

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 470.

THE CHICKASAW NATION, APPELLANT,

vs.

JESSE L. TROOP.

APPEAL FROM THE UNITED STATES COURT IN THE INDIAN
TERRITORY.

FILED OCTOBER 28, 1898.

(17,055.)

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INDEX.

	Original.	Print.
Rules in citizenship cases.....	1	1
Application to Dawes commission	7	3
Answer to Dawes commission.....	8	3
Notice of appeal.....	10	5
Petition for appeal to United States district court.....	11	5
Citation.....	13	6
Plea to jurisdiction.....	14	7
Report of master in chancery	15	8
Order to substitute pleadings	17	9
Opinion of court (Townsend, J.).....	18	9
Judgment of United States district court.....	26	14
Motion for a new trial.....	28	15
Order overruling plea to jurisdiction and motion for new trial.....	29	15
Order of substitution.....	30	16
Application for appeal to United States Supreme Court.....	30	16
Assignment of errors.....	31	16
Bond on appeal.....	34	18
Order granting appeal and ninety days to file bill of exceptions....	35	19
Order granting extension of time for return day.....	35	19
Original citation.....	36	20

	Original.	Print.
Affidavit for substitution.....	37	20
Bill of exceptions.....	38	21
Exceptions to master's report.....	39	22
Testimony of W. H. Bourland.....	40	22
Marriage license.....	40	23
Certificate of marriage.....	41	23
Testimony of Martha A. Troop.....	42	24
Jesse Troop.....	43	25
Chilion Riley.....	45	26
Objections of defendant.....	46	26
Judge's certificate to bill of exceptions.....	47	27
Clerk's certificate.....	48	27

1-3 Be it remembered that at the stated term of the United States court in the Indian Territory, southern district, at Ardmore, begun and holden at Ardmore on the 5th day of October, 1896, and on the 40th day of said term, to wit, the 8th day of December, 1896—present and presiding, the Hon. Constantine B. Kilgore, judge—the following, among other, proceedings were had, to wit:

In re cases of citizenship appeal.

It is ordered by the court that the following rules be, and the same are hereby, adopted as rules of practice and procedure in appeals to this court from the decision of the tribal authorities or the United States commission to the five civilized tribes, appointed to treat with said tribes, which are provided for by act of Congress upon questions arising upon applications made by persons to be enrolled as citizens of the respective tribes of Indians.

The party desiring to appeal from the decision of any such tribunal or commission may, within sixty days after notice of the rendition of the decision thereon, file with the clerk of this court an application or petition, duly verified, setting out the style of such case; that the same has been decided adversely to the party filing the application for appeal, and praying that the said commission or tribunal be notified of said appeal and ordered to forward the papers to the clerk of this court, together with a duly certified transcript of all judgments and entries made and rendered by said tribunal or commission in said cause; whereupon the clerk shall issue a notice to said tribunal or commission notifying that an appeal has been taken, and to immediately forward all papers in said cause, together with a duly certified copy of all judgments and entries made and entered by said tribunal, to the clerk of this court.

The application for citizenship, amendments thereto and answer thereto, and amendments thereto, shall constitute the pleadings of all of the parties in this court, and no pleadings shall be held invalid for want of form. In accordance with the practice before the commission, any party aggrieved may present and prosecute an appeal herein for the use and benefit of the entire family, including the wife, lineal descendants, and collateral kindred, to the United States court for the southern district of the Indian Territory. Where one or more of the applicants for citizenship reside in the southern district of the Indian Territory, the appeal shall be taken to the United States court for the southern district, and if all the applicants are non-residents of the Indian Territory, then said appeal shall be taken to the United States court held in the division in this Territory wherein the nation of the tribe to which said applicants claim to belong is situated. The clerk of the court shall file said papers and docket the case in a separate book to be kept for that purpose, and known as the "Citizenship docket," and the clerk shall also keep a separate record book, in which shall be recorded the proceedings of this court in reference to citizenship cases, to be known as the "Citizenship rec-

ord." The party desiring to appeal from any decision rendered by an Indian tribunal or the commission shall, at the time he files his notice of appeal with the clerk of the United States court, also lodge with said clerk evidence of the fact that notice of some kind has been served upon the opposite party, or his attorney in the case, that said application would be made. The notice need not be formal, but shall be required to be only so drawn as to inform the opposite party of the intention to appeal from said decision. After the expiration of the ten days after such service, waiver of appearance or the filing of such papers with the clerk, where notice of appeal is given before the commission, the case shall stand ready for trial, and the court shall be deemed open at all times for the purpose of hearing and determining such cases, and either party to said action may introduce such other evidence as they may have in support of their cause of action or defense, regardless of whether the same was presented to the commission or not.

The court may, in its discretion or when agreed to by the parties, refer all papers in these cases to a special master, with instructions to take the testimony and report upon the law and facts presented in the record, pleadings, and service. Such reports shall be made at the earliest time practicable, not exceeding thirty days from the time each cause is referred to said master, and either party shall have ten days after the report of said master is filed to file exceptions thereto, both as to questions of law and fact, and after five days from the filing of the exceptions to said report the cause shall stand ready for trial before this court on the exceptions presented to the master's report and may be taken up and finally passed upon by the court.

The special master shall be allowed as compensation \$5 for each cause heard, provided not more than one day's time is devoted to said cause, and in case more than one day's time is consumed he shall have \$10 and no more as his compensation for hearing the same.

Should the United States commission or the tribunal created by the tribal authorities refuse to permit any party to a proceeding to establish citizenship and desiring to appeal from the decision of such tribunal or commission to withdraw the original papers for the purpose of filing the same in this court, such party may, upon petition to this court setting forth the fact of such refusal, obtain an order of the court commanding such commission or tribunal or the clerk or the secretary thereof to surrender such papers and a transcript of the entries made therein, as heretofore provided.

Appeals in citizenship cases must be taken only at Ardmore, and for the purpose of hearing and determining such cases the court at that place shall be deemed open at all times.

Any case when submitted as required by these rules may, in the discretion of the court, be transferred by the court, on the application of either party, to either Ryan, Chickasha, Purcell, or Paul's Valley for hearing and determining, when the court is in session at such places, but the decision of the court, when rendered,

and all papers in the case shall be filed with the clerk at Ardmore (Court Journal 9, page- 283, '4, '5).

7 And thereafterwards, on the 8th day of December, 1896, was filed with the clerk of this court the original application for citizenship in said cause; which said application is in words and figures as follows, to wit:

To the governor of the Chickasaw nation and the legislative committee on rolls:

Jessie L. Troop makes this application and respectfully asks to be enrolled as a member of the Chickasaw tribe of Indians and bases the same on the following facts:

Applicant states that he is a resident of Pickens county, Chickasaw nation, Indian Territory, and has resided in said nation and Territory for two years last passed. Applicant states that on the 31st day of August, 1896, he was duly married, according to the laws of the Chickasaw nation, to Laura Parker, who is now his wife, and was also married to her previous to that time, to wit, on Dec. 30, 1894, according to laws of U. S.; that his said wife, Laura Parker, now Laura Troop, was the daughter of John Parker and Martha A. Parker; that said John Parker was a Chickasaw Indian by blood, and that his daughter, Laura Parker, now Laura Troop, was an Indian by blood of the Chickasaw tribe, and has always been recognized as such, and that she, the said Laura Parker, now Laura Troop, the wife of applicant, is duly enrolled as a member and citizen of the Chickasaw tribe of Indians, as will fully appear from the rolls of said nation.

Wherefore applicant asks to be listed as a citizen and member of the Chickasaw tribe of Indians.

JESSIE L. TROOP.

Subscribed and sworn to before me this 5th day of November, 1896.

[SEAL.]

CHILION RILEY,
Notary Public.

Indorsed: "No. 2. J. L. Troop vs. Chickasaw Nation. Application. Filed Dec. 8, 1896. Joseph W. Phillips, clerk."

8 And thereafterwards, on the 17th day of August, 1898, was filed with the clerk of this court the substituted answer in this cause; which said answer is in words and figures as follows, to wit:

Before the Honorable Tribal Authorities.

In the Matter of the Application of JESSE L. TROOP for Enrollment in the Chickasaw Nation.

Now comes The Chickasaw Nation, by its attorneys, and, without waiving any exception heretofore taken to the application filed herein and without consenting to, but denying, the jurisdiction of

this honorable commission to pass upon a question of citizenship in the Chickasaw tribe of Indians, presents this its answer to said application, and respectfully represents:

First. The Chickasaw Nation admits that Laura Parker is a Chickasaw Indian. The Chickasaw Nation shows that the said Jesse L. Troop is a white man and a citizen of the United States, and that his marriage to Laura Parker was not in accordance with the laws of the Chickasaw nation, and he therefore acquired no right in the Chickasaw nation; that the fact that after his said marriage he did procure a license from the Chickasaw authorities and have another marriage ceremony performed under and by virtue of said license did not convey unto him any right of citizenship in said nation for the reason that said second ceremony was unnecessary, so far as the validity of his marriage was concerned, and was therefore simply and solely for the purpose of procuring unto himself a pecuniary advantage.

Second. The Chickasaw Nation shows that the said Jesse L. Troop did not make application to any such commission as is provided for in the act of June 10, 1896, requiring applicants to apply to either the Dawes commission or a commission appointed by the Chickasaw nation.

Third. The Chickasaw Nation shows that the said Jesse L. Troop did not make any application whatever to any department or committee of the Chickasaw nation until after September 10th, 1896, at which time, under the act of June 10th, 1896, the privilege of applying to either of the commissions aforesaid expired.

Wherefore the Chickasaw Nation prays that the application herein be rejected.

THE CHICKASAW NATION,
By Its Attorneys.

I, W. B. Johnson, attorney for the Chickasaw nation, on oath state that the above and foregoing answer is a substantial copy of the original filed in this cause.

W. B. JOHNSON.

Sworn to and subscribed before me this 15th day of Aug., 1898.

[SEAL.] PHIL BARRETT,
Notary Public.

Indorsed: "No. 2. Jesse L. Troop v. Chickasaw Nation. Substituted answer. Filed Aug. 17, 1898. C. M. Campbell, clerk."

10 And thereafterwards, on the 13th day of January, 1897, was filed with the clerk of this court the notice of appeal in said cause; which said notice is in words and figures as follows, to wit:

J. L. TROOP }
vs. } No. 2. Notice of Appeal.
CHICKASAW NATION. }

To R. M. Harris, governor of the Chickasaw tribe of Indians:

You are hereby notified that the plaintiff in this cause has filed with the clerk of the United States court for the southern district of Indian Territory, at Ardmore, in said Territory, an application for appeal in the above cause from the decision of the tribal authorities authorized to pass upon citizenship and revise the rolls of the Chickasaw tribe of Indians on the 8th day of December, 1896, together with the application and evidence made and presented to the tribal authorities.

[SEAL.]

J. W. PHILLIPS, *Clerk.*

I certify that I received this notice on the 28th day of December, 1896, and executed the same on said 28th day of Dec., 1896, at Ardmore, in the southern district of the Indian Territory, by then and there delivering a true copy of this notice to R. M. Harris, governor of the Chickasaw nation.

CHILION RILY.

Subscribed and sworn to before me this 28th day of Dec., 1896.

[SEAL.]

E. H. BOND,
Notary Public.

Indorsed: "No. 2. J. L. Troop vs. Chickasaw Nation. Notice of appeal. Filed January 13, 1897. Joseph W. Phillips, clerk."

11 And thereafterwards, to wit, on the 8th day of December, 1896, was filed with the clerk of this court the petition for appeal in said cause; which said petition is in words and figures as follows, to wit:

In the United States Court, Southern District of the Indian Territory, Holding Terms at Ardmore.

Ex Parte JESSE L. TROOP.

To the Honorable C. B. Kilgore, judge of the United States court for the southern district:

The applicant, Jesse L. Troop, respectfully asks that an appeal to this court be granted him from the tribal authorities of the Chickasaw tribe of Indians, and bases his application for said appeal upon the following facts:

The applicant states that on the 14th day of October, 1896, at Oakland, in said Chickasaw nation, he applied to the regularly constituted officers of registration of said nation to be enrolled as a member of the Chickasaw tribe and his name was rejected; that afterwards, to wit, on the 5th day of Nov., 1896, he presented his petition, which is hereto attached, to the legislature of the Chickasaw nation, then in session, and said legislature, through the chair-

man of the committee on rolls, refused to file or entertain said application of this appellant, and refused even to endorse the same rejected; all of which this appellant is prepared to prove to the satisfaction of this court.

Wherefore appellant asks that the tribal authorities of the Chickasaw tribe of Indians may be cited to appear and answer this appeal and asks that the same be placed upon the docket and set down for hearing.

THOMPSON & RILEY,
Attorneys for Appellant.

12 Jesse L. Troop states that he has read the foregoing petition and knows the contents thereof, and that the same is true in fact, as he verily believes.

JESSE L. TROOP.

Subscribed and sworn to before me this 4th day of Dec., 1896.
[SEAL.] E. H. BOND,
Notary Public.

Indorsed: "No. 2. J. L. Troop vs. Chickasaw Nation. Petition for appeal. Filed Dec. 8th, 1896. Joseph W. Phillips, clerk."

13 In the United States Court in the Indian Territory, Southern District, at Ardmore.

JESSE L. TROOP }
vs. } Notice of Appeal.
CHICKASAW NATION. }

To the Hon. R. M. Harris, governor of the Chickasaw tribe of Indians.

SIR: You are hereby notified that an appeal has been granted in the matter of the application of Jesse L. Troop to be enrolled as members of the Chickasaw tribe of Indians from your commission to the United States court for the southern district in the Indian Territory, at Ardmore. You are therefore notified and ordered to immediately forward to the clerk of this court all of the original papers filed, used, and considered in said cause by your commission, together with a duly certified copy of all orders, judgments, and entries made and entered by you in the trial and consideration of said cause.

Witness the Hon. C. B. Kilgore, judge of said court, and the seal thereof, at Ardmore, Indian Territory, this 8 day of Dec., 1897.

[SEAL.] JOS. W. PHILLIP-, *Clerk.*

14 And thereafterwards, to wit, on Tuesday, February 1st, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

JESSE L. TROOP, Plaintiff, }
vs. } No. 2. Plea to Jurisdiction.
CHICKASAW NATION, Defendant. }

Comes now the defendant, The Chickasaw Nation, and respectfully avers that this court has no jurisdiction to hear this cause, for the reason that the act creating the Dawes commission and the right of this court to pass upon causes appealed to it from said commission, determining the question of citizenship in the Chickasaw nation, is unconstitutional and void; that said act gives this defendant no right to cross-examine the witnesses of the applicant and the same is contrary to the treaty of 1866 entered into by the United States Government and the Chickasaw nation, by which said Chickasaw nation reserved the right to pass upon all matters concerning said tribe and all civil and political rights of the individual members thereof; that said treaty is still in full force and effect and was at the time of the act of Congress creating the commission to the five civilized tribes and authorizing this court to pass upon appeals from the same was enacted.

II.

Because said act deprives the Chickasaw nation and the individual members thereof of property without due process of law.

III.

Because said act is class legislation, in that the same deprives either party of an appeal, as in other cases, to the higher courts of the Territory and of the United States.

IV.

Because the jurisdiction extended to this court has been limited to controversies between citizens of different tribes or between citizens or members of the tribe of Indians and a United States citizen, and expressly reserving to the Indians controversies arising between themselves.

V.

Because, if this court determines that the applicant is a member of said nation, it is then passing upon rights between citizens of the same tribe of Indians, and no judgment thereon can be entered for want of jurisdiction in this court.

Wherefore the defendant prays that said cause be dismissed for the above reasons, and that it go hence without day, etc.

Attorney for Chickasaw Nation.

The above and foregoing is indorsed in words and figures as follows, to wit: "Jesse L. Troop, plaintiff, vs. Chickasaw Nation, defendant. Plea to jurisdiction. Filed in open court M'ch 8th, 1898. C. M. Campbell, clerk."

15 And thereafterwards, to wit, on the 14th day of January, 1898, was filed with the clerk of this court the substituted master's report in said cause; which said report is in words and figures as follows, to wit:

In the United States Court for the Southern District of the Indian Territory, at Ardmore.

JESSE L. TROOP
vs.
CHICKASAW NATION. } Report of Master.

To the Honorable C. B. Kilgore, judge of said court:

The undersigned, master in chancery of the above court, to whom the above-entitled cause was referred by a general order, respectfully submit the following, together with the evidence taken before me:

Finding of Facts.

1. I find that the applicant, Jesse L. Troop, is married to Laura M. Parker, who is a Chickasaw by blood and on the present roll of the Chickasaws.

2. I find that the applicant, Jesse L. Troop, presented his application for enrollment as an intermarried Chickasaw to a committee of the legislature of the Chickasaw nation in the fall of 1896; that said committee refused to entertain the same or to take any action whatever thereon.

Conclusion.

The committee to whom said application was presented was not such a court, tribunal, or committee as was or is contemplated by the act of Congress of June 10th, 1896, and therefore said application cannot be considered by this court or appeal.

I therefore recommend that the same be dismissed.

Respectfully submitted.

(Signed)

W. H. L. CAMPBELL,
Master in Chancery.

16 We hereby agree that the foregoing may be substituted in place of the original report, and take the place of same.

W. B. JOHNSON,
Att'y for C. N.
CHILION RILEY,
Att'y for Troop.

Indorsed: "No. 2. Jesse L. Troop vs. Chickasaw Nation. Substituted master's report. Filed January 14, 1898. C. M. Campbell, clerk."

17 Be it remembered that at a regular term of the United States court in the Indian Territory, southern district, at Ardmore, begun and holden on Monday, the 15th day of November,

1897, and on the 32nd day of said term, to wit, Tuesday, December 21st, 1897—present and presiding, the Hon. Hosea Townsend, judge—the following, among other, proceedings were had, to wit:

In re Order of Court Allowing Substitution of Papers in Citizenship Cases.

Order.

The papers in a majority of the citizenship cases pending in this court having been burned and destroyed by fire on the morning of the 16th inst., it is ordered that the applicants in each and all of the said cases have until the 10th day of January, A. D. 1898, to substitute all their papers in the various cases, and that W. B. Johnson, attorney for the Chickasaw nation, have until February 1st, 1898, to substitute the papers of said nation (vol. A, Citizenship Record, pages 128 and 129).

18

Opinion by the Court.

In the Southern District, Indian Territory.

TOWNSEND, J.

In re INDIAN CITIZENSHIP CASES.

COURT: I have examined with some care the treaties between the United States Government and the Choctaws and Chickasaws in order that I might become familiar with all the negotiations. The first treaties were made in 1786 separately with each tribe or nation, as they were called. Not, however, until 1820 was the subject mentioned of taking any land west of the Mississippi river. On October the 18th, 1820, near Doak's Stand, on the Natchez road, a treaty was entered into between the Choctaws and the Government of the United States, in which it was stated in the preamble the purpose was "to promote the civilization of the Choctaw Indians, by the establishment of schools amongst them; and to perpetuate them as a nation, by exchanging, for a small part of their land here a country beyond the Mississippi river, where all who live by hunting and will not work may be collected and settled together." Whereupon in part consideration of the ceding of a part of their reservation then existing the Government ceded "a tract of country west of the Mississippi river, situate between the Arkansas and Red rivers," and by its boundaries being substantially the country now embraced in the Choctaw and Chickasaw nations. In 1825 another treaty was entered into between the Choctaw nation and the Government, by which the Choctaws ceded to the Government all the land ceded to them in 1820, "lying east of a line beginning on the Arkansas, one hundred paces east of Fort Smith, and running thence due south to Red river;" in consideration for which the Government undertook to remove certain settlers, citizens of the United States, from the west to the east side of said line and to pay certain money consideration for a

series of years and certain other provisions not material for consideration in this connection.

On September 27th, 1830, another treaty was entered into between the Choctaws and the Government, in the preamble to which it is recited that "the State of Mississippi has extended the laws of said State to persons and property within the chartered limits of the same, and the President of the United States has said that he cannot protect the Choctaw people from the operation of these laws. Now, therefore, that the Choctaws may live under their own laws in peace with the United States and the State of Mississippi they have determined to sell their lands east of the Mississippi."

It is provided that in consideration that 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 descendants, to inure to them while they shall exist as a nation and live on it," they "cede to the United States the entire country they own and possess east of the Mississippi river, and they agree to remove beyond the Mississippi river."

Under the 14th article it is provided that each head of a family who desires to remain shall have a reservation, and then states that "persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity."

On the 22nd day of June, 1855, a treaty was entered into between the Choctaws, Chickasaws, and the Government, and this was the first treaty at which all three were represented. Its purpose was declared to be "a readjustment of their relations to each other and to the United States" and for a relinquishment by the Choctaws of "all claim to any territory west of one hundredth degree 20 of west longitude." In the first article of said treaty it is provided that "pursuant to act of Congress approved May 28th, 1830, the United States do hereby forever secure and guarantee the lands embraced within the said limits to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common."

On the 28th of April, 1866, another treaty was entered into between the Choctaws, Chickasaws, and the United States. This treaty seems to have been necessitated by the changed condition of affairs that resulted from the war of the rebellion and attempts to arrange civil government for the Choctaws and Chickasaws and an allotment of their lands in severalty. It provides for the survey and platting of the lands, and that when completed the maps, plats, etc., shall be returned to a land office that was to be established at Boggy Depot for the inspection by all parties interested, and that a notice shall be given for a period of ninety days of such return by the legislative authorities of said nations, or, upon their failure, by the register of the land office; and in article 13 it is provided that the notice shall be given not only in the Choctaw and Chickasaw nations, "but by publication in newspapers printed in the States of Mississippi and Tennessee, Louisiana, Texas, Arkansas and Alabama, to the end that such Choctaws and Chickasaws as yet

remain outside of the Choctaw and Chickasaw nations may be informed and have opportunity to exercise the rights hereby given to resident Choctaws and Chickasaws: Provided, that before any such absent Choctaw or Chickasaw shall be permitted to select for him or herself or others, as hereinafter provided, he or she shall satisfy the register of the land office of his or her intention, or the intention of the party for whom the selection is to be made, to become *bona fide* residents in the said nation within five years from the

21 time of the selection; and should the said absentee fail to move into said nation and occupy and commence an improvement on the land selected within the time aforesaid, the said selection shall be cancelled and the land thereafter shall be discharged from all claims on account thereof."

This is the last treaty entered into between the Choctaws and the Chickasaws and the United States, but as late as December 24th, 1889, the council of the Choctaw nation passed a resolution calling upon Congress to defray the expense of moving the Choctaws in Mississippi and Louisiana to the Choctaw nation.

It was not until 1832 that the Chickasaws took any steps by treaty to move west. On October 20th, 1832, a treaty was entered into between the Chickasaws and the United States. In the preamble it is set forth that "being ignorant of the language and the laws of the white man, they cannot understand or obey them. Rather than submit to this great evil they prefer to seek a home in the West, where they may live and be governed by their own laws."

In the first article of said treaty it is provided that "the Chickasaw nation do hereby cede to the United States all the land which they own on the east side of the Mississippi river, including all the country where they at present live and occupy."

It is provided by said treaty that their lands shall be surveyed and sold and the proceeds held for their benefit, and they would hunt for a country west of the Mississippi river, and in the 4th article it is provided: "But should they fail to procure such a country to remove to and settle on, previous to the first public sale of their country here, then, and in that event, they are to select out of the surveys a comfortable settlement for every family in the Chickasaw nation, to include their present improvements," and in the supplementary articles entered into October 22nd, 1832, it is provided "that whenever the nation shall determine to move from 22 their present country, that every tract of land so reserved in the nation shall be given up and sold for the benefit of the nation."

On May 24, 1834, another treaty was entered into between the Chickasaws and the United States, making some different provisions about the sale of their lands, but no change in the general purpose.

On January 17, 1837, a convention and agreement was entered into between the Chickasaws and the Choctaws, subject to the approval of the President of the United States, by the terms of which the Chickasaws agree to pay the Choctaws the sum of \$530,000.00 for the territory that they now occupy. Excepting a treaty between

the Chickasaws and the United States, adopted June 22nd, 1852, in regard to the disposition of their lands east of the Mississippi river, we are brought down in the history of the treaties of the Chickasaws to the treaty of 1855, heretofore mentioned, between the Choctaws, Chickasaws, and the United States.

In all these various treaties solemnly entered into there is not one line or word to indicate that the Choctaws and Chickasaws who did not remove to the western country were not Choctaw or Chickasaw citizens and members of their respective tribes; on the other hand, in the treaty of 1830 between the Choctaws and the United States it is expressly provided that those who remained should "not lose the privilege of a Choctaw citizen," "but if they ever remove, are not to be entitled to any portion of the Choctaw annuity."

When it was supposed that the lands would be allotted in severalty under the treaty of 1866, it was expressly provided that notice should be published in the papers of several States that absent Choctaws and Chickasaws might come in and obtain the benefits of the allotment, and absentees were to be allowed five years to occupy and commence improvements, and all that was necessary was to satisfy the register of the land office that that was their intention. The allotment did not take place, but if they had not come in they were only to lose their allotment of land; it did not make them any the less Choctaws or Chickasaws or members of the Choctaw and Chickasaw tribes.

It has been said that they could not be put upon the roll as citizens and members of those tribes unless they lived upon the land within the Choctaw or Chickasaw nation. I submit that the action of the Choctaw and Chickasaw nations themselves, when making the treaty of 1866, don't bear out that view; and if they were Choctaws and Chickasaws in 1866, what has occurred to change their relations to those tribes? I have heard of nothing whatever.

It is said that the land was held in common, and certainly some of the tenants in common in possession could hold the possession for all their cotenants in common. The bulk of the nation living in the territory ceded and maintaining the tribal government or nation certainly met every requirement of residence, and was a compliance in all respects with the treaty stipulations of living on the land.

I shall hold that non-resident Choctaws and Chickasaws who have properly filed their application and established their membership of the tribes shall be admitted to the roll as citizens.

Who is an intermarried citizen and who is an adopted citizen of the Choctaw and Chickasaw nations?

Article 38 of the treaty of 1866 is as follows:

"Every white person, who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw nations, or who has been adopted by the legislative authorities, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw and Chickasaw nations, according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to

their laws in all respects, as though he was a native Choctaw or Chickasaw."

Does this article apply to future marriages and adoptions or only those prior to its adoption? By article 26 of said treaty it is provided, in regard to the rights to take land in severalty, as follows:

Article 26.

"The right here given to Choctaws and Chickasaws respectively shall extend to all persons who have become citizens by adoption or intermarriage of either of said nations or who may hereafter become such."

Under section 7 of the general provisions of the Chickasaw constitution, adopted August 16th, 1867, both as originally adopted and as amended, said sections can have but one construction, and that, that they regarded the said 38th article as binding on their future action, and if this is so it would not be within the power of either the Choctaw or Chickasaw nations to pass or adopt any constitution or law in violation of said article, or that would take away the rights, privileges, or immunities that has attached to any white person under and by virtue of its provisions.

Under the constitution of the Chickasaws, above referred to, section 10 of the general provisions gives the legislature power to admit or adopt as citizens of said nations "such persons as may be acceptable to the people at large."

This authority had been exercised frequently by the legislature of both nations, as I am informed, prior to the adoption of said treaty as well as subsequent to its adoption.

On October 19th, 1876, the legislature of the Chickasaws passed an act in relation to marriage between citizens of the United States and a member of the Chickasaw tribe or nation of Indians. The second section, among other things, provides: "Hereafter no marriage between a citizen of the United States and a member of the Chickasaw nation shall confer any right of citizenship, or any right to improve or select lands within the Chickasaw nation, unless such marriage shall have been solemnized in accordance with the laws of the Chickasaw nation."

This act was amended September 24th, 1887, in some particulars, but the above-quoted provision was retained.

Amongst all civilized nations it is conceded to be a right that each nation, and in the United States that each State, can exercise and determine by their laws the requirements to be observed in solemnizing marriages; but marriage among civilized nations does not confer citizenship. Under the Choctaw and Chickasaw law it does; besides, it is supposed to carry with it certain property rights. The general rule among civilized nations is that a marriage good where solemnized is good everywhere, but in some States, where marriage is prohibited between certain races of people, they have not been recognized, though they were lawful where solemnized. I think it is within the power of the Choctaw and Chickasaw nations to say by legislation that before a white person shall become one of

their citizens, with all the privileges of one, they shall be married according to the forms and requirements of their laws, and that such legislation is not in violation of the 38th article of the treaty of 1866; but when a white person has married a Choctaw or Chickasaw according to their laws, and resides in the Choctaw or Chickasaw nations, he is in all respects "as though he was a native Choctaw or Chickasaw," and his rights under the treaty attaches, and it is not within the power of the Choctaw or Chickasaw nation to take the same away by legislation or otherwise. It has been said that when adoption takes place by an act of their legislature, the same power that granted can take away. I doubt this proposition, if by the adoption treaty rights have attached, and I am firmly of the opinion that property rights that have attached under the treaty cannot be taken away, and that only political rights could thus be abrogated.

25½ Along the lines herein indicated the citizenship cases pending in this court will be disposed of.

HOSEA TOWNSEND, *Judge.*

26 Be it remembered that at a regular term of the United States court in the Indian Territory, southern district, at Ardmore, begun and holden on the 15th day of Nov., 1897, and on the 57th day of said term, to wit, on Tuesday, March 8, 1898—present and presiding, the Hon. Hosea Townsend, judge—the following, among other, proceedings were had, to wit:

JESSIE L. TROUP
vs.
CHICKASAW NATION. } No. 2.

Now, on this 8th day of March, 1898, this cause coming on to be heard upon the master's report herein and the exceptions of plaintiff thereto, together with the evidence, and the court, after hearing the argument of counsel and being fully advised in the premises, doth order that the exceptions be, and the same are hereby, sustained and said master's report set aside and held for naught; and the court finds from the evidence that the said applicant, Jessie L. Troup, was on the 31st day of August, 1896, lawfully married, according to the Chickasaw laws, to Laura M. Parker, a citizen and member by blood of the Chickasaw tribe of Indians, and said Jessie L. Troup is entitled to be enrolled as an intermarried citizen of the Chickasaw tribe of Indians. Wherefore it is ordered, adjudged, and decreed that the applicant, Jessie L. Troup, be, and he is hereby, ordered to be enrolled as a citizen and member of the Chickasaw tribe of Indians and entitled to all the rights and privileges as such. The clerk is ordered to certify the same to the proper authorities; to all of which the defendant in open court excepts and still excepts (vol. A, Citizenship Record, p. 262).

* * * * *

And on the same day of said term, to wit, Tuesday, March 8,

27 1898—present and presiding aforesaid—the following further proceedings in said cause were had, to wit:

J. L. TROUP
vs.
CHICKASAW NATION. } No. 2.

On this 8th day of March, 1898, the attorneys for the defendant in the above cause appeared in open court and suggested to the court that in the judgment herein rendered for the plaintiff the fact that the applicant had failed to make his application to the Indian commission until after the 10th day of September, 1896, had been omitted, and upon the suggestion of said attorneys the court considers that said fact should be so stated in said judgment.

It is therefore ordered, adjudged, and decreed that said judgment be corrected and made to contain the following statement, to wit: That it appearing to the court that said application had been made to said Indian commission after the 10th day of September, 1896 (vol. A, Citizenship Record, page 267).

28 And thereafterwards, to wit, on Tuesday, M'ch 8th, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

JESSE L. TROUP, Plaintiff,
vs.
CHICKASAW NATION, Defendant. } No. —. Motion for a New Trial.

Now comes the defendant, Chickasaw Nation, and respectfully moves the court to set aside the judgment heretofore rendered in this cause for the following reasons, to wit:

First. Because the judgment was contrary to law.

Second. Because the same was contrary to the evidence.

Wherefore it prays that said judgment be set aside and held for naught.

CHICKASAW NATION.

The above and foregoing is indorsed in words and figures as follows, to wit: "Jesse L. Troup vs. Chickasaw Nation. Motion for a new trial. Filed in open court M'ch 8th, 1898. C. M. Campbell, clerk."

29 And thereafterwards, to wit, on Tuesday, March 8th, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

JESSIE L. TROUP, Plaintiff,
vs.
CHICKASAW NATION, Defendant. } No. —. Order Overruling Plea to the Jurisdiction and Motion for a New Trial.

On this 7th day of March, 1898, came on to be heard the defendant's plea to the jurisdiction of the court herein and its motion for a new trial, and the court, after hearing said plea and motion, is of the opinion that the same should be, and is, in all things overruled

and denied; to which judgment of the court the defendant duly excepted.

30 And at the April, 1898, term of said court, to wit, on the 11th day of July, 1898—present and presiding, the Hon. Hosea Townsend, judge—the following, among other, proceedings were had, to wit:

JESSE L. TROOP
vs.
CHICKASAW NATION. } No. 2. Order of Substitution.

It appearing to the court by the affidavit of William B. Johnson, attorney for the Chickasaw nation, that some of the papers in the hereinafter-styled cause were destroyed by fire, and that the same were not substituted prior to the judgment rendered in this court, it is ordered that the said record be supplied in order that the record of appeal may be in all things complete.

(Signed) HOSEA TOWNSEND, *Judge.*

(Court Journal, vol. 11, pp. 114, 115, and 116.)

JESSE L. TROOP
vs.
CHICKASAW NATION. } No. 2. Application for Appeal.

Thereupon the said defendant in said cause, the said Chickasaw Nation, deeming itself aggrieved by the said decree made and entered of record on the 8 day of M'ch, 1898, appeals from said order and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors filed herewith, and it prays that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

(Signed)

W. B. JOHNSON,
Solicitor for Defendant.

This 11th day of July, 1898.

31 And thereafterwards, to wit, on the 11th day of July, 1898, was filed with the clerk of this court the assignment of errors in said cause; which said assignment of errors is in words and figures as follows, to wit:

JESSE L. TROOP, Plaintiff,
vs.
CHICKASAW NATION, Defendant. } Assignment of Errors.

The defendant in this action, in connection with *his* petition for appeal, makes the following assignment of errors which *he* avers occurred upon the trial of the cause, to wit:

First. The court erred in holding that the act of Congress creating the commission to pass upon the citizenship of applicant- in the

Chickasaw nation and their right to appeal to said court was constitutional.

Second. The court erred in overruling the plea to *to* the jurisdiction of the Dawes commission and said court to pass upon the citizenship of the applicants herein.

Third. The court erred in holding that the laws, customs, and usages of the Chickasaw nation did not control and govern the admission of the applicants to citizenship.

Fourth. The court erred in holding that the Chickasaw nation did not have a right to pass a law relative to citizenship in the Chickasaw nation when said law in any way modified or changed a treaty of said Chickasaw nation with the United States.

Fifth. The court erred in holding that the applicant herein, who had failed to comply with the laws of the Chickasaw nation regulating his citizenship therein, was still entitled to all the rights and immunities of a citizen and entitled to be enrolled as such.

Sixth. The court erred in holding that it was unnecessary for the applicant in order to retain his citizenship in the Chickasaw nation, which he acquired by the laws of said nation by marriage into the said tribe, to further comply with the laws of said nation by not again marrying any United States citizen.

Seventh. The court erred in holding that a United States citizen could marry a Chickasaw citizen by blood according to their laws and become a citizen thereof, and after the death of said Chickasaw Indian that the said United States citizen could marry another United States citizen according to the laws of the Chickasaw nation and thereby confer the right of citizenship in the said Chickasaw nation upon the second spouse and the issue thereof, and so on to all succeeding issue.

Eighth. The court erred in holding that the United States citizen acquiring citizenship in the Chickasaw nation did not forfeit his right to citizenship by again marrying a United States citizen.

Ninth. The court erred in holding that a United States citizen who had married a Chickasaw Indian and acquired citizenship in said nation by reason of said marriage did not forfeit the same when he had been divorced from his Indian wife.

Tenth. The court erred in holding that any United States citizen divorced from an Indian wife had the right to confer citizenship in the said Chickasaw nation upon the second wife, who was a United States citizen, and the issue thereof.

Eleventh. The court erred in holding that where a United States citizen had married an Indian citizen according to the laws of the Chickasaw nation and the Indian citizen died the United States citizen could confer the right of citizenship in the Chickasaw nation on the issue of the second marriage with a United States citizen not in accordance with the laws of the Chickasaw nation.

Twelfth. The court erred in holding that when a United States citizen, whose Chickasaw Indian wife had either died or been divorced from him, and he had then married a United States citizen, that the issue of said second marriage according to

the Chickasaw laws could confer citizenship upon the spouse and children of said issue.

Thirteenth. The court erred in that after the papers in this case were destroyed an order was made that such papers be substituted within a certain date during the same term of court in which said order was made.

Fourteenth. The court erred in overruling defendant's exceptions to the report of the master in chancery.

Fifteenth. The court erred in granting this decree upon the substituted pleadings and evidence of the plaintiff alone, the pleadings and evidence of both plaintiff and defendant having been destroyed.

Sixteenth. The court erred in granting a decree upon the report of the master in chancery alone.

Seventeenth. The court erred in overruling the motion of the defendant for a new trial.

Eighteenth. The court erred in referring this cause to a master in chancery.

Nineteenth. The court erred in granting a decree for the plaintiff in this cause.

W. B. JOHNSON,
Attorney for Chickasaw Nation.

Indorsed: "No. 2. Jesse L. Troop vs. Chickasaw Nation. Assignment of errors. Filed July 11th, 1898. C. M. Campbell, clerk."

34 And thereafterwards, to wit, on the 11th day of July, 1898, there was filed in the clerk's office of the United States court, southern district, at Ardmore, the following appeal bond; which bond is in words and figures as follows, to wit:

JESSE L. TROOP, Plaintiff,	} No. —. Bond on Appeal.
<i>vs.</i>	
CHICKASAW NATION, Defendant.	

Know all men by these presents that we, The Chickasaw Nation, as principal, and R. M. Harris, gov., and Richard McLish and Walter Colbert, as sureties, are held and firmly bound unto the plaintiff, Jesse L. Troop, in the full and just sum of 100 dollars, to be paid to the said plaintiff, his certain attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 11th day of July, in the year of our Lord one thousand eight hundred and ninety-eight.

Whereas lately, at a court of the United States for the southern district of the Indian Territory, in a suit pending in said court between Jesse L. Troop, plaintiff, and The Chickasaw Nation, defendant, a decree was rendered against the said Chickasaw Nation, and the said Chickasaw Nation having obtained an appeal and filed a copy thereof in the clerk's office of the said court to reverse the de-

eree in the aforesaid suit, and a citation directed to the said Jesse L. Troop, citing and admonishing — to be and appear at a session of the Supreme Court of the United States, to be holden at the city of Washington, in the month of October next:

Now, the condition of the above obligation is such that if the said Chickasaw Nation shall prosecute said appeal to effect and answer all damages and costs if *he* fail to make this said plea good, then the above obligation is to be void; otherwise to remain in full force and effect.

CHICKASAW NATION.
R. M. HARRIS, *Gov.*
RICHARD McLISH.
WALTER COLBERT.

Sealed and delivered in the presence of—
FRED C. CARR.
PHIL BARRETT.

Approved by—
HOSEA TOWNSEND,
*Judge of the United States Court for the Southern
District of the Indian Territory.*

The above and foregoing bond is indorsed in words and figures as follows, to wit: "Jesse L. Troop vs. Chickasaw Nation. Defendant's bond. Filed in open court July 11th, 1898. C. M. Campbell, clerk."

35 The foregoing claim of appeal is allowed and bond for costs fixed at \$100.
(Signed) HOSEA TOWNSEND, *Judge.*

This 11th day of July, 1898.

(Court Journal, vol. 11, pp. 114, 115, and 116.)

JESSE L. TROOP	} No. 2. Order.
<i>vs.</i>	
CHICKASAW NATION.	

Thereupon, upon motion of William B. Johnson, attorney for the Chickasaw nation, it is ordered that the defendant have ninety days in which to prepare and file its bill of exceptions.

(Signed) HOSEA TOWNSEND, *Judge.*

(Court Journal, vol. 11, pp. 114, 115, and 116.)

JESSE L. TROOP	} No. 2. Order Granting Extension of Time for Return Day.
<i>vs.</i>	
CHICKASAW NATION.	

Thereupon comes William B. Johnson and moves the court that the return day of the citation in this cause be extended sixty days, and it appearing to the court that owing to the great number of

cases to be appealed by the Chickasaw Nation it would be impossible to immediately perfect the appeal by said nation in all of said cases, it is ordered that the return day of said citation be extended sixty days.

(Signed) HOSEA TOWNSEND, *Judge.*

(Court Journal, vol. 11, pp. 114, 115, and 116.)

36 THE UNITED STATES OF AMERICA, ss :

To Jesse L. Troop, Greeting :

Whereas the Chickasaw Nation has lately appealed to the Supreme Court of the United States from a decree lately rendered in the United States court for the southern district of the Indian Territory, made in favor of you, the said Jesse L. Troop, and has filed the security required by law :

You are, therefore, cited to appear before the said Supreme Court, at the city of Washington, on the first day of the fall term next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of Ardmore, in the southern district of the Indian Territory, this 11th day of July, in the year of our Lord one thousand eight hundred and ninety-eight.

HOSEA TOWNSEND,
*Judge of the United States Court for the
Southern District of the Indian Territory.*

Original.

I hereby, this 16th day of July, 1898, accept due personal service of this citation on behalf of Jesse L. Troop, appellee.

CHILION RILEY,
Solicitor for Appellee.

[Endorsed:] 2. Jesse L. Troop vs. Chickasaw Nation. Citation. Original. Filed in open court Jul-11, 1898. C. M. Campbell, clerk.

37 And thereafterwards, on the 11th day of July, 1898, was filed with the clerk of the United States court for the southern district of the Indian Territory the following affidavit for substitution of papers, to wit :

JESSE L. TROOP, Plaintiff,	} Affidavit for Substitution of Papers.
vs. CHICKASAW NATION, Defendant.	

Comes now William B. Johnson, attorney for the Chickasaw Nation, who, being duly sworn, upon oath deposes and says :

That in the above numbered and styled cause a great many of the papers were destroyed by fire and have not been substituted, and that said record is incomplete and the appeal cannot be perfected without the same are supplied.

WM. B. JOHNSON.

Subscribed and sworn to before me this 9th day of July, 1898.

[SEAL.]

PHIL BARRETT,
Notary Public.

The above and foregoing affidavit is endorsed in words and figures as follows, to wit: "No. 2. Jesse L. Troop vs. Chickasaw Nation. Affidavit for substitution of papers. Filed in open court July 11th, 1898. C. M. Campbell, clerk."

38 And thereafterwards, to wit, on the 29 day of Sept., 1898, was filed with the clerk of this court the bill of exceptions in said cause; which said bill of exceptions is in words and figures as follows, to wit :

In the United States Court for the Southern District of the Indian Territory, at Ardmore.

JESSE L. TROOP	} Bill of Exceptions.
vs.	
CHICKASAW NATION.	

Be it remembered that on the 14 day of October, 1896, Jesse L. Troop did present his application for citizenship to the legislative committee on rolls of the Chickasaw nation and asked that his name be enrolled as an intermarried citizen of said nation.

Be it further remembered that said committee refused to take note of the application of the said Jesse L. Troop; whereupon the applicant did apply to the legislature of the said Chickasaw nation; that the said legislature likewise refused to take notice of said application.

Be it further remembered that on the 8th day of December the applicant herein filed a petition for appeal, together with the application to the said Chickasaw committee and the evidence in support thereof, in the clerk's office of the United States court for the southern district, at Ardmore, said application setting forth the facts above stated.

Be it further remembered that thereafter, pursuant to a general order referring the Indian citizenship cases to a master in chancery, this cause was referred to said master, and he, the said master, did find that the application was not made to any committee or tribunal as contemplated by act of Congress, and recommended that the appeal be dismissed, to which the applicant then and there excepted.

Said exceptions were in words and figures as follows, to wit :

JESSE L. TROOP }
 vs. }
 CHICKASAW NATION. }

Exceptions taken by above-named applicant to the report of the master in chancery, to whom this cause was referred by general order of this court, and which report was filed herein.

First Exceptions.

For that said master has found as a conclusion that the committee to whom this applicant applied for enrollment as a Chickasaw was not such a court, tribunal, or committee as contemplated by the act of Congress of June 10, 1896, and as ground for said exception states that said act contemplates an application to the Indian authorities, and the act of the Chickasaw legislature gave the committee authority to receive and report on applications which it should have reported to said Chickasaw legislature, it being the only channel through which this applicant could reach the legislature.

Wherefore applicant excepts to said report and appeals therefrom to the judgment of this court.

CHILION RILEY,
Attorney for Applicant.

Be it further remembered that thereafter, to wit, on the 8 day of March, 1898, when said exceptions came on to be heard, the same were sustained by the court, to which the defendant objected, and, said objection being overruled, the defendant then and there duly excepted and still excepts.

Be it further remembered that on the 8 day of M'ch, 1898, the defendant filed its plea to the jurisdiction of this court to pass upon this cause for reasons stated in said plea, which plea was overruled by the court, to which the defendant objected, and, said objection being overruled, the defendant then and there excepted and still excepts.

Be it further remembered that on the 8 day of M'ch, 1898, the above cause came on to be heard before the Honorable Hosea Townsend, judge of the above court; whereupon came the plaintiff, by his attorney, and the defendant, by its attorney, and the following, among other, proceedings were had, to wit:

Plaintiff introduced the following testimony:

W. H. Bourland, being duly sworn, upon oath states:

That I am a Chickasaw Indian by blood. I have lived in the Chickasaw nation all my life. I knew John Parker in his life; he is now dead; he is a son of ex-Governor Tom Parker; Tom Parker was a full-blood Chickasaw Indian. I am acquainted with Mat Troop. I did not know her while she and John Parker lived together as husband and wife, but since John Parker's death I have become acquainted with her as his widow.

W. H. BOURLAND.

Subscribed and sworn to before me this second day of August, 1897.

[SEAL.]

E. WILLHELM,
*Notary Public, Southern District
 Indian Territory, at Ardmore.*

Marriage License.

No. 609.

UNITED STATES OF AMERICA, }
Indian Territory, Third Judicial Division, } ss:

To any person authorized by law to solemnize marriage, Greeting:

You are hereby commanded to solemnize the rite and publish the banns of matrimony between Mr. J. L. Troop, of Spanish Fort, in Texas, age 24 years, and Miss L. M. Parker, of Ardmore, I. T., aged 18 years, according to law; and do you officially sign and return this license to the parties therein named.

Witness my hand and official seal this the 29th day of December, A. D. 1894.

J. W. PHILLIPS,
Clerk of the U. S. Court,
 By F. J. PIERCE, *Deputy.*

[SEAL.]

Certificate of Marriage.

UNITED STATES OF AMERICA, }
Indian Territory, Third Judicial Division, } ss:

I, S. P. Ethridge, a minister of the gospel, do certify that on the 30th day of December, A. D. 1894, I did duly and according to law, as commanded in the foregoing license, solemnize the rites and publish the banns of matrimony between the parties therein named.

Witness my hand this 30th day of December, A. D. 1894.

My credentials are recorded in the office of the clerk of the United States court, Indian Territory, third judicial division, Book A, page 275.

S. J. ETHRIDGE.

Indorsed: Certificate of record of marriage.

UNITED STATES OF AMERICA, }
Indian Territory, Third Judicial Division, } sct:

I, Joseph W. Phillips, clerk of the United States court for the Indian territory and division aforesaid, do hereby certify that the license for and certificate of the marriage of Mr. J. L. Troop and Miss L. M. Parker are filed in my office, in said Territory and division, the — day of —, 189—, and duly recorded in Book 7, Marriage Records, page 195.

Witness my hand and seal of said court, at Ardmore, this 21st day of January, 1895.

[SEAL.]

JOSEPH W. PHILLIPS, *Clerk*,
By S. L. GARRETT, *Deputy*.

42 Filed January 21, 1895.

JOSEPH W. PHILLIPS, *Clerk*.

Indian the United States Court for the Southern District of the Indian Territory, at Ardmore.

J. L. TROOP }
vs. }
CHICKASAW NATION. }

Before W. H. L. Campbell, Esq., master in Chancery.

Mr. RILEY: I desire to offer in evidence marriage license issued by the United States clerk of this court, together with the certificate of marriage, and also marriage license issued by the Chickasaw nation on the 31st day of August, 1896, together with the marriage certificate of the preacher who performed the ceremony.

Mrs. TROOP, a witness for the plaintiff, after being duly sworn, testifies:

Direct examination by Mr. RILEY:

Q. Will you state your name and how long you have resided in the Indian Territory?

A. Have resided in the Indian Territory for thirty years; my name is Martha A. Troop.

Q. Do you know Laura M. Troop?

A. Yes, sir.

Q. State who she is.

A. A daughter of mine and John Parker; John Parker was my first husband.

Q. What nationality, if you know, was John Parker?

A. A Chickasaw Indian.

Q. Do you know whether or not he was recognized as a Chickasaw Indian?

A. Yes, sir; he was.

Q. Up to the date of his death?

A. Yes, sir.

43 W. When was your daughter and Jesse Troop married, if you know?

A. Decemcer 30, 1894.

Q. Is she still living?

A. Yes, sir.

Q. Do you *how* she is recognized?

A. Yes, sir; she is recognized and always has been and still is.

JESSE TROOP, a witness for the plaintiff, after being duly sworn, testifies:

Direct examination by Mr. RILEY:

Q. State your name.

A. Jesse Troop.

Q. Where *did* you live?

A. In the Indian Territory; south of here 25 miles.

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

A. About two years now.

Q. Who is your present wife—her maiden name?

A. Laura Parker.

Q. State, Mr. Troop, if you ever made an application to the Chickasaws to be enrolled.

A. No, sir; I never did. I didn't never make any, only what you made for me.

Q. Did you present your application for your wife in person to them?

A. Yes, sir; in person.

Q. Where was that?

A. Oakland.

Q. To whom did you make application for her?

A. I can't recollect his name.

Q. State what position he occupied.

A. Register of the register rolls.

Q. What did they do with your wife; what action did they take on your wife's application for citizenship?

44 A. They just asked me who she was.

Q. What did they do finally?

A. They took her name on the rolls.

Q. You always have a child, haven't you?

A. Yes, sir.

Q. What did they do with her?

A. Taken her name.

Q. They took your wife and child's name on the roll?

A. Yes, sir.

Q. They on the last roll—roll now?

A. Yes, sir.

Q. When was that, as good as you remember?

A. October 14, I believe, last year.

Q. At the time you made application for your wife to this register board did you make any application for yourself?

A. I offered to; he would not take me on the roll; told me he would not take me.

Q. What did you do after that time in regard to getting on the roll?

A. Didn't do anything, only come to you.

Q. You signed the application—the original—didn't you; that's your signature?

A. Yes, sir.

Q. Did you go to Tishomingo?

A. Yes, sir.

Q. Was you present when that application was presented to Governor Mosely?

A. Yes, sir.

Q. Do you know what he said?

A. No, sir; I don't remember what he said.

45 Q. You saw me present this application to Governor Mosely?

A. Yes, sir.

Q. Do you remember the date it was presented?

A. No, sir; I don't remember the date.

CHILION RILEY, attorney for the plaintiff, being duly sworn, deposes and says:

My name is Chilion Riley. I am a practicing attorney, located at Ardmore. On the 5th or 6th day of November, 1896, acting for Jesse Troop, I presented the original application which is attached to this appeal to Governor Mosely, chairman of the committee on rolls of the Chickasaw legislature, and he refused to receive the same, and also refused to mark it rejected or make any disposition of it whatever.

It is conceded by the attorney for the defendant that the marriage license said to have been offered by the attorney for the applicant before the master in chancery was duly offered in evidence, said license being that granted by the Chickasaw nation to J. L. Troop and Laura M. —.

W. B. JOHNSON,
Attorney for Chickasaw Nation.

46 This being all the testimony introduced upon the trial of the cause by either plaintiff or defendant, the court rendered its decree in favor of the plaintiff herein; to all of which decree and the rendition thereof the defendant objected for the following reasons:

First. This decree is not supported by the evidence, because said evidence shows the first marriage of applicant to have been solemnized under a license from this court, and not by virtue of the Chickasaw authorities, and that the second ceremony performed under and by virtue of a license from the Chickasaw nation was not for the purpose of uniting the applicant and his wife in marriage.

Second. For the reason that the applicant did not make application to any such commission as is provided for in the act of June 10, 1896.

Third. For the reason that the applicant did not make application for citizenship in the Chickasaw nation until after September 10, 1896, at which the privilege of applying to either of the commissions aforesaid expired.

Fourth. For the reason that -his court had no jurisdiction on appeal in this cause, because said applicant had not made application for citizenship to any commission until after September 10, 1896.

Fifth. For the reason that no commission in the Chickasaw nation

for the purpose of enrollment existed during the time that the privilege of applying to such commission was allowed, and that the applicant herein, not having applied to the Dawes commission, could not have made any such application as would give to this court authority to hear this cause upon appeal.

Said objection being by the court overruled, the defendant then and there in open court duly excepted and still excepts.

47 Be it further remembered that on the 8 day of March, 1898, the defendant presented to the court its motion for a new trial for reasons set forth in said motion; which motion the court overruled and denied, and to which judgment of the court in overruling said motion the defendant at the time in open court duly excepted and still excepts.

And now comes the defendant on this 29 day of Sept., 1898, and within the ninety days allowed by the judge of this court for filing this bill of exceptions, and tenders this its bill of exceptions, and prays that the same be allowed, signed, sealed, and made a part of the record of this cause, which is accordingly done.

{ Seal United States Court in the Indian Territory, }
Southern District.

HOSEA TOWNSEND,
Judge of the United States Court in and for the
Southern District of Indian Territory.

O K.

CHILION RILEY,
Att'y for J. L. Troop.

48 UNITED STATES OF AMERICA, }
Indian Territory, Southern District. }

I, C. M. Campbell, clerk of the foregoing district and Territory, do hereby certify that the foregoing 41 pages contain full, true, and complete copies of all the pleadings, proceedings, and record entries, including the opinion of the said court, in the case of The Chickasaw Nation, appellant, vs. J. L. Troop, appellee, No. 2, as the same remain upon the files and records of the United States court, southern district, Indian Territory, at Ardmore.

I further certify that the original citation in said cause, with the admission of service thereon, is hereto attached and herewith returned.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Ardmore, this 29th day of September, 1898.

{ Seal United States Court in the Indian Territory, }
Southern District.

C. M. CAMPBELL,
Clerk of the United States Court,
Southern District Indian Territory.

Endorsed on cover: Case No. 17,055. Indian Territory U. S. court. Term No., 470. The Chickasaw Nation, appellant, vs. Jesse L. Troop. Filed October 28, 1898.