

P R O C L A M A T I O N.

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WHEREAS, An agreement was entered into in the City of Washington, D. C. on the 21st day of March, 1902, between the Commissioners representing the United States and the Choctaw and Chickasaw tribes of Indians, and ratified by an act of Congress approved July 1, 1902, and entitled, "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes" and

WHEREAS, Paragraph 73 thereof provides that

"This agreement shall be binding upon the United States and upon the Choctaw and Chickasaw Nations and all Choctaws and Chickasaws, when ratified by Congress and by a majority of the whole number of votes cast by the legal voters of the Choctaw and Chickasaw tribes in the manner following: The principal chief of the Choctaw Nation and the governor of the Chickasaw Nation shall, within one hundred and twenty days after the ratification of this agreement by Congress, make public proclamation that the same shall be voted upon at any special election to be held for that purpose within thirty days thereafter, on a certain day therein named; and all male citizens of each of the said tribes qualified to vote under the tribal laws shall have a right to vote at the election precinct most convenient to his residence, whether the same be within the bounds of his tribe or not. And if this agreement be ratified by said tribes as aforesaid, the date upon which said election is held shall be deemed to be the date of its final ratification."

AND WHEREAS, the principal chief of the Choctaw Nation and the Governor of the Chickasaw Nation did on August 26, 1902, issue their joint proclamation calling a special election to be held in the Choctaw and Chickasaw Nations on Thursday, September 25, 1902, for the purpose of voting upon the above referred to agreement between the United States and the Choctaw and Chickasaw Nations, and

WHEREAS, On Thursday, September 25, 1902, there was held a special election in the Choctaw and Chickasaw Nations in accordance with the proclamation issued by the principal chief of the Choctaw Nation, and the governor of the Chickasaw Nation for the purpose of voting upon the agreement herein referred to, and

WHEREAS, Paragraph 74 of the said agreement provides that

"The vote cast in both the Choctaw and Chickasaw nations shall be forthwith returned and duly certified by the precinct officers to the national secretaries of said tribes, and shall be presented by said national secretaries to a



board of commissioners consisting of the principal chief and the national secretary of the Choctaw Nation and the governor and national secretary of the Chickasaw Nation and two members of the Commission to the Five Civilized Tribes; and said board shall meet without delay at Atoka, Indian Territory, and canvass and count said votes, and make proclamation of the result."

AND WHEREAS, On Wednesday, October 1, 1902, at Atoka, Indian Territory, the board of commissioners authorized by the provisions of section 74 of the agreement, convened and canvassed and counted said votes and found the result to be, of the votes cast, 2140 for the ratification of the agreement and 704 for the rejection of the agreement, and

WHEREAS, A majority of the votes cast at the special election of September 25, 1902, was for the ratification of the agreement between the United States and the Choctaw and Chickasaw Nations as ratified by the act of Congress approved July 1, 1902

NOW THEREFORE, we, Gilbert W. Dukes, principal chief of the Choctaw Nation, Solomon J. Homer, National Secretary of the Choctaw Nation, Palmer S. Mosely, Governor of the Chickasaw Nation, J. L. Thompson, National Secretary of the Chickasaw Nation, and Tams Bixby and Thomas B. Needles, members of the Commission to the Five Civilized Tribes, being a board of commissioners duly authorized thereunto, do hereby make proclamation that the agreement of March 21, 1902, between the United States and the Choctaw and Chickasaw tribes of Indians, as ratified by an act of Congress of the United States, approved July 1, 1902, and entitled, "AN Act To ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians and for other purposes," has been duly ratified by the citizens of the Choctaw and Chickasaw Nations at a special election held for this purpose in these two Nations on Thursday, September 25, 1902, and as so ratified, such agreement became effective at twelve o'clock, midnight, September 25, 1902.

IN WITNESS WHEREOF, We, as members of a board of commissioners duly authorized thereunto by the 74th paragraph of the agreement above



referred to, have hereunto set our hands and seals at Atoka, Choctaw  
Nation, Indian Territory, on this the first day of October, A. D. 1902.

G. W. Dukes (Seal)  
Principal Chief Choctaw Nation.

Solomon J. Homer (SEAL)  
National Secretary, Choctaw Nation

P. S. Mosely (SEAL)  
Governor Chickasaw Nation.

J. L. Thompson (SEAL)  
National Secretary Chickasaw Nation

Tams Bixby (SEAL)  
Member Commission to the Five  
Civilized Tribes.

T. B. Needles (SEAL)  
Member Commission to the Five  
Civilized Tribes.



Spencer B. Adams,  
Chief Judge.

Walter L. Weaver,  
Henry S? Foote,  
Associate Judges.

DEPARTMENT OF JUSTICE,  
CHOCTAW AND CHICKASAW CITIZENSHIP COURT,

INDIAN TERRITORY,

Tishomingo, Ind. Ter., December 10, 1904.

To The Attorney General:

At the request of Honorable Henry M. Hoyt, Solicitor General, we beg leave to submit the following report.

This Court was created by an Act of Congress, approved July 1, 1902, entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes", the existence of which was to terminate upon the final determination of the suits and proceedings mentioned in sections 31 and 32 of said Act, but in no event later than the 31st day of December, 1903. By virtue of the above legislation this Court met at South McAlester, Indian Territory, on the 4th day of August, 1902, and organized.

✓ The Act creating this Court was part of an agreement entered into by the United States government on the one hand and the Choctaw and Chickasaw tribes of Indians on the other. This Agreement was to be ratified by a vote of said tribes of Indians before it became effective. Owing to this fact there was considerable doubt in the minds of some as to whether the provisions of the Agreement providing for the existence of this Court until the entire Agreement had been ratified by a vote of the two tribes. *would be effective*

✓ Out of an abundance of precaution, when the Court met on the 4th day of August, 1902, we announced, and gave



such announcement as much publicity in the two Nations as it was practicable to do, that there would be no sessions of the Court, for the trial of causes, until after a vote had been had on the Agreement above referred to, on the part of the Choctaw and Chickasaw Indians. The Court then took a recess subject to <sup>the</sup> a call of the Chief Judge.

The Agreement was ratified by a vote of the two tribes on the 25th day of December, 1902. On the 26th day of September, 1902, the next day after the Agreement had been ratified, a Bill in Equity was filed in this Court by the Choctaw and Chickasaw Nations, through their attorneys, and summons issued on the same date against ten persons, and all others similarly situated, in accordance with the provisions of section 31 of the Act referred to. This suit is what is known as the "Test Suit", provided for in said section. The Court met on the 1st day of December, 1902 and from that time until the 13th day of December, 1902, was engaged in hearing arguments of Counsel upon the main questions of law involved in said proceeding, and also preliminary motions filed in said cause. On the 17th day of December, 1902, the Court handed down an opinion in which it was declared that the judgments obtained by the defendants in the United States Courts for the Southern and Central Districts of the Indian Territory under an Act of Congress approved June 10, 1896, as well as all others similarly situated, were null and void for certain reasons pointed out in said opinion.



The Attorney General. -.3.

The Act of Congress approved July 1, 1902, provided that in the event this Court should hold such judgments null and void, then in that case the persons in possession of such judgments so annulled, might, within ninety days after such decision of this Court, have their cases transferred to this Court, and, in case of such transfer, enjoined upon this Court to try said cases as they should have been tried in the United States Courts for the Southern and Central Districts of the Indian Territory.

Those persons whose judgments had been annulled by this Court were exceedingly <sup>de</sup> slow in having their cases so transferred, many of them <sup>de</sup> deferring such action until almost the last moment allowed by law; hence the Court was practically without work for a period of between three and four months.

✓ As soon as the transfers were made and the notice <sup>in the act</sup> provided for perfected, we arranged a docket, and after due notice to the persons interested, commenced the taking of testimony.

On the 3rd day of March, 1903, an Act of Congress was approved, entitled "An Act Making appropriations for the current and contingent expenses of the Indian Department, etc.," enlarging the right of parties to introduce testimony, and also extending the existence of this Court until December 31st, 1904.

On the 23rd day of March, 1903, the Supreme Court



of the United States granted an order in a proceeding entitled, "Ex parte, in the matter of U. S. Joins", in which it was directed that the Judges of this Court and the Clerk thereof, show cause, at the City of Washington, on the 19th day of October, 1903, why writs of prohibition and certiorari should not be granted in said proceeding. About the same date the Supreme Court of the United States granted a similar order in the case entitled "Ex parte, in the matter of L. L. Blake" against the Judges of this Court and the Clerk thereof. On the return day, to-wit, the 19th day of October, 1903, said proceedings were argued in the Supreme Court of the United States at Washington; and sometime during the month of November, 1903, the Supreme Court rendered an opinion in the above proceedings, dismissing the petition of applicants.

The orders above referred to were served on the Judges and Clerk of this Court soon after the granting thereof and from the time of the service of said orders upon the Judges and Clerk of this Court until the time a decision was handed down by the Supreme Court of the United States, we consumed the time in simply hearing testimony, as we considered it highly improper to render decision upon any point involving the rights of litigants while the proceedings against the Judges and Clerk of this Court in the Joins and Blake cases were pending in the Supreme Court.

There were 263 cases, besides the "Test suit", brought into this Court, involving the rights of 3403 persons



to citizenship in the Choctaw and Chickasaw Nations, who, if admitted, would have been entitled to property belonging to these two tribes of Indians, amounting in the aggregate to at least seventeen million dollars. On this number the Court admitted to citizenship 156 persons, and denied citizenship to 2798, and dismissed the applications of 449 persons upon the ground that the Court had no jurisdiction of their cases. The oral evidence in each case comprised from one to five hundred closely typewritten pages (except in some few cases where no oral testimony was offered) besides a voluminous record in each case transferred. All the testimony was taken either before the entire Court or before one of the Judges thereof. This method of taking testimony was adopted by this Court for the reason it seemed that when the cases were tried before the United States Courts for the Central and Southern Districts of the Indian Territory, they were tried upon evidence taken before masters in chancery and Notaries Public in a large measure, some of these notaries and some of the masters in chancery appearing in this court as attorneys for the very applicants who were admitted upon their now attorney's findings, and upon testimony taken before them. And in some of the cases it developed by satisfactory evidence that the alleged Notaries never existed; and in some cases the entire alleged testimony of witnesses was forged. A great number of wit-



nesses came into this court, whose testimony had been introduced in the trial in the other Courts, and testified they did not state the facts contained in their alleged affidavits, and many of them swearing they did not testify at all. The manner of taking the testimony in the other trials had created great dissatisfaction among the Indians throughout the two Nations, hence the Court decided it would be best to see the witnesses and take their testimony in person. In taking testimony in cases before this Court, some member thereof visited the States of Virginia, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas and Arkansas, in many ~~xxx~~ instances and on several occasions, for the purpose of taking testimony in different cases; besides traveling many, many miles throughout the Indian Territory on railroads and by private conveyances when the places could not be reached otherwise, taking testimony where the witnesses were too feeble, or the litigants too poor to bring the witnesses before the Court at South McAlester and Tishomingo, where the regular sessions of the Court were held, as we were exceedingly anxious to afford the litigants every opportunity possible to present their cases so substantial justice might be done all parties concerned. We have allowed the litigants the widest latitude in the introduction of evidence as it was possible to do under the law, our great aim being to have the cases before the Court presented in such a manner as would enable the "Very right

*the Court to feel of*



ing the same, as it was authorized to do under the Act of  
Congress approved March 3, 1903. On this date the Court  
has fixed such compensation, thus completing the labors of  
the Judges of this Court, so far as the trial of causes and  
the rendition of judgments are concerned and the hearing of  
other matters before the same, and as soon as the Clerk  
perfects his records, the Court will adjourn sine die.

Very respectfully,

(Signed) Spencer B. Adams,  
Chief Judge .