Ans. I do not know that I can call to mind.

Ques. Now just tell me what ~~Choctaw~~ ^{Chickasaw} words you know.

Ans. I cannot call to mind

Ans. I cannot call to mind--I hear some words that I understand what he means.

Ques. Can you tell me, can you speak, or say, one single word Chickasaw word to me now.

Ans. I answered that direct once. That I cannot call to mind. When I hear them I know them.

Ques. by Court. I want to know of you how it is that you can undertake to tell me here that you can tell Chickasaw words that a man speaks and you cannot speak one single Chickasaw word that you know.

Ans. I have been dealing with the Choctaws and ~~xxx~~ would go to the Chickasaw to interpret and I would then know that those were the Chickasaw words.

Ques. Give me one single Chickasaw word.

Ans. I cannot call to memory one.

Ques. You said you understood the Choctaw language.

Ans. I said I understood some words spoken.

Ques. Can you say one single word.

Ans. I thought I had answered both. That I cannot call to memory.

Ques. by Court. Give me one single Choctaw or Chickasaw word that you know or understand.

Ans. I cannot give you one, if I should hear a Choctaw or Chickasaw word I would know it.

Ques. How are you able to state that Jim Jones talked the Choctaw language ?

Ans. I have heard him say things that I have heard the Choctaw say.

Ques. What words have you heard him say that you have heard the Choctaw say.

Ans. I have heard him call a dog "Hiss" that I have heard a Choctaw say. That is the only word that I have heard a Choctaw say that I can call to memory.

Ques. You undertake to say that the word "Hiss" is the Choctaw word for dog.

Ans. That is what I have heard them call it .

Ques. Are there any other words you know.

Ans. No, sir.

Ques. Do you think if I would speak a Chickasaw word or a Choctaw word you would know what I meant.

Ans. Some of them I might.

Ques. As a matter of fact, do you ^{not} know that there is no difference between the Choctaw and Chickasaw language.

Ans. No, sir.

Re-direct.

Ques.

Mr Gamblin, it is not an impossibility for a man who cannot speak the Choctaw or Chickasaw language to be able to distinguish Choctaw from Chickasaw in a general way.

Objection.

Ans.

No, sir.

Ques.

Do you know anything of the antecedents of Jim Jones, who his mother was and his father.

Ans.

No, I was not acquainted with them.

Ques.

Have you ever been told.

Ans.

Yes sir, he has told me.

Ques.

What did he tell you.

Ans.

His father was Jim Jones and his mother's name was Smith.

Ques.

Do you know who his grand father was.

Ans.

No, I do not recollect.

Ques.

Did he ever tell you who his grand mother was,

Ans.

I do not recollect that he did.

Ques.

Did you come from Georgia to this country with Jim Jones.

Ans.

Yes, sir.

Ques.

Do you know anything about his ever coming here before.

Ans.

Nothing only what he told me.

Ques.

What was it he told you.

Objection.

Ques. Did he tell anything to you about his relation to Sam Jones.

Ans. Yes, he said he was a cousin to Sam Jones.

Ques. Did he tell how the relation came.

Ans. Said his father and Sam's father was brothers.

Ques. Did he tell who Sam Jones father was.

Ans. If he did I do not recollect it.

Ques. Anything about who Sam Jones mother was.

Ans. I do not remember it if he did.

=====
=====

By MR Richardson.

Ques. Is that Sam Jones that resides at Cartersville, Georgia,

Ans. No, sir, I suppose not. I don't recon it is.(?)