

ARGUMENT AGAINST TRANSFER OF NAMES OF CERTAIN  
CHOCTAW AND CHICKASAW FREEDMEN, ETC.

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Mr. LONG presented the following

**BRIEF MEMORANDUM OF ARGUMENT ON BEHALF OF THE CHOCTAW  
AND CHICKASAW NATIONS AGAINST THE PROPOSED AMEND-  
MENT TO THE INDIAN APPROPRIATION BILL PROVIDING FOR  
THE TRANSFER OF THE NAMES OF CERTAIN CHOCTAW AND  
CHICKASAW FREEDMEN FROM THE ROLLS OF FREEDMEN TO  
THE ROLLS OF CITIZENS BY BLOOD OF SAID NATIONS.**

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FEBRUARY 8, 1907.—Ordered to be printed.

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*Brief memorandum of argument on behalf of the Choctaw and Chickasaw nations against the proposed amendment to the Indian appropriation bill providing for the transfer of the names of certain Choctaw and Chickasaw freedmen from the rolls of freedmen to the rolls of citizens by blood of said nations.*

The proposed amendment to which this memorandum refers appears upon page 48, lines 5 to 16, inclusive, of the Indian appropriation bill as reported to the Senate by the Committee on Indian Affairs, and is as follows:

That the Secretary of the Interior is hereby authorized and directed to transfer from the freedmen roll to the roll of citizens by blood of the Choctaw and Chickasaw nations the name of any person who is of Choctaw or Chickasaw Indian blood on the side of either parent, as appears from the examination records prepared by the Commissioner to the Five Civilized Tribes under the act approved June twenty-eighth, eighteen hundred and ninety-eight, or any tribal roll or any field card prepared by the Commission or the Commissioner to the Five Civilized Tribes, and other evidence shall be taken only in cases where the identity or Indian blood of such person is denied by the tribal authorities.

The most that can be contended in favor of the persons sought to be affected by this amendment is that they are the illegitimate progeny of freedmen women (negro women who were the slaves of Choctaw or Chickasaw Indians or the descendants of such) by Indian men. Their names do not appear upon any of the tribal rolls of the Choctaw or Chickasaw nations, and they have never been accorded any recognition as Indians or citizens. This amendment proposes to arbitrarily enroll them as Indian citizens. This would be in violation of every law of Congress heretofore passed and every policy of the Government from its first assumption of citizenship jurisdiction, and in violation of all the laws, customs, and usages of the

tribes, which the representatives of the Government of the United States must respect under existing law in the making of tribal-citizenship rolls. There are from 1,000 to 1,500 of these claims, and their enrollment as Indian citizens would wrongfully deprive the tribes of property of the value of from \$5,000,000 to \$15,000,000.

These persons have taken the status of their mothers. They now enjoy that status, and such is according to the law of the land, as well as according to the laws, customs, and usages of the Choctaw and Chickasaw tribes. Their mothers being freedmen they are freedmen, and they have always been so classed and enrolled by the tribes and by the officers of the United States in the preparation of tribal rolls.

When the Commission began its work of enrollment in 1898, these persons voluntarily applied as freedmen. They were listed for enrollment as freedmen. They were subsequently placed upon the rolls of freedmen, and such rolls were approved by the Secretary of the Interior. Later on land offices were opened in the Choctaw and Chickasaw nations, and they applied for and received lands as Choctaw and Chickasaw freedmen, their allotment being 40 acres each. Still later on they received allotment certificates for such lands. Thus there existed no controversy as to their status from their birth to 1898 and from that time until 1903, when the work of the Government in citizenship matters was practically completed. Then it was that a certain opinion was rendered by Mr. Frank L. Campbell, the Assistant Attorney-General for the Department of the Interior, in which it was held, in effect, that proof of Indian blood alone, without reference to legitimacy or illegitimacy and without reference to tribal enrollment or recognition or nonenrollment or nonrecognition of the tribes, was sufficient to entitle a person to enrollment as a citizen, with full rights of citizenship. This furnished the inspiration, and as a result thereof these applications were filed.

This opinion of Mr. Campbell is revolutionary. It is at variance with everything and in harmony with nothing, neither the law of the land, the acts of Congress, the policy of the Government, the decisions of the Government's other citizenship tribunals, nor the laws, customs, and usages of the tribes, which, under existing law, must be observed. The amendment to the Indian appropriation bill, to which this memorandum refers, proposes to have Congress give its approval to the law as declared by Mr. Campbell, and provide for giving it full force and effect.

The contention of counsel for claimants at this time is in line with this opinion of Mr. Campbell. It is based wholly upon a construction of the word "descendants" as the same appears in the Choctaw treaty of 1830 and in the patent issued in pursuance thereof. It is the contention, briefly stated, that this word as thus used means the physical progeny of every Choctaw and Chickasaw Indian, and that every person who was begotten by a Choctaw or Chickasaw Indian, without reference to legitimacy, illegitimacy, or anything else, is entitled to enrollment and to property rights.

The language of the second article of the treaty of 1830 between the United States and the Choctaw Nation is as follows:

The United States, under a grant specially to be made by the President of the United States, shall cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River, in fee simple, to them and their descendents, to inure to them while they shall exist as a nation and live upon it.

It is also provided by the first article of the treaty of 1837 between the United States and the Choctaws and Chickasaws, under which the interest of the Chickasaws in these lands was first fixed, as follows:

It is agreed by the Choctaws that the Chickasaws shall have the privilege of forming a district within the limits of their country, to be held on the same terms that the Choctaws now hold it.

Even if these treaty provisions were the bases of the title of the Choctaws and Chickasaws to their lands, it can not be established, we submit, that the word "descendants," as therein used has the meaning contended for. The Choctaws and Chickasaws and the Government of the United States certainly never intended that the rights of citizenship and rights of property should descend to physical progeny without reference to legitimacy or illegitimacy. Such a conclusion would be unnatural and unusual, and no less than barbarous. It is a reflection upon the representatives of the Government who made the treaty and upon the Members of the Congress who ratified it, and upon the President of the United States who approved it, to say that they intended to give this word, thus used, the meaning which counsel for claimants contend for at this time. Moral laws were as clearly defined and as earnestly upheld, and the inclination to discourage immorality and illegitimacy of issue was as strong, when the treaty of 1830 was made as at the present time.

But any abstract definition of the word "descendants" in the treaty of 1830, has no application to the present case. Neither the treaty of 1830 nor the treaty of 1837, nor both, are the bases of the title of the Choctaws and Chickasaws to their lands. In their presentation of their case, counsel for claimants have wholly overlooked the treaty of 1855 between the United States and the Choctaws and Chickasaws, and the circumstances which rendered it necessary. It expressly and definitely appears that the relations established and the rights sought to be fixed under the treaties of 1830 and 1837 were unsatisfactory to all parties concerned, to wit, the United States, the Choctaws, and the Chickasaws.

All of these things fully appear from an examination of the preamble, which is as follows:

Whereas the political connections heretofore existing between the Choctaw and Chickasaw tribes of Indians have given rise to unhappy and injurious dissensions and controversies among them, which renders necessary a readjustment of their relations to each other and the United States; and whereas the United States desire that the Choctaw Indians shall relinquish all claim to any territory west of the one hundredth degree of west longitude and also to make provision for the permanent settlement within the Choctaw country of the Wichita and certain other tribes or bands of Indians, for which purpose the Choctaws and Chickasaws are willing to lease on reasonable terms to the United States that portion of their common territory which is west of the ninety-eighth degree of west longitude; and whereas the Choctaws contend that, by a just and fair construction of the treaty of September 27, 1830, they are, of right, entitled to the net proceeds of the land ceded by them to the United States, under said treaty, and have proposed that the question of their right to the same, together with the whole subject-matter of their unsettled claims, whether national or individual, against the United States, arising under the various provisions of said treaty, shall be referred to the Senate of the United States for final adjudication and adjustment; and whereas it is necessary for the simplification and better understanding of the relations between the United States and the Choctaw Indians, that all their subsisting treaty stipulations be embodied in one comprehensive instrument;

Now, therefore, The United States of America, by their commissioner (naming him); the Choctaws, by their commissioners (naming them); and the Chickasaws, by their commissioners (naming them) do hereby agree and stipulate, as follows:

ARTICLE 1. The following shall constitute and remain the boundaries and the Choctaw and Chickasaw country: (and then follows description).

And pursuant to an act of Congress approved May 28, 1830, the United States do forever secure and guarantee the land embraced within said limits to the members of the Choctaw and Chickasaw tribes; their heirs and successors, to be held in common; so that each and every member of either tribe shall have an equal, undivided interest in the whole: *Provided, however*, No part thereof shall ever be sold without the consent of both sides; and that said lands shall revert to the United States if said Indians and their heirs become extinct or abandon the same.

It is also provided by article 21 of the same treaty, as follows:

This convention shall supersede and take the place of all former treaties between the United States and the Choctaws and also all treaty stipulations between the United States and the Chickasaws, and between the Choctaws and Chickasaws, inconsistent with this agreement.

The act of May 28, 1830, referred to in article 1 of the treaty of 1855 (4 Stat. L., 411), above quoted, is as follows:

AN ACT To provide for the exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

(Section 1 provides that any lands owned by the United States west of the Mississippi River may be divided into tracts for the reception of such Indian tribes as may desire to exchange their lands and remove there.)

(Section 2 provides that the President may make exchange where Indian tribes reside in any State or Territory, where the United States is bound to bring about an extinguishment of the Indian title.)

SEC. 3. *And be it further enacted*, That in the making of any such exchange or exchanges it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made that the United States shall forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States if the Indians become extinct or abandon the same.

(Sections 4, 5, 6, 7, and 8 provide for compensating individual Indians for their improvements on the exchanged lands, for their protection in the new country from disturbance, for assisting them in their emigration, and for the appropriation of the necessary money to carry the act into effect.)

The full scope and significance of this treaty of 1855 appears from an examination of the provisions here set out, and comment seems unnecessary. It is superfluous to say that such provisions take the place of all provisions contained in all former treaties, in so far as the ownership of the land and the manner in which it is to be held is concerned; and established beyond all controversy that the treaty of 1855 must be looked to.

This is reflected in article 11 of the treaty of 1866 as follows:

Whereas the land occupied by the Choctaw and Chickasaw nations and described in the treaty between the United States and said nations of June 22, 1855, is now held by the members of said nation, in common, under the provisions of said treaty. \* \* \*

No difficulty is encountered in disposing of the contention of the present applicants when the facts in their case are considered in the light of the definition of the terms "heirs and successors" contained in the law books. It will certainly not be contended that the terms "heirs and successors" include physical progeny, without limitation and without reference to legitimacy or illegitimacy.

The Commission to the Five Civilized Tribes and the Secretary of the Interior, in making up the rolls of citizenship of the Choctaws and Chickasaws for the division of tribal property, are required to follow the rolls of the tribes, made in pursuance of their laws, customs, and usages.

These claimants have never been enrolled by the tribes as citizens. Their names appear upon none of the rolls of the tribes, and the representatives of the Government therefore have no power to enroll them, under existing law, as Indian citizens.

For the purpose of establishing this proposition it is necessary to inquire "What are the provisions of existing law and what has been the uniform policy of the Government of the United States in making up the tribal rolls, from the beginning of its assumption of citizenship jurisdiction?"

The basic law is that of June 28, 1898. That portion of the law relating to the making of Choctaw and Chickasaw rolls is as follows (30 Stat. L., 495):

Said Commission is authorized to make correct rolls of the citizens by blood of all the tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes.

And also—

Said Commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes or to adopt any other means by them deemed necessary to enable them to make such rolls. They shall have access to all rolls and records of the several tribes, and the United States court in Indian Territory shall have jurisdiction to compel the officers of the tribal governments and custodians of such rolls and records to deliver same to said Commission, and on their refusal or failure to do so to punish them as for contempt. \* \* \*

When the Commission began its work, in 1898, under this law it construed the law for itself and held that it had no power to entertain the application of any person whose name was not upon some one of the tribal rolls, placed there by the tribes themselves under their own laws, customs, and usages. This was a proper construction, but it was questioned by those who wished to present citizenship applications.

The question which thus arose was presented to Mr. Willis Van Devanter, who was then the Assistant Attorney-General for the Department of the Interior, and on March 17, 1899, he rendered a comprehensive opinion construing this law and sustaining the Commission in every particular. We quote from his opinion:

The act of June 28, 1898, supra, prescribed the manner in which the Commission is to make rolls of citizenship of the several tribes, and that all names found to have been placed upon the tribal rolls by fraud or without authority of law shall be eliminated, and then declares:

"The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent."

By the act of 1896 applications for citizenship were required to be made to the Commission within three months after the passage of that act and to be passed upon by the Commission within ninety days after made. Provision was also made for application to the court or committee of the several tribes, which were to be presented within three months and passed upon within thirty days. After the expiration of six months the Commission was to make rolls of citizenship, adding the names of citizens whose right might be conferred under that act. After the expiration of the time fixed no new application for citizenship could be received, and the action of the Commission upon those made within the time fixed was final, in the absence of an appeal to the court. The act of 1897 did not provide for new applications for citizen-

ship. It defined the words "rolls of citizenship," used in the act of 1896, and directed that all names appearing upon the rolls not coming within that definition should be open to investigation by the Commission for a period of six months after the passage of said act. Neither did the act of 1898 make any provision for new applications for citizenship. The Commission was authorized and directed to enroll the persons indicated and to investigate the right of all other persons whose names are found upon any tribal roll, and to omit all such as may have been placed there by fraud or without authority of law. They were not authorized to add any name not found upon some roll of the tribe, except those of descendants of persons rightfully upon some roll and persons intermarried with members of the tribes, and therefore lawfully entitled to enrollment.

It will be noted that incidental reference is made to the act of June 10, 1896. In order that the issue may not be confused, let it be understood that the act of 1896 has no reference whatever to the jurisdiction of the Commission and the Secretary of the Interior arising under the act of 1898 and later acts. The jurisdiction conferred upon the Commission by the act of 1896 was to admit to citizenship; that is, to pass upon the application of persons not on any tribal roll and if found entitled to admit them to tribal enrollment. This jurisdiction began and ended under the law of 1896 and has never been conferred since that time. Applications for admission must have been filed with the Commission within three months after the passage of the act, or before September 10, 1896, and passed on under the provisions of that act. The jurisdiction arising under the law of 1898 and later laws and continuing to the present time is exactly the opposite of the jurisdiction conferred under the act of 1896. The jurisdiction under the law of 1898 and later laws and existing at the present time is to make up a correct tribal roll of citizens, using the tribal rolls as a basis, adding none except children born since the rolls were made and eliminating from such tribal rolls those names which may have been placed thereon by fraud or without authority of law.

As above shown, the Commission's construction of the law of 1898 as to its jurisdiction was affirmed in the opinion which has been quoted. This was still not satisfactory to the great horde of applicants who were swarming around the Commission.

Then it was that Congress defined the position of the Government of the United States in making up citizenship rolls, and made it clear and unequivocal. This appears from the act of May 31, 1900, which, in so far as Choctaw and Chickasaw citizenship matters are concerned, is as follows (Stat. L., No. 21, p. 236):

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

Comment upon this law would seem to be unnecessary. It is an affirmance by Congress of the construction placed by both the Commission and Mr. Van Devanter upon the law of 1898; sets at rest all question as to the jurisdiction of the Commission and the Secretary in making up the tribal rolls.

Under these laws the Commission proceeded until the negotiation and ratification of the "supplementary agreement of 1902." This agreement was ratified by act of Congress approved July 1, 1902, and

sections 27 and 34, covering the subject of Choctaw and Chickasaw enrollment, are as follows:

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes in strict compliance with the act of Congress approved June 28, 1898 (20 Stat. L., 495), and the act of Congress approved May 31, 1900 (31 Stat. L., 221), except as herein otherwise provided.

34. During the ninety days first following the date of the final ratification of the agreement the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as "delinquents," and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw nations in accordance with the tribal laws, customs, and usages on or before the passage of this act by Congress, and such infant children as may have been born to recognized enrolled citizens on or before the date of the final ratification of this agreement.

It thus appears that the acts of 1898 and 1900 were not only adopted and carried into this solemn agreement with the Indians, but a date was fixed (three months after the final ratification of the agreement, which was December 25, 1902) beyond which no applications could be received.

No applications were made by these claimants for enrollment as Indian citizens within this time, and there is no power to entertain and pass upon their applications for that reason.

The last law of Congress upon the subject is the act approved April 26, 1906, section 1 of which is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That after the approval of this act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive evidence as to the fact of such application; and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered, except as to decisions made prior to the passage of this act, in which cases such motion shall be made within sixty days after the passage of this act: *Provided,* That the Secretary of the Interior may enroll persons whose names appear upon any of the tribal rolls and for whom the records in charge of the Commissioner to the Five Civilized Tribes show application was made prior to December first, nineteen hundred and five, and which was not allowed solely because not made within the time prescribed by law.

And also section 4 of the same act is as follows:

SEC. 4. That no name shall be transferred from the approved freedmen or any other approved rolls of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, to the roll of citizens by blood unless the records in charge of the Commissioner to the Five Civilized Tribes show that application for enrollment as a citizen by blood was made within the time prescribed by law by or for the party seeking the transfer, and said records shall be conclusive evidence as to the fact of such application, unless it be shown by documentary evidence that the Commission to the Five Civilized Tribes actually received such application within the time prescribed by law.

Notwithstanding this broad and liberal provision of law and notwithstanding their contention of the assertion by them of claims as Indian citizens, they are unable to make proof of applications within the time which, under the law, applies to all applicants, and are now asking that the whole subject be reopened without limitation, that every policy of the Government be reversed, that every act of Congress upon the subject be repealed, and that every law, custom, and usage of the tribes be departed from.

It thus appears that the jurisdiction of the representatives of the Government in making up the tribal rolls is limited by the tribal rolls themselves, made by the tribes, in pursuance of their laws, customs, and usages.

The "heirs and successors" of the Choctaws and Chickasaws entitled to participate in the distribution of their tribal lands, held and owned under the provisions of the treaty of 1855, are those persons so found and so recognized by the tribes and placed upon the tribal rolls. These persons, the claimants in this case, are not entitled to be classified as the "heirs and successors" of the Choctaws and Chickasaws under their laws, customs, and usages, and they are not so classed and not so recognized and, therefore, not placed upon the tribal rolls, which, under existing law, must be followed by the representatives of the Government in the making up of the final and perfect rolls of citizenship for the distribution of tribal property.

These persons, the claimants in this case, even conceding their facts, are children of freedmen women. If they are the physical progeny of Indian men, which is not conceded, they are the illegitimate progeny, and therefore not the "heirs and successors" of the Choctaws and Chickasaws, neither according to the law of the land defining the term "heirs and successors," nor according to the laws, customs, and usages of the tribes.

Being the illegitimate children of freedmen women, they follow the status of their mothers, whatever that is or may be. In this case the status of the mothers is that of either a Choctaw or Chickasaw freedmen, and the children have always taken that status, and have always enjoyed the status of their mothers as Choctaw or Chickasaw freedmen and received their allotment of 40 acres of land as such.

The subject of the relation of the Choctaw and Chickasaw freedmen to Choctaw and Chickasaw Indians, and the customs and usages of the tribes, has received the consideration of Mr. F. E. Leupp, Commissioner of Indian Affairs, in his report to the Secretary of the Interior, dated January 3, 1907, and a part of this report bearing upon this particular subject is as follows:

As I have already said, whatever rights the freedmen have, either Choctaw or Chickasaw, are based on the provisions of the treaty of 1866, and such subsequent action as was taken by Congress and the tribal authorities, and it has always been the understanding of this office that a person who descended from a freed woman was recognized by the tribal authorities as a freedman irrespective of the quantum of the Indian blood he had.

In the days of slavery a child followed the status of her mother; that is, a child that was born of a free mother was free, but one born of a slave mother was a slave, and while it is probable that the tribal custom, as understood by this office, grew out of slavery, it is the universal custom among white people of the United States to recognize as a negro any person who is known to be in part of negro blood, no matter how small the degree of such blood may be. But in order to be absolutely certain as to the prevailing custom in the Choctaw and Chickasaw nations, the office on December 26, 1906, wired the Commissioner to the Five Civilized Tribes as follows:

"Is it a fact that the tribal authorities of the Choctaw and Chickasaw nations in enrolling persons of freedmen and Indian descent enrolled them as freedmen, irrespective of whether the freedmen descent was on the side of the father or mother; or did they hold that children followed the status of the mother? Rush."

To which the Acting Commissioner replied under date of December 27, 1906, saying:

"Replying to your telegram 26th instant, tribal authorities of Choctaw and Chickasaw nations in preparing tribal rolls enrolled children of Indian women by freedmen fathers as Indians. Tribal rolls clearly indicate that children of mixed freedmen and Indian descent followed status of mother."

I especially invite your attention to the fact that Congress by section 21 of the act of June 28, 1898, in directing the enrollment of the Choctaw freedmen used the words "and all their descendants born to them since the date of the treaty," and with reference to the enrollment of the Chickasaw freedmen said:

"And their descendants born to them since the date of said treaty."

While the words used authorizing the enrollment of Choctaw freedmen differ slightly from those directing the enrollment of the Chickasaw freedmen, the meaning is the same, and it seems to have been the intention of Congress to declare that any person who descended from a Choctaw or a Chickasaw freedman should be enrolled as a freedman, and allowed to share in the distribution of the lands of the nation as such.

Ten thousand one hundred and ninety-six persons have been enrolled as Choctaw or Chickasaw freedmen, some applications are still pending, and if any of them have been justly enrolled as freedmen, the law as it now stands clothes the Department with power sufficient to transfer their names from the freedmen to the blood roll and to enroll as citizens by blood those whose applications have not been passed on, if application for enrollment by blood was made within the required time; so I do not believe that it would be wise at this late date or just to the Choctaw and Chickasaw nations for Congress to reopen the whole matter of the enrollment of Choctaw and Chickasaw freedmen and declare that the Department arbitrarily enroll as an Indian by blood any person who is of Indian and freedman blood.

The Choctaw and Chickasaw nations have been far more generous to their former slaves and their descendants than the white people have to their ex-slaves. They have allowed them an interest in their lands, which the white slave owners did not do, and have permitted them to use the lands of the nations for more than forty years without paying one cent of rent therefor; and it seems to me that when the custom of the tribes is considered, and the declaration of Congress with reference to their enrollment given the weight to which it is entitled, and the fact recalled that the Choctaw freedman had no rights in the lands of the nations until May 21, 1883, and the Chickasaw freedmen not until July 1, 1902, any fair mind can only conclude that no change should be made in existing law relating to the enrollment of the Choctaw and Chickasaw freedmen, and that the recognized custom of the Choctaws and Chickasaws enforced for years should be allowed in making the Choctaw and Chickasaw freedman rolls.

I have the honor to recommend, therefore, that you advise the chairman of the Senate Committee on Indian Affairs that in the opinion of the Department substantial justice will be done the Choctaw and the Chickasaw freedmen in the matter of their enrollment under the law as it now stands, and that the bill should not pass.

Very respectfully,

F. E. LEUPP, *Commissioner.*

A proper and natural inquiry is, What are the rolls of the tribes, made under their own laws, customs, and usages, to which the laws refer and to which the jurisdiction of the Commission and the Secretary of the Interior is limited?

The tribes have made rolls at various times and for various purposes, and those rolls are in perfect physical condition and are now in the possession of the Commission and the Secretary of the Interior, having been turned over to them by the tribal authorities for use by the Government officers under existing law. Those rolls are the "net proceeds" rolls of 1885, the "leased district" payment rolls of 1893, and the census rolls of 1896. These rolls include all former rolls and census lists, and upon them appear the names of all persons to whom the tribes have ever accorded recognition.

The contention has been made by counsel for the claimants that in the Choctaw and Chickasaw nations there is no such thing as legitimacy and illegitimacy of issue or the observance of marriage and the marriage relation. It is difficult to understand why such a statement, so flagrantly untrue, should have been made when the facts were so easily obtainable. The Choctaws and Chickasaws have observed the marriage relations, and their laws have as fully covered all the subjects of marriage, divorce, alimony, polygamy,

adultery, and legitimacy and illegitimacy of issue, and those laws have been as closely observed as those of any other community in this country. Since this statement was made the law books of the Choctaw and Chickasaw nations have been procured from the library of the Department of Justice, and copies have been made of their laws upon these subjects, beginning in the year 1835 and extending down to the present time. These law books are as follows: Laws of the Choctaw Nation, 1869; Laws of the Choctaw Nation, 1894; Constitution, Treaties, and Laws of the Chickasaw Nation, 1899.

These laws were fully set forth in the hearings before the Senate Committee on Indian Affairs, upon this subject. Such hearings have been published as Senate Document No. 257, second session Fifty-ninth Congress.

It is only necessary to examine the laws appearing in these volumes, to complete the negative of the contention of counsel for the claimant that the Choctaw and Chickasaw nations ever recognized or attempted to recognize, or enroll or intended to enroll, as their "heirs and successors" and person who are not their legitimate issue, according to the ordinary rules of law obtaining elsewhere, and according to their own laws, customs, and usages.

So far as illegitimate children are concerned the laws, customs, and usages of the tribes are in harmony with the laws of States. The rule is practically the same everywhere. The laws of the States of Kansas, Massachusetts, Georgia, Minnesota, Colorado, and Illinois have been examined and are here quoted.

## KANSAS.

General statutes of Kansas, 1905:

Section 2541: "Illegitimate children inherit from the mother and the mother from the children."

Section 2542: "They shall also inherit from the father whenever they have been recognized by him as his children; but such recognition must have been general and notorious or else in writing."

## MASSACHUSETTS.

Revised laws of Massachusetts:

Chapter 133, Section 3: "An illegitimate child shall be heir of his mother and of any natural ancestor, and the lawful issue of an illegitimate person shall represent such person and take by descent any estate which such person would have taken if living."

Section 5 (same chapter): "An illegitimate child whose parents have intermarried, and whose father has acknowledged him as his child, shall be considered legitimate."

## GEORGIA.

Code of the State of Georgia (1895):

Volume 2, section 2510: "Bastards have no inheritable blood except that given them by express law. They may inherit from their mother and from each other, children of the same mother, the same as if legitimate. \* \* \*"

Section 2494, same volume: "A father of an illegitimate child may render the same legitimate by petitioning the supreme court of the county of his residence, setting forth the name, age, and sex of such child, and also the name of the mother; and if he desire the name changed, stating the new name and praying the legitimating of the child. Of this application the mother, if alive, shall have notice. Upon such application, presented and filed, the court may pass an order declaring said child to be legitimate and capable of inheriting from the father in the same manner as if born in lawful wedlock, and the name by which he or she shall be known."

## MINNESOTA.

Section 3650, Revised Laws of Minnesota, 1905:

"An illegitimate child shall inherit from his mother the same as if born in lawful wedlock, and also from the person who, in writing, and before a competent and attesting witness, shall have declared himself to be his father; but such child shall not inherit from the kindred of either parent by right of representation unless during his lifetime his parents intermarry, in which case he shall no longer be deemed illegitimate."

## COLORADO.

Section 1530, Annotated Statutes of Colorado, 1891:

"Illegitimate children shall inherit the same as those born in wedlock if the parents subsequently intermarry and such children be recognized after such intermarriage by the father to be his."

## ILLINOIS.

Revised Statutes, 1906:

Section 2, chapter 39, page 764: "An illegitimate child shall be heir of its mother and any maternal ancestor and of any person from whom its mother might have inherited if living, and the lawful issue of an illegitimate person shall represent such person and take by descent any estate which the parent would leave to them, if living." \* \* \*

Section 3, same page: "An illegitimate child whose parents have intermarried, and whose father has acknowledged him or her as his child, shall be considered legitimate."

The law of the land and the laws of every State in the Union are reflected in the laws, customs, and usages of the tribes. An examination of their laws show this, and their rolls were made in accordance therewith. The laws of Congress provide, in effect, that its officials, in following these tribal rolls so made, shall simply follow the rule of law as it exists elsewhere.

Reference has been made to the relations existing between the Choctaws and Chickasaws and their freedmen, resulting, in some instances, in the birth of illegitimate children to negro or freedmen women, begotten by Indian men. This may or may not have been true to some extent in the Choctaw and Chickasaw nations. It perhaps was true in some instances. It is certainly true, in a measure, in all the other communities elsewhere where negroes extensively reside. There have not been marriages between the Choctaws and the Chickasaws and their freedmen women any more than there have been marriages between whites and negroes in other communities. The Choctaws and Chickasaws owned their slaves and, since freedom they have resided in the same country; and the relations which have always been maintained, both before and after the war, have paralleled in all respects the relations existing between the whites and negroes in other southern communities. Not only do the Choctaws and Chickasaws not intermarry with their former slaves, but to have done so would have resulted in social ostracism, just as it would have so resulted elsewhere.

As bearing specially upon this point, we quote the law of the Choctaw Nation prohibiting intermarriages between Indians and negroes. It appears upon page 206 of the Laws of the Choctaw Nation, 1894, and is as follows:

1. *Be it enacted by the general council of the Choctaw Nation assembled,* That it shall not be lawful for a Choctaw and a negro to marry; and if a Choctaw man or a Choctaw woman should marry a negro man or a negro woman he or she shall be deemed guilty of a felony, and shall be proceeded against in the circuit court of the Choctaw Nation having jurisdiction the same as all other felonies are proceeded against, and if proven guilty shall receive fifty lashes on the bare back.

There has been some inquiry as to the date of this law. The book in which it appears is a digest or a compilation of the laws of the Choctaw Nation, made in 1898, but the date of the passage of this particular law does not appear. It was passed a great while ago; and there was likewise a law of the Chickasaw Nation, covering the same subject, but it does not appear in the volume of the Chickasaw laws available at this time. These laws are merely evidences of universal sentiment and custom in the Choctaw and Chickasaw nations against intermarriages with negroes; and the best and most conclusive evidence of the observance of this sentiment and custom is found in what the tribes actually did in the recognition of their citizens and the preparation of their tribal rolls. None of the persons of the class to which these claimants belong were given recognition or placed upon the tribal rolls.

The Chickasaws and Choctaws were given the right of self government and, except in certain specific instances, that right has never been taken away. The determination of its own citizenship is the greatest, most usual, and most necessary function of government.

The treaty provisions upon this subject are as follows:

Section 4 of the Choctaw treaty of 1830:

The Government and people of the United States are hereby obliged to secure to the Choctaw Nation of red people the jurisdiction and government of all persons and property that may be within their limits west and so that no Territory or State shall have a right to pass laws for the government of the Choctaw Nation of red people and their descendants; and that no part of the land granted them shall ever be embraced in any Territory or State; but the United States shall forever secure to the Choctaw Nation from and against all laws except such as may from time to time be enacted by their own national councils, not inconsistent with the Constitution, treaties, and laws of the United States; and except such as may be and which have been enacted by Congress to the extent that Congress, under the Constitution are required to exercise legislation over Indian affairs. But the Choctaws, should this treaty be ratified, express the wish that Congress may grant to the Choctaws the right to punish by their own laws, any white man who may come into their nation and infringe any of their national regulations. (4 Stat. L., 333.)

Article 7, treaty of 1855:

So far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Choctaws and the Chickasaws shall be secured in the unrestricted rights of self-government and full jurisdiction over persons and property, within their respective limits; excepting, however, all persons with their property, who are not by birth, adoption or otherwise, citizens or members of either the Choctaw or Chickasaw tribe; and all persons not being citizens or members of either tribe, found within their limits, shall be considered intruders, and be removed from, and kept out of the same, by the United States agent, assisted if necessary by the military, with the following exceptions, viz: Such individuals as are now, or may be in the employment of the Government and their families, those peacefully traveling, or temporarily sojourning in the country, or trading therein, under license from the proper authority of the United States, and such as may be permitted by the Choctaws or Chickasaws, with the assent of the United States agent, to reside within their limits, without becoming citizens or members of either of said tribes. (Laws of the Choctaw Nation, 1894, page 41.)

Article 7, treaty of 1866:

The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however,* Such legislation shall not in any wise interfere with or annul their present tribal organization, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw or Chickasaw nations, respectively. (Laws of the Choctaw Nation, 1894, page 55.)

These treaty provisions and the general right of the tribe to regulate their own internal and social affairs have been frequently passed upon by the Supreme Court of the United States.

The leading case is that of the Cherokee Nation *v.* Georgia (5 Pet., 1), in which Chief Justice Marshall, speaking for the court, said:

They (the Cherokees) have been uniformly treated as a State from the settlement of our country. The numerous treaties made with them by the United States recognized them as a people capable of maintaining the relations of peace and war, of being responsible in their political character for any violation of their engagements or for any aggression committed on the citizens of the United States by any individual of their community. Laws have been enacted in the spirit of these treaties. The acts of our Government plainly recognize the Cherokee Nation as a State and the courts are bound by these acts.

In Worcester *v.* Georgia (6 Pet., 515) the court says:

The Indian nations have always been considered as distinct political communities, retaining their original natural rights. The very term "nation," so generally applied to them, means "a people distinct from others." The Constitution by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with Indian nations, and consequently admits their rank among those powers who are capable of making treaties.

The next expression of the Supreme Court of the United States upon this subject is found in the case of Kagama *v.* United States (118 U. S., 375):

They (the Indian nations) are and have always been regarded as having a semi-independent position when they preserve their tribal relations, not as States, not as nations, not as possessed of the full attributes of sovereignty, but as a separate people, with the power of regulating their internal and social relations. \* \* \*

In the case of Talton *v.* Mayes (163 U. S., 376) all of these early cases are cited with full approval, and, in addition to setting out the above extracts verbatim, the court says:

By the treaties and statutes of the United States the right of the Cherokee Nation to exist as an autonomous body, subject always to the paramount authority of the United States, has been recognized. From this fact there has consequently considered to exist in that Nation the power to make laws, defining offenses, and providing trial and punishment of those who violated them, when the offenses are committed by one member of the tribe against one of its members, within the territory of the Nation.

(The court then sets out article 5 of the Cherokee treaty of 1835 and article 13 of the treaty of 1868, in which the Cherokee Nation was given the right of local self-government; and these provisions are similar and almost identical with the provisions contained in the Choctaw and Chickasaw treaties of 1830, 1855, and 1866, under which the Choctaw and Chickasaw nations were guaranteed the same right of local self-government.)

This right of self-government, in the determination of their own citizens, in the making of their citizenship rolls, and in everything pertaining to citizenship and enrollment, the Choctaws and Chickasaws have freely exercised, from the beginning of their tribal governments to 1896, the time when the United States Government assumed citizenship jurisdiction. The principal laws of the Choctaws and Chickasaws on this subject have been copied from the printed law books compiled in the years 1869, 1894, and 1899, and are hereto annexed, marked A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, and X.

These claimants rely and must rely upon a strained and forced construction of the treaties, and particularly upon a strained and forced construction of the word "descendants" contained in the treaty of 1830. A reasonable and natural construction gives them

nothing to stand upon. A reasonable and natural construction is that which the Indians intended the treaty should have. This is the construction which must be given.

As bearing upon the forced and strained constructions of certain treaty provisions, relied upon to support the present claim, it is well to remember the rule for the construction of Indian treaties laid down by the Supreme Court of the United States in Chief Justice Marshall's time, and adhered to always:

The leading case is that of *Worcester v. Georgia* (6 Peters, 515). Chief Justice Marshall, speaking for the court, says:

The language used in treaties with the Indians should never be construed to their prejudice. If words be made use of which are susceptible of a more extended meaning than their plain import, as connected with the tenor of the treaty, they should be considered as used only in the latter sense. \* \* \* How the words of the treaty were understood by this unlettered people, rather than their critical meaning, should form the rule of construction.

In the case of the *Kansas Indians* (5 Wall., 637) this language is adopted verbatim and applied to the case before the court, upon the question of the right of the State of Kansas to tax Indian lands.

In the case of the *Choctaw Nation v. The United States* (119 U. S., 1) the language above quoted is also adopted, and the court adds:

The recognized relation between the parties to this controversy, therefore, is that between a superior and an inferior, whereby the latter is placed under the care and control of the former, and which, while it authorizes the adoption on the part of the United States of such policy as their own public interests may dictate, recognizes on the other hand such an interpretation of their act and promises as justice and reason demand in all cases where power is exerted by the strong over those to whom they owe care and protection. The parties are not on an equal footing, and that inequality is to be made good by the superior justice which looks only to the substance of the right without regard to the technical rules formed under a system of municipal jurisprudence, formulating the rights and obligations of private persons, equally subject to the same law.

Finally, in the case of *Jones v. Meehan* (175 U. S., 1), the court cites, with full approval, all these former cases, and lays down the rule as follows:

In construing any treaty between the United States and an Indian tribe, it must always be borne in mind that the negotiations for the treaty are conducted, on the part of the United States, an enlightened and powerful nation, by representatives skilled in diplomacy, masters of a written language, understanding the modes and forms of creating the various technical estates known to their law, and assisted by an interpreter employed by themselves; that the treaty is drawn up by them and in their own language; that the Indians, on the other hand, are a weak and dependent people, who have no written language and are wholly unfamiliar with all the forms of legal expression, and whose only knowledge of the terms in which the treaty is formed is that imparted to them by the interpreter employed by the United States, and that the treaty must there be construed, not according to the technical meaning of the words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.

Can it be said, then, that the Indians intended any language contained in any treaty to mean that persons, such as these claimants are, should have rights of citizenship and rights of property, when they have acted in precisely the opposite direction by not according them tribal recognition and not placing their names on the tribal rolls; and can it be contended, with any degree of reason or force, that the Indians intended the controlling words in the treaties to include a class of persons, such as these who are and have been specifically excluded from tribal membership and tribal enrollment under their own laws, customs, and usages?

It appears to be remarkable that these persons are insisting that they be given privileges and beneficial legislation not asked or insisted upon by other citizenship claimants. Under the provisions of the existing law they can not be enrolled because they have never been recognized as citizens by the tribes and placed upon the tribal rolls. Those provisions of existing law, governing the jurisdiction of the Secretary, have been fatal to the claims of scores of thousands of applicants.

These applicants claim, as the sole and only basis for their right, that they are possessed of some degree of Indian blood. The scores of thousands of other applicants also so claim, and would be able to offer proof of the same character, equally as convincing. Why should those claimants, the children of a particular class of women (Choctaw and Chickasaw freedmen women), be given rights over the children of other negro women not within this class? And why should this privilege be confined to the negro women? Why should it not be extended to white women and all other women who are able or willing to swear that at some time they had illicit sexual intercourse with an Indian man and a child resulted? Then, why should it be limited to women, since it is alleged that the possession of Indian blood alone is the only necessary qualification? Why not extend the privilege to all persons wherever situated who claim to be possessed of Indian blood?

This only illustrates the absurdity of the contention of the present applicants and the dangers it would lead to. There are in all more than 50,000 applicants who have asserted rights of Choctaw and Chickasaw citizenship, alleging as the only qualification that they are possessed of Indian blood.

The policy of the Government, as the same appears in the various acts of Congress, has been to adhere to the tribal rolls and to not go beyond them; and if the Government once departs from this principle, which has been heretofore established and followed from the beginning to the present time, we stand appalled at what the result may be. The departure to any extent from this principle would upset the work of the Government for the past ten years, deprive the tribes of the protection of their own laws, customs, and usages, evidenced by their own tribal rolls, and place them in the way of an avalanche of fraud, perjury, and wrongdoing that would overwhelm and swallow them up, and before which they would stand helpless and wholly unable to protect themselves.

MANSFIELD, McMURRAY & CORNISH,  
*Counsel for the Choctaw Nation and the Chickasaw Nation.*

A.

*Laws of the Choctaw Nation, 1869. (P. 92.)*

AN ACT Granting rights and privileges to certain Cherokees.

§ Sec. 1. *Be it enacted by the general council of the Choctaw Nation assembled, That by authority vested in us in the seventeenth section of the general provisions in the constitution, we do grant and extend to John, Elizabeth J., and Richard Brown, of the Cherokee Nation, equal rights, privileges, immunities, and franchise held and enjoyed in the nation by the Choctaw citizens, with the exception of that forbidden in the constitution, and, furthermore, shall not participate in the annuities and schools.*

Proposed by R. M. Jones.

## B.

*Laws of the Choctaw Nation, 1869. (P. 96.)*

AN ACT Granting to new emigrants equal rights.

SEC. 11. *Be it enacted by the general council of the Choctaw Nation assembled*, That all the late and new emigrant Choctaws to this country shall have equal rights with the old settlers in participation of the schools in this nation.

Approved, October 14, 1847.

## C.

*Laws of the Choctaw Nation, 1869. (P. 125.)*

AN ACT Naturalizing certain persons therein named.

SEC. 11. *Be it enacted by the general council of the Choctaw Nation assembled*, That William Morrison, Thomas Morrison, Sarah Jane Morrison, Molly Redhead, Betsey Heart, Rebecca Heart, Philip Keggo, and infant child of Philip Keggo, Rosey Ayres, Betsey Ayres, Julian Ayres, Mary Ayres, Soponia Ayres, and Sally Ayres; and that they are hereby declared naturalized citizens of the Choctaw Nation, invested with all the rights, privileges, and immunities of naturalized citizens of the same.

Approved, November 9, 1853.

## D.

*Laws of the Choctaw Nation, 1869. (P. 153.)*

AN ACT Giving greater privileges to the Catawbas heretofore naturalized.

SEC. 18. *Be it enacted by the general council of the Choctaw Nation assembled*, That the Catawbas who were made citizens of this nation by a special act of Session XX, section 11, of 1853, be, and they are hereby, jointly entitled to a full participation in all funds arising under the treaty of 1855 between the Choctaws and the Government of the United States.

Approved, November 12, 1856.

## E.

*Laws of the Choctaw Nation, 1869. (P. 154.)*

AN ACT Entitled an act providing for and directing the manner of taking the census of the Choctaw Nation.

SEC. 1. *Be it enacted by the general council of the Choctaw Nation assembled*, That an enumeration of the inhabitants of this nation shall be taken on the first day of January, one thousand eight hundred and fifty-eight, and at the end of every six years thereafter.

SEC. 2. *Be it further enacted*, That the census or enumeration of the inhabitants of this nation shall be taken by the sheriffs of their respective counties.

SEC. 3. *Be it further enacted*, That each sheriff shall commence taking such enumeration on the first day of January in each year in which the census or enumeration is required to be taken, and shall make his return to the national secretary on or before the first day of April in every such year, which census shall be in the following form:

\* \* \* \* \*

SEC. 4. *Be it further enacted*, That the sheriff shall carry out an aggregate of each description of persons, acres of land in cultivation, production, and of animals raised, and the total of the whole.

SEC. 5. *Be it further enacted*, That the several sheriffs may transmit their returns of the census by mail to the national secretary. Such sheriff shall indorse on the outside of the cover of such return his name, office, and the word "census."

SEC. 6. *Be it further enacted*, That each sheriff shall receive, in full compensation for taking the census of his county, the following compensation to be paid out of the national treasury:

For all individuals contained in the census return of his county, under one thousand, three cents each; all over one thousand and not exceeding two thousand, two and one-half cents each; all over two thousand, and not exceeding three thousand, two cents each; all over three thousand and not exceeding four thousand, one cent each. And it shall be lawful for the national auditor to enter to the credit of any sheriff on his books the amount which shall be due him for taking the census, and upon demand to issue his warrant on the treasury therefor.

SEC. 7. *Be it further enacted*, That the census shall be taken by the actual inquiry of the sheriff at every dwelling house, or by personal inquiry of the head of the family in respective counties.

SEC. 8. *Be it further enacted*, It shall be the duty of the national secretary to notify all sheriffs who have failed to file in his office, on or before the first day of April in each year in which the census is required to be taken, the census of their counties, to file their census returns the first day of May then following.

SEC. 9. *Be it further enacted*, That every such delinquent sheriff who shall be so notified shall, if he file his census return after the first day of April and before the first day of May, be permitted to do so, but five dollars shall be deducted from the sum due him for taking the census by the national auditor when settlement is made.

SEC. 10. *Be it further enacted*, That it shall be the duty of the national secretary to make out a list of all delinquent sheriffs who have not filed their census returns by the first day of May and hand the same to the governor, who is hereby required to vacate the commission of such defaulting sheriffs, and the national secretary shall certify the same to the president of the board of police for such counties, who shall order an election to supply the vacancy, according to law.

SEC. 11. *Be it further enacted*, That the sheriff of each county shall, after the census return is completed by him, make out and file a correct copy of the same in the probate clerk's office of his county, for the use of said county, and shall receive for such copy five dollars, to be paid out of the county treasury upon an order of the board of police of such county.

SEC. 12. *Be it further enacted*, That all acts or parts of acts heretofore passed, coming in conflict in any manner with the provisions of this act, be and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, November 4, 1857.

## F.

*Laws of the Choctaw Nation, 1869. (P. 178.)*

AN ACT Entitled an act conferring citizenship upon certain Beluksha Indians therein named.

SEC. 1. *Be it enacted by the general council of the Choctaw Nation*, That the following-named individuals, with their families, of the Beluksha clan of people, viz: Oakchattubbee, and seven in his family; Coochahtubbe, and four in his family; Sockayubbee; Chuffahtiyubbee, and one in the family; Oaklachukmubbee, and one in the family; Chakta, and six in the family; Watunla, and seven in the family; Ibbafokhatubbee and three in the family; Tuckchetubbee, and four in the family; Washasha, and five in the family; Toolapasa, and one in the family; Hoyosipokna, and five in the family; Apernik, and two in the family; James, and two in the family; Showita, and two in the family; Atochubbee, and two in the family; Yoko, and two in the family; Polohoka, and six in the family; Anooksita, and five in his family; and Atukchia, and three in his family, in all ninety-four souls, be, and the same are hereby, admitted to all the rights, privileges, immunities, and franchises as Choctaw citizens, in as full a manner as it is in the power of the general council of the Choctaw Nation to confer the same.

Approved, 12th October, 1858.

S. Doc. 298, 59-2—2

## G.

*Laws of the Choctaw Nation, 1869. (P. 465.)*

AN ACT Amendatory to an act entitled "An act providing for and directing the manner of taking the census of the Choctaw Nation," approved November 14, 1857.

SEC. 1. *Be it enacted by the general council of the Choctaw Nation assembled*, That an act entitled "An act providing for and directing the manner of taking the census of the Choctaw Nation," approved November 4th, 1857, be, and the same are, amended so as to read thus: That in section 10th, in 4th line, strike out the word "governor" and insert in lieu thereof the words "principal chief;" and also to strike out the words "the president of the board of police for such counties, who shall order an election to supply the vacancy according to law," and insert the following words: "The principal chief of the nation, who shall fill the vacancy for all such delinquent sheriffs."

SEC. 2. *And be it further enacted*, That in section 11, in the 6th line, the words "board of police" be stricken out and insert "county judge," and also to strike out the word "slave form" prescribed in the act and insert in lieu thereof "freedmen from States and other nations."

SEC. 3. *And be it further enacted*, That the principal chief is hereby instructed to issue his proclamation to the effect that the sheriff of each and every county of this nation shall commence taking the census of the nation on the first Monday of December, 1867, and shall make his return on or before the first day of February next, 1868, according to the form prescribed in the act approved November 4th, 1857: *Provided, however*, That this act shall not be construed as annulling the third section of an act approved November 4th, 1857, after the first day of February, A. D. 1868.

SEC. 4. *And be it further enacted*, That this act be in force from and after its passage. Approved, November 5, 1867.

## H.

*Laws of the Choctaw Nation, 1894. (Pp. 227 and 228.)*

[Choctaw tribunal]for citizenship.]

*Be it enacted by the general council of the Choctaw Nation assembled*: Any person who is not now recognized as a citizen of this nation, or of Choctaw descent, and claiming to be a citizen, or of Choctaw descent, shall petition to the general council, during the regular session thereof, for the rights and privileges of citizenship of the Choctaw Nation. Such petitioner shall prove his or her blood, or other means by which they claim citizenship, by not less than two good, respectable Choctaws, disinterested persons, before a proper committee, or the chairman thereof, and the chairman or secretary of the committee shall have power to administer any and all oaths that may be necessary in conducting the investigation. The committee aforesaid to be appointed by the general council, and to report to the body, by act or resolution, or otherwise, in reference to the petition or petitions of the person or persons claiming to be citizens, or of Choctaw blood or descent, and in the advent of the adoption of such report of the committee, then such person or persons shall thereafter be deemed and considered to be bona fide citizens of the Choctaw Nation. And any and all persons who make the attempt, under the provisions of this act, to establish their rights and fail in establishing the same, shall be reported immediately to the principal chief, by the president of the senate, and the principal chief shall forthwith proceed to remove them as other intruders.

2. It is hereby made the duty of the sheriff of each county in this nation to ascertain the number and names of persons or parties in their respective counties who claim Choctaw rights, by blood or otherwise, and who have never established the same in accordance with the laws of the nation, and report the same to the principal chief immediately. Every person living in this nation and claiming to be a citizen by blood or otherwise, and who shall fail to comply with the provisions of this act, after having been duly notified thereof by the sheriff, or other authorized person, shall be deemed and considered an intruder, and shall be removed beyond the limits of the nation forthwith by the principal chief.

3. All expenses incurred on the part of the officers of this nation in carrying out the provisions of this act, be and the same shall be paid by the parties wishing to establish citizenship; provided, however, that the cost shall be made out by the principal chief and presented to the committee for collection previous to said committee's proceeding to act upon the case before them; said cost, collected under the provisions of this act, to be, by the chairman of the committee, paid into the national treasury for national purposes.

Approved Oct. 30, 1888.

## I.

*Laws of the Choctaw Nation, 1894 (pp. 266 and 267).*

AN ACT Entitled an act defining the quantity of blood necessary for citizenship.

SECTION 1. *Be it enacted by the general council of the Choctaw Nation assembled*, That hereafter all persons noncitizens of the Choctaw Nation making, or presenting to the general council, petitions for rights of Choctaws in this nation shall be required to have one-eighth Choctaw blood, and shall be required to prove the same by competent testimony.

SEC. 2. *Be it enacted*, That all applicants for rights in this nation shall prove their mixture of blood to be white and Indian.

SEC. 3. *Be it further enacted*, That no persons convicted of any felony or high crime shall be admitted to the rights of citizenship within this nation.

SEC. 4. *Be it further enacted*, That this act shall not be construed to effect persons within the limits of the Choctaw Nation now enjoying the rights of citizenship.

SEC. 5. *Be it further enacted*, That this act take effect and be in force from and after its passage.

## J.

*Laws of the Choctaw Nation, 1894 (p. 285).*

AN ACT Requiring the manner of application for citizenship.

*Be it enacted by the general council of the Choctaw Nation assembled*, That hereafter all claimants for citizenship in the Choctaw Nation shall pay into the national treasury the sum of one hundred dollars for each person asked to be adopted, and that no petition shall be entertained by the committee for citizenship unless accompanied by the national treasurer's receipt as above required, and that this act shall take effect and be in force from and after its passage.

Approved, November 6, 1888.

B. F. SMALLWOOD, P. C. C. N.

## K.

*Laws of the Choctaw Nation, 1894. (P. 285.)*

AN ACT Requiring the manner of application for citizenship.

*Be it enacted by the general council of the Choctaw Nation assembled*, That hereafter all claimants for citizenship in the Choctaw Nation shall pay into the national treasury the sum of one hundred dollars for each person asked to be adopted, and that no petition shall be entertained by the committee for citizenship unless accompanied by the national treasurer's receipt as above required, and that this act shall take effect and be in force from and after its passage.

Approved Nov. 6, 1888.

B. F. SMALLWOOD, P. C. C. N.

## L.

*Laws of the Choctaw Nation, 1894. (P. 315.)*

AN ACT Recognizing the citizenship of certain Mississippi Choctaws.

*Be it enacted by the general council of the Choctaw Nation assembled*, That the following Mississippi Choctaws, late arrivals, to wit: 1, Cornelius Hickman; 2, Eliza Ann Hickman; 3, Jeff Hickman; 4, Presley Isham; 5, Ellen Isham; 6, William Isham; 7, Nat Sakki; 8, Dixon Ripley; 9, Taylor Bell; 10, Alex. Sakki; 11, Jane Sakki; 12, Lee Nobbe; 13, Henson Haltenstyle; 14, Phoebe Haltenstyle; 15, Milton Haltenstyle; 16, Jesse Haltenstyle; 17, Fall Haltenstyle, are hereby recognized as citizens of this nation and are entitled to all the rights, privileges, and immunities of other citizens of this nation; and this act take effect and be in force from and after its passage.

Approved April 9, 1891.

W. B. JONES, P. C. C. N.

## M.

*Laws of the Choctaw Nation, 1894 (p. 320).*

AN ACT Admitting certain Mississippi Indians to citizenship.

*Be it enacted by the general council of the Choctaw Nation assembled,* That Mrs. Anna Boyd, Mrs. Lenas Southerland, Mrs. Ozie Travis, Mrs. M. William, Choctaws lately from the State of Mississippi—and full sister of C. A. Bilbo, who has been heretofore admitted—and their descendants be and they are hereby declared citizens of the Choctaw Nation.

*Be it further enacted,* That this act take effect and be in force from and after its passage.

W. N. JONES, P. C. C. N.

## N.

*Laws of the Choctaw Nation, 1894 (p. 323).*

AN ACT Admitting certain Choctaws from Mississippi to citizenship in the Choctaw Nation.

*Be it enacted by the general council of the Choctaw Nation assembled,* That Joe Willis and his children, Nancy Selan, and Frank Willis, and his sister Liney Willis, and Billy Willis and his children Lee and Serena Willis, Thompson Barrett, James Sakki and Thomas Sakki, and Wallace Sam and his wife Fannie Sam and their children Milley, Jeruzy, Luke, Silley, Lizzie, Liza, and Era Sam, all having just come from the old nation in Mississippi, are hereby admitted to all the rights and privileges of citizenship in the Choctaw Nation, and this act shall take effect and be in force from and after its passage.

Approved, April 8, 1891.

W. N. JONES, P. C. C. N.

## O.

*Laws of the Choctaw Nation, 1894 p. (329).*

AN ACT Conferring citizenship on Henry Lewis, Mississippi Choctaw.

*Be it enacted by the general council of the Choctaw Nation assembled,* That one Henry Lewis, late of the State of Mississippi, is hereby recognized as a citizen of this nation, and entitled to all the rights, privileges, and immunities of a citizen of this nation, and this act shall take effect and be in force from and after its passage.

Approved, October 27, 1891.

W. N. JONES, P. C. C. N.

## P.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (p. 206).*

AN ACT To create a committee to try all cases of citizenship.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation,* That from and after the passage of this act that there shall be appointed three members from the senate and three from the house of representatives to try all claims for citizenship that are brought before the nation whose rights to such are disputed, and all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 2. *Be it further enacted,* That the said committee shall have full power to appoint a chairman, clerk, and interpreter, if necessary, and shall have the right to compel the attendance of witnesses, and to perform any other duty that may be necessary to give all cases that come before them a fair and impartial investigation, and shall report their proceedings to the legislature at least three days before its adjournment for their approval or disapproval.

SEC. 3. *Be it further enacted,* That after the legislature has passed upon the actions of the committee, and either party is dissatisfied with their decision, they will have the

right to appeal the case to the supreme court of the Chickasaw Nation for final decision, and the decision of the supreme court shall be final in all cases, and that this act take effect from and after its passage.

Approved, November 13, 1888.

WM. L. BYRD, Governor.

## Q.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (pp. 208, 209, 210).*

Whereas there are a great many people now living in the Chickasaw Nation that claim to be Choctaws, but have failed to furnish proof to substantiate the fact, and when questioned by the officers claim that their cases are before the Choctaw court of claims for investigation:

And whereas the Chickasaw people are satisfied that a great many of such claims are fraudulent, if not all of them, and believe that it is a plan or scheme to evade the Chickasaw permit law and occupy the lands unlawfully;

And whereas there are many noncitizens improving farms in the Chickasaw Nation that claim to be employed by Choctaws living in the Choctaw Nation, although a great many of such claims are doubted, and it is believed that in many cases that it is a scheme to occupy the public domain of the Chickasaw Nation for nothing and destroy the timber, range, etc., and give that as an excuse, knowing the Choctaws have a right to the lands;

And whereas this unlawful fencing up of the public domain is creating a great deal of dissatisfaction among the Chickasaw people, as in a few years more there will not be a vacant spot of land left for the rising generation; therefore

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation,* That the governor be, and he is hereby, directed to issue his proclamation notifying all persons living in the Chickasaw Nation claiming citizenship of the Choctaw Nation, whose rights have been disputed to appear before the committee on citizenship at Tishomingo City, Chickasaw Nation, at its next meeting, with sufficient proof of their citizenship, or they will be removed beyond the limits of the Chickasaw Nation, and their improvements shall escheat to the nation and be sold by the sheriff or constable of the county in which the claimant resided to the highest bidder for cash or national scrip, by first giving fifteen days' notice in at least three public places in the county where the sale is to take place, and all monies arising from this source shall be placed in the national treasury for national purposes.

SEC. 2. *Be it further enacted,* That the governor is hereby directed to give due notice, either by publication or otherwise, to all persons living in the Choctaw Nation, owning improvements in the Chickasaw Nation, to have the same recorded in the office of the county clerks in the county in which the improvements are situated, within six months after the passage of this act, and must produce a certificate from the national secretary of the Choctaw Nation, with the seal attached, that he is a resident of the said nation and is entitled to citizen's rights, before the county clerk shall place his or their places, as the case may be, on record, and any person residing in the Choctaw Nation and owning places in the Chickasaw Nation failing or refusing to comply with the provisions of this act, his or their improvements shall be dealt with as provided for in the first section of this act.

SEC. 3. *Be it further enacted,* That it shall be the duty of the sheriffs and constables, permit collectors, and permit inspectors to report all persons claiming Choctaw citizenship, who having failed to prove their rights to such, and all Choctaws residing in the Choctaw Nation, and owning places in the Chickasaw Nation, that fail to comply with the provisions of this act, to the governor, who will have them dealt with as the law directs, and that this act take effect and be in force from and after its passage.

Approved Nov. 13, 1888.

WM. L. BYRD, Governor.

## R.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (pp. 247, 248, 249.)*

AN ACT To create a committee to try all cases of citizenship.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation,* That there shall be elected by joint ballot of the legislature four persons to try all cases or claims for citizenship that are brought before the nation whose rights to such are disputed.

SEC. 2. *Be it further enacted*, That the said persons so elected shall be under oath as other officers, and shall have full power to appoint a chairman, clerk, interpreter, and sergeants (if necessary), and said persons so elected by joint ballot of the legislature shall be known as the citizenship committee, and said committee shall have power to compel the attendance of witnesses by summons or otherwise, and to perform any other duty that may be necessary to give all cases that come before them a fair and impartial investigation, and shall report their proceedings to the governor, to be by him laid before the legislature, and after said committee makes their report then their term of office will expire.

SEC. 3. *Be it further enacted*, That after the legislature has passed upon the action of the committee and either party feeling dissatisfied with the action of the committee shall have the right to appeal the case to the supreme court of the Chickasaw Nation for a final decision, and the decision of the supreme court shall be final in all such cases.

SEC. 4. *Be it further enacted*, That the committee shall hold its session at Tishomingo City, in the capitol building, commencing on the second Monday in December, and not to hold exceeding three months.

SEC. 5. *Be it further enacted*, That the said committee shall have power to appoint five sergeants, one from each county, to summons all persons and witnesses coming under this act, from their respective counties, and one to wait upon the committee, and each member of the committee, clerk, interpreter, and sergeants shall each receive the sum of four dollars per day while actually engaged in such work.

SEC. 6. *Be it further enacted*, That the chairman shall have power to administer all necessary oaths that may be necessary to carry into effect the provisions of this act, and the attorney-general of the Chickasaw Nation shall represent the nation before said committee, and all witnesses summoned before the committee in behalf of the nation shall receive the same pay and in like manner as witnesses summoned before the district court of the Chickasaw Nation.

SEC. 7. *Be it further enacted*, That the chairman of the committee shall issue certificates, attested by the clerk of the committee, to all persons entitled to pay under this act (except witnesses as aforesaid) from the national treasury of this nation, and upon presentation of the same to the auditor, he (auditor) shall issue his warrant on the national treasurer in favor of the person named in said certificate and for the amount therein named, and the treasurer shall pay the same out of any funds in his hands, not otherwise appropriated, or which may come into his hands hereafter, and that the sum of ten dollars is hereby appropriated to furnish wood for the use and benefit of the said citizenship committee.

SEC. 8. *Be it further enacted*, That all claimants for citizenship shall appear before the committee within three months after notification of the same or they shall be debarred from trying to establish their rights hereafter, except those that can produce sufficient evidence or lawful reason for not appearing before the committee, and all persons as aforesaid shall be reported to the governor and through him to the Indian agent for their removal, and the governor shall notify all persons coming under this act at least fifteen days before the meeting of said committee, by publication or otherwise.

Approved, Nov. 14, 1889.

WM. L. BYRD, Governor.

S.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (pp. 262, 263).*

Whereas the question of permitted noncitizens intruders, both white and negroes, has been brought to the attention of the committee of Congress; and,

Whereas this class of population very greatly exceeds the Chickasaw people by many thousand, that it becomes necessary to preserve the government of the Chickasaw Nation that a census should be taken of the Chickasaw people, adopted citizens, by marriage, under treaty stipulations, and all noncitizens and negroes, the former slaves of the Chickasaw people, and all negroes from the States now residing in the Chickasaw Nation.

SECTION 1. *Now, therefore, be it enacted by the legislature of the Chickasaw Nation*, That the governor is hereby directed to appoint and commission four competent commissioners in Pickens County, two in Panola County, two in Tishomingo County, and three in Pontotoc County, whose duty shall be to take a complete census of all Chickasaws, age and sex; also the former slaves of the Chickasaws and their bodily descendants, and other freemen living in this nation; and all noncitizens, white, of the United States, living under permits, intruders, and Choctaws; and before entering on their duties shall take the oath of office that they will faithfully discharge their duties as provided for in this act.

SEC. 2. *Be it further enacted*, That the census commissioners shall take the census and report to the governor before the first day of September, 1890. That when the census commissioners have taken the census of this nation, they shall meet at Tishomingo, capital of the nation, and compare their rolls, and if any person or persons be registered more than once, shall correct the same, and make out a complete roll and file the same in the national secretary's office for the use of the nation.

SEC. 3. *Be it further enacted*, That the census commissioners shall be entitled to ten cents for each name taken and registered, to be certified to by the commissioner taking the same after the roll has been compared and corrected, to the governor, who shall order the same to be paid and the national auditor shall issue his warrant on the national treasurer, who shall pay the same out of any money in the treasury not otherwise appropriated.

SEC. 4. *Be it further enacted*, That the national secretary shall furnish the necessary print, blank rolls, and stationery that's necessary for the taking of said census, and that the sum of one hundred dollars is hereby appropriated, or so much thereof as may be necessary, to procure said blanks and stationery, and upon his certificate of the amount used to the auditor of public accounts shall issue his warrant on the national treasurer, who shall pay the same.

SEC. 5. *Be it further enacted*, That there shall be one roll for the Chickasaws, one roll for the negroes and their bodily descendants that formerly belonged to the Chickasaw people, one roll for permitted noncitizens, one roll for intruders, and one roll for State negroes.

SEC. 6. *Be it further enacted*, That when any person or persons shall refuse to give his name or her name, or that of his or her family, to the census commissioners (they shall take their name or names) and report the same to the governor in writing, who shall lay the same before the next legislature for their information and action thereon. And this act take effect from and after its passage.

Approved, July 2, 1890.

WM. L. BYRD, Governor.

T.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899.*

REPORT OF THE COMMITTEE ON CLAIMS TO CITIZENSHIP.

SPECIAL COMMITTEE ROOM,  
October 22, 1885.

*Hon. Legislature of the Chickasaw Nation:*

We, the committee appointed by the senate and house of representatives to investigate all cases of claimants to citizenship in the Chickasaw Nation, respectfully report that we have had under investigation the following cases: Joe Self and wife, Wm. Donald et al., Mrs. E. Dillard, James Blassingame, Charles Palmer, and Fred Evans, and from the nature of the evidence submitted in each case we failed to find sufficient proof to enable the committee to declare either of said claimants entitled to Chickasaw rights; but found ample proof that neither of said claimants has any right whatever as citizens of the Chickasaw (Nation).

For further information as to the disposition of each case you will find by reference to committee record. We would further state that there is a number of cases that could not be tried at this term of the legislature. All of which is respectfully submitted.

GEORGE WILSON, Chairman Committee.

Attest:

THOS. W. JOHNSON, Clerk Committee.

Approved, October 23, 1885.

JONAS WOLF, Governor.

U.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899.*

AN ACT Repealing an act granting citizenship to the heirs of W. H. Bourland.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That the rights of citizenship granted to the following-named children and nephews of W. H. Bourland, Amanda, Matilda, Garduria, and Run Hannah, approved October 7, 1876, the same is hereby repealed and annulled.

SEC. 2. *Be it further enacted*, That the governor is hereby directed and required to remove said parties and their descendents beyond the limits of this nation, and that this act take effect from and after its passage.

Passed the Senate October 11, 1883.

JONAS WOLF, *President of the Senate.*

Attest:

Jo BROWN, *Secretary Senate.*

Passed the house of representatives, October 13, 1883.

L. FRAZIER, *Speaker.*

Attest:

A. L. MCKINNEY, *Clerk.*

The above act became a law by reason of limitation.

THOS. W. JOHNSON,  
*National Secretary, C. N.*

V.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (pp. 312, 313, 314, 315).*

AN ACT To create a citizenship committee for the Chickasaw Nation, and defining its duties and powers.

Whereas the question of Chickasaw citizenship has become a matter of much importance within the limits of the Chickasaw Nation; and

Whereas some definite action in relation thereto should be taken that will insure some final results, and especially in regard to two great families of claimants known as the Colbert, Moore, and Alabama families, and such other families, whose rights heretofore have not been passed upon by some Chickasaw authority: Now, therefore,

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That the present session of the legislature shall elect four citizens of this nation who are well versed in the laws, constitutions, and treaties of said nation, and persons of mature age and good reputation as business men, as a citizenship committee, which committee shall have the right to elect one sergeant-at-arms and one clerk and one interpreter, all of whom shall constitute the citizenship committee, and the attorney-general of said Chickasaw Nation shall cooperate with said committee and defend the rights of the Chickasaw Nation, and to see that no person is admitted to citizenship fraudulently, and said attorney-general shall be with said committee at all times during its sitting, and be upon the same footing as members thereof relative to compensation.

SEC. 2. *Be it further enacted*, That the said committee, their clerk, interpreter, and sergeant-at-arms shall, before entering upon their duties, take the oath of office prescribed in the constitution of the Chickasaw Nation, and shall hold in session not longer than sixty days, and each member of said committee, their clerk, interpreter, and sergeant-at-arms shall receive the sum of four dollars per diem while actually engaged on said committee business, and said committee shall sit at Tishomingo on the first Monday in December, 1893, and proceed to the discharge of their duties under this act; said committee shall have power to summons all witnesses in behalf of the Chickasaw Nation, and shall pay the same two dollars per day and ten cents per mile traveled one way only, and all claimants shall furnish their own witnesses and pay the same at their own expense, and all cases brought before said committee shall be decided one way or the other before said committee concludes the work; and no case shall be left undecided. All affidavits and depositions will be acceptable, corroborating testimony, but the evidence of good, reliable Chickasaws by blood will be necessary to justify the committee to confer Chickasaw rights upon any claimant or claimants, and any claimant unable to furnish such evidence shall be decided against in every such case.

*Be it further enacted*, That this act shall only apply to the Colbert Moore family of claimants and the so-called Alabamas family of claimants, and such other claimants, whose rights or claims of citizenship have not been heretofore decided upon by some Chickasaw authority; and after said committee shall have completed their work under this act, or the time herein allowed has expired, on the last days thereof said committee shall bring to a close its labor, by passing on all claims before it undecided, with whatever evidence there be, and make out a full and complete itemized report of their proceedings and decisions, with costs or expenses in full accrued under this act, and refer the same to the legislature, which may be a special session, or at the next regular term, being optionary with the governor. Said report shall show those

claimants rejected and those allowed, and all those rejected or decided against by said committee shall stand rejected forever hereafter; and all of those allowed by said committee and reported to the legislature, accompanied with the evidence in each case, shall be approved by the legislature before the same shall be of any validity in law, and if rejected by the legislature, then in that case they shall stand rejected forever hereafter.

SEC. 4. *Be it further enacted*, That no persons will be eligible to serve on said committee in either capacity (save the attorney-general) who is holding any other office at the time, unless the former office is first resigned; and at the adjournment of said committee the chairman thereof (who shall be elected by said committee at the time of organization) shall issue to each member of said committee, the clerk, interpreter, sergeant-at-arms, and attorney-general a certificate of their time, with amount due each, attested by the clerk thereof, upon the presentation of which the auditor shall issue his warrant therefor, and the national treasurer shall pay the same out of any funds in his hands, or which may come into his hands, not otherwise appropriated; and all their expenses of said committee for witnesses as by this act required, the same shall be appropriated by the succeeding legislature as per report of said committee; and the necessary amount to pay off the committee, attorney, sergeant, clerk, and interpreter be, and the same is hereby, appropriated out of the national treasury, and immediately after the passage of this act the governor shall send a certified copy or copies of these acts to as many as three different newspapers within the nation, and have the same published from the contingent fund for his office in every issue of said paper, up to the first Monday in December, 1893, after which all claimants who fail to come forward before said committee and establish or have their rights tried and decided on shall stand debarred forever thereafter (any excuses to the contrary notwithstanding), and all claimants may be represented by counsel or themselves; in either case said committee shall give them a fair and impartial trial and hearing according to the nature of their evidence, and any claimant which may be allowed by said committee and approved by the legislature will not be entitled to any back annuities, but will participate in all future rights of Chickasaw citizenship according to the existing laws of said Chickasaw Nation, and all persons claiming Chickasaw citizenship by intermarriage whose rights now stand notoriously disputed, and whose marriages were not strictly in compliance with the laws of said Chickasaw Nation at the time of said marriage, should be decided against in all such cases, provided this section shall not be deemed to prevent the parties from remarrying in compliance with Chickasaw laws, and thereby entitle themselves to full citizenship under the laws of said Chickasaw Nation; and their issue previous to the last-named marriage will not be in any way affected, either parent being of Chickasaw blood, in making their report to the legislature shall classify their cases in the manner in which they shall exist; that is to say, those by intermarriage, those by adoption, those by blood, and hereafter all marriages of citizens of this nation with United States citizens not in compliance with the laws of this nation will not confer citizenship upon the United States citizen; and this act takes effect from and after its passage.

Amended by the house by inserting the following: "The present session of the legislature shall elect four competent persons;" also by striking out "the attorney-general shall receive four dollars per diem;" amended further "that the committee shall have jurisdiction only in the cases of the Colbert, Moore, and Alabama families, and the parties who have been before like committees and never received a decision."

Approved, Oct. 14, 1893.

JONAS WOLFE, *Governor.*

W.

*Constitution, treaties, and laws of the Chickasaw Nation, 1899 (pp. 332, 333, 334).*

AN ACT To establish a court of claims.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That there shall be established in the Chickasaw Nation a court to be called the court of claims. Said court shall consist of the judges, to be appointed by the governor, and who shall be men of mature age, not under forty years of age, and said court shall try all cases of citizenship of persons claiming Chickasaw rights, whose rights are disputed.

SEC. 2. *Be it further enacted*, That the judges of said court shall open and hold their court at Tishomingo City, beginning on the first Monday in February and the first Monday in August, 1895, and not to hold longer than twenty days in each term.

SEC. 3. *Be it further enacted*, That the judges of said court shall at their first meeting elect a chairman of said court, clerk, sergeant-at-arms, and interpreter, all of whom shall receive four dollars per day for their services while actually engaged in holding court, to be paid out of the national treasury, out of any money not otherwise appropriated.

SEC. 4. *Be it further enacted*, That the chairman of said court shall issue a certificate to the judges, clerk, sergeant-at-arms, and interpreter, certifying the number of days they served, which certificate, when presented to the auditor, who shall issue his warrant for the same, and the said warrant shall be paid by the treasurer agreeable to the third section of this act.

SEC. 5. *Be it further enacted*, That all persons claiming Chickasaw rights shall be required to prove by at least two citizens of blood, Choctaw or Chickasaw, their right as citizens, and by deposition duly authenticated.

SEC. 6. *Be it further enacted*, That the chairman of said court shall be authorized to administer the oath to all witnesses in said court.

SEC. 7. *Be it further enacted*, That the chairman of said court shall make a complete transcript copy of the proceedings of said court in all cases to be submitted to the legislature for their approval or rejection, and their decision shall be final.

SEC. 8. *Be it further enacted*, That all claimants shall be required to furnish their own witnesses and shall deposit with the chairman of the court fifty dollars to help defray the expenses of the court and who shall pay the same over to the treasurer of the Chickasaw Nation.

SEC. 9. *Be it further enacted*, That the district attorney shall represent the nation in all cases; and the commissions of the judges, clerk, sergeant-at-arms, and interpreter shall expire at the adjournment of this court, August, 1895. And all acts coming in conflict with this act are hereby repealed, and this act take effect from and after its passage.

Approved Dec. 22, 1894.

P. S. MOSELY, *Governor*.

X.

*Constitution, Treaties, and Laws of the Chickasaw Nation, 1899 (pp. 341, 342).*

Whereas Seana Carney, Burney Carney, Andrew Carney, Emeline Carney, Annie Carney, and Sloan Johnson, family of Ruben Carney and Selina Thorn, Gilsey Collins, Neda Thorn, Maggie Thorn, Forrester Ish ten chea, Calvin Pah na cha, Robinson Pah na cha, Jollus Harkins, Ecy Harkins, citizens of the Chickasaw Nation by blood, and residence of Pontotoc County, were unlawfully withheld from the exercise of their Chickasaw rights, privileges, and immunities by the captains in charge of the late registration of the Chickasaw people for the payment of the late annuity, which money was derived from the final sale and relinquishment of a portion of the "leased district," which belonged to all the Chickasaws alike, notwithstanding said people have been in the Chickasaw country all of their lives, recognized as Chickasaw citizens all the while, and they have enjoyed all the privileges and rights as such, and notwithstanding said annuity captains had no lawful authority to withhold any of their privileges as such citizens; Now, therefore,

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That the persons and families mentioned in the above preamble of this act be, and they are hereby, authorized and empowered henceforth to exercise all the rights, privileges, and immunities to which they are entitled as Chickasaws by blood and intermarriage in all respects as such other citizens of the Chickasaw Nation. And this act take effect and be in full force from and after its passage.

Amended by the House by striking out "Kilo Brown, Syke and Sippy," and the word "inter-marriage."

Approved Oct. 28, 1895.

P. S. MOSELY, *Governor*.