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Jas. S. Buchanan, Interviewer
July 9, 1937

Andrew Jackson (Jake) Berryhill,
Creek Indian, Oktaha, Oklahoma.

I was born September 15, 1856 near Fishertown,
Creek Nation.

My father was Jeff Berryhill, the son of
Pleasant Berryhill, a native of Ireland and a Creek
woman.

My mother was Nancy (Sizemore) Berryhill, a
white woman.

My parents separated at the beginning of the
Civil War when I was only five years of age. My
father took my only brother, Pleasant Berryhill, who
was three years older than I, and I remained with my
mother. We lived with the Cherokees near where the
little town of Texana is located and I was taught the
Cherokee language and spoke no other language until
after I was twelve years of age.

My most vivid recollection of the Civil War
is of the battle of Honey Springs. My mother, with
a great number of other women, their children and what
few personal belongings they could carry, fled south a-

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head of the retreat of the Confederate Army. They waded and swam across the Canadian River at Standing Rock and continued the long weary march south which terminated at the Colbert Ferry on Red River. The hardships of that long march of many days are indescribable. We camped on the bank of Red River and each day brought more refugees until it grew into quite a large camp. We remained in this camp in the Choctaw Nation about one year, or until after the close of the Civil War.

We would draw our rations from the military supply headquarters at Bonham and Paris, Texas. I can remember riding horseback behind my mother to Bonham to draw supplies. It would take us a day to ride from the camp to Bonham where we would camp for the night and draw our rations. The next morning Mother and I with our sack of rations on the old disabled army horse that the military headquarters had given us, would start on the twenty-mile trip back to the camp. During the time in this camp my mother was married to a Cherokee by the name of Wilson Cordrey who came from Georgia to the Indian Territory in 1835.

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In 1866, the refugees in this camp all returned to the Cherokee Nation, using conveyances of every description and on foot. Several disabled military horses had been given us; some had acquired ^{the} ox teams and cows which were used to pull the wagons and two-wheeled carts. I remember we used cowhides for wagon sheets or covers to protect us and our meager belongings from the weather.

On our return to the Cherokee Nation, my mother and step-father stopped at Standing Rock in the spring of 1866, made a crop and remained there until November of that year. Leaving there we moved to a place known as the Dave Rider place near Ft. Gibson.

The conditions in the Cherokee Nation after the war were serious, in fact beyond description. Everything that was left behind in their flight from the nation was gone. The houses and barns were burned, fences destroyed and stock killed or driven away.

My step-father and mother spent the remainder of their lives in the Cherokee Nation. My mother died near Braggs in 1894 and was buried in the old Cordrey

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burial ground at Ft. Gibson. My step-father died at the home of his son, Cooper Cordrey, near Park Hill in 1893.

In 1880 I was married to Jane Yarborough, the daughter of Edward and Rachel (Brakbill) Yarborough. She was born in Georgia in 1855. Six children were born to us, five of which are now living.

The land on which I am now living at the time of this writing is the original claim I staked out in 1884 and on which I have reared my family.

When I first staked the claim, an Indian by the name of Harjo jumped the claim but I later acquired the claim through A. P. McKellop and in later years when allotments were made, I filed on the land as my allotment.

In 1885, I went to work for C. W. Turner on the old Three Bar Ranch which was located south of where the little town of Yahola now stands. I worked for Mr. Turner, riding range about two years. C. W. Turner and Pleasant Porter were partners in that ranch. Leaving the employment of C. W. Turner, I formed a partnership with J. E.

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and W. S. Harsha and established a cattle ranch on the land that consisted of my family allotments two miles southeast of Summit. We operated this ranch about nineteen years. There was good money made in the cattle business in those days. The range was much better than it was in later years. I have seen the blue stem prairie grass here in the Indian Territory in the early days as high as a horse's back, but over-pasturing destroyed it to a great extent.

My first attempt at the cattle business was back in 1883 when I was living at Ft. Gibson. My wife's uncle, Bill Essex, loaned me \$500.00 to start me out. With the \$500.00 and a little bay mule for a saddle horse, I started out buying cattle. I bought up about sixty head of cattle in the vicinity of Ft. Gibson and Tahlequah.

Under the Cherokee tribal laws no citizen was allowed to have in his possession stock that was the property of a non-citizen, and graze them in the Cherokee Nation. Therefore, George Redbird, sheriff of Illinois district, finding me with the herd of cattle

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I had bought, thinking that they were the property of some non-citizen, not believing me when I informed him that they were my cattle and that I had bought them, seized the cattle and drove the herd to Chief Bill Ross' place and put them in his pasture to be sold as the Cherokee law provided. I was more than two months proving ownership of the cattle and repossessing the herd. It was due to this case of discrimination that I denounced my citizenship in the Cherokee Nation in 1884 and moved to the Creek Nation and have been with the Creeks ever since.

In the early days there was quite a bit of trouble experienced by the settlers from horse thieves. In 1893, I had a horse stolen from my pasture and the earth being soft, I was able to trail the horse and the horse of the rider that took him. I trailed them to the home of Jack Evans three miles south of my place. There I was informed that my horse was found near their place, shot. I examined the horse and found that it had been shot three times with a winchester. I continued on the trail of the rider's horse and learned the

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identity of the man I was seeking through settlers that had seen him, to be Joe Pierce, a half-breed Choctaw Negro. I trailed Joe Pierce to Skullyville, Choctaw Nation, but I lost his trail there and returned home. At this same time I learned that a horse had been stolen from Dr. Smith at Eufaula and we suspicioned Pierce of this theft.

About two weeks after we chased Joe Pierce out of these parts, a man by the name of Rule of Oktaha had a horse stolen from the hitch rack at Captain Sever's store in Muskogee. On investigation we learned that a negro by the name of Pete Spade was the man who stole Rule's horse. While looking around the country for his horse, Rule rode up to a place where some relatives of Sapde lived and when he approached the house, he saw a man mount a horse and dash away and disappear in the timber of the nearby creek bottom. Rule came to my house a short distance from the place and asked me if I saw the fellow ride into the brush and if I knew who he was, and I told him I saw him and it was Gabe Moore, a negro who had

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been picking cotton for me. Rule said "I believe he was riding my horse." I told Rule, "Butler Creek bottom won't hold him very long." I saddled my horse and with Rule, some other men we called together we started for Moore's hiding place. I took a position at the edge of the timber where I thought he would be liable to come out and the men scattered out and came in from the other side in search of him. I didn't have long to wait. He dashed out of the brush near me in a dead run across the prairie and I took in after him. The horse he was riding was a good horse and a fast one; therefore, he made it to the Katy Railroad quite a distance ahead of me, and at a crossing, turned his horse north along the track inside of the right-of-way fence. I cut across in an effort to head him off, and just as I was about even with him, his horse fell over a little bank, he left his horse, ran under a small trestle and disappeared on the other side of the railroad fill. By the time I got my horse through the fences he had made it to a draw and was out of sight, but on seeing some cattle that were grazing on the slope

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scatter and run I could tell which way he was going, and I knew he was trying to make his way to Chimney Mountain as it afforded ~~many safe~~ hiding places. ~~By~~ that time the other fellows had overtaken me, I told them to follow him and I would go around and come into the draw where I was sure he would pass, dismounted and stood in wait for him. I was not there more than a minute when I saw him running towards me. I called to him to throw up his hands. He was the worst scared man I ever saw, I thought I was going to be compelled to shoot him to quiet him down. He acted more like a wild man than anything else. I asked him what was the matter with him and he said he was afraid they were going to hang him, I then assured him I didn't think they would, as I thought ~~they had decided that hang-~~ing was too good for such people as him. I held my gun on him and placed my lariat around his neck, mounted my horse and led him back to where he left his horse and by that time the other men had joined us.

We brought him back to the timber about one half mile of my place and stopped under some trees to question

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him as we had learned after capturing him that the horse he was riding was not Rule's horse, but a strange horse in the community. He would not give us satisfactory answers to any of our questions in regard to the horse he was riding or anything else we asked him. I became disgusted with him and threw the end of my lariat over a limb of the tree under which we were standing, looped it around my saddle horn, spurred my horse and he lunged forward and jerked Gabe Moore from the horse and up to the limb of the tree. He tried to hold to the rope with his hands to relieve the torture and after hanging there for several minutes, I let him down and as soon as he was able to talk, we questioned him again and yet he refused to talk. I told him I would fix him so he would wish he had talked, and I took a shawl that one of the fellows had and tied his hands behind him, got on my horse and drew Moore up to the limb again and held him there until he was about to quit kicking, then let him down. When he came to I asked him if he was ready to talk and he said he would talk if I would take the rope off my saddle horn be-

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cause he was afraid my horse would get scared. I told him the horse was already scared and was anxious to get scared again and I was going to scare him right then if he didn't go to talking. He then related the activities of the horse stealing ring that had been giving us so much trouble. The story as he related it and which proved to be truthful, was that Joe Pierce had stolen the horse from my pasture and the horse became frightened and he could not lead it. Pierce got mad and shot the horse. Pete Spade had stolen Rule's horse in Muskogee and the horse that Gabe Moore was riding when we captured him was stolen from Dr. Smith at Eufaula by Joe Pierce. He also told us that Joe Pierce was to meet Pete Spade at a certain time in Paris, Texas. In the meantime Joe Pierce was shot and killed in Seminole and we wired the officers in Paris, Texas, giving a description of Pete Spade and the time he was supposed to be there. True to the story told by Gabe Moore, Spade arrived at Paris and was arrested by the officers there. He was tried in Texas and sentenced

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to seven years for horse stealing. Rule went to Paris and recovered his horse. We released Gabe Moore after he gave us the information we wanted and as soon as he recovered, able to eat and get around, he went to Ft. Smith and swore out a warrant for Tom Wilson, Henry Carter and myself for violation of the mob law. Friends immediately notified us of the action taken by Moore, so Wilson, Carter and I started for Ft. Smith in my hack. On our way to Ft. Smith, driving near the Missouri Pacific track, we saw the U. S. Marshals on a passing train, on their way to the Creek Nation to arrest us. On our arrival at Ft. Smith we surrendered to the Federal authorities. I was released on a \$3000. cash bond. Wilson and Carter on stock bonds.

Col. Cravens and Rutherford, attorneys of Ft. Smith represented us and we were later tried before Judge Parker of the Federal Court at Ft. Smith.

In those days, according to treaties between the United States Government and the Creek Nation, any case where all parties involved were citizens of the Creek Nation, the case would be tried in and

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by the Creek courts. But in case either party involved was not a citizen of the Creek Nation and a citizen of the United States, the case would be tried in the Federal courts. Therefore, Gabe Moore not being a citizen of the Creek Nation, had the right to prosecute us in the Federal Court, taking advantage of the mob law, where the Creek Nation didn't bother anyone for killing a horse thief.

The trial before Judge Parker resulted in Wilson, Carter and I being acquitted. In the course of the trial it was discovered that one of the Negro witnesses that appeared against us was a bigamist. His wife of a previous marriage appeared in court and identified him. He was arrested, tried and sentenced to seven years in prison. Another Negro witness against us was tried for perjury resulting from the bigamy case and he was also given a prison sentence.

Some people gave Judge Parker the reputation of being a severe judge, but I thought he was a rather fair judge, at least in that case.

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After the trial, Gabe Moore came back home with the intention of living among us after all that had transpired. His house burned down shortly thereafter, and he then moved out of the country.

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THE LAST EXECUTION UNDER THE CREEK
GOVERNMENT

The last man to be convicted of murder and executed under the laws of the Creek government was a fullblood Creek Indian by the name of Timmie Dick, and it took place at the old Creek council house in Okmulgee in 1906.

Under the Creek laws, when a citizen was condemned to be shot, the prisoner had the privilege of selecting the person to do the shooting and to carry out the execution.

My brother, Pleasant Berryhill was captain of the light horse of Okmulgee district, a position he held for about sixteen years, and Timmie Dick selected him to perform the execution.

Due to the fact that they had been good friends for several years, Pleasant Berryhill pleaded with Timmie to select someone else, but Timmie could not be changed and said everyone else was his

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enemy and it would do them too much good to have a chance to kill him, therefore as a last act of a friend, he wanted Berryhill to perform the execution. Berryhill's loyalty and respect for the last request of his friend was greater than his personal feelings, therefore he performed the execution and Timmie went down smiling with the satisfaction of being sent to the land of peace and happiness by a friend.

HONEY SPRINGS

Note- In the early part of July, 1937, in company with the informant of this story, A. J. Berryhill, I visited Honey Springs, the site of Elk Creek bridge and vicinity. The following is of my personal observation and information furnished by Mr. Berryhill.

Honey Springs is one of the most interesting points of historical interest in Oklahoma. The battle of Honey Springs was one of the most disastrous to the Confederate cause of all the engagements which took place in the Indian Territory during the civil war. The most severe fighting of this battle occurred at Elk Creek Bridge which was located one and one half miles south of the town of Oktaha. It was at this bridge on July 17, 1863, that Major Howland, with his loyal Indians on the south bank of Elk Creek held the bridge against superior numbers until the Federals almost enveloped his command, but checked the advance of General Blunt's army, thus making it possible for a less disastrous retreat of the Confederate

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Indians, the Creeks under the command of Col. D. N. McIntosh and Stand Waties regiment of mounted Cherokees. Following the battle at Elk Creek Bridge, which was a dearly bought victory for the Federals, they advanced, driving the Confederate Indians south and captured Honey Springs, the Confederate military headquarters of the Indian Territory, two and one half miles south of Elk Creek Bridge.

On my visit to this old battlefield with Mr. Berryhill, we first drove to a point about one quarter of a mile north of the site of the Elk Creek Bridge, walked from there, over the old Texas trail to Elk Creek. The north approach to the bridge is at the foot of a hill and a bluff bank several feet higher than the south bank. On the south bank I found the old pier, butment and retaining wall built of native stone and ^{it} is in as good condition as it was the day it was built there. The high approach from the north bank necessitated an earth fill on the south approach about ten feet

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high to reach a level for the bridge. The dirt fill extends about seventy-five feet from the south end of the bridge. The bridge was built several years before the civil war by William F. McIntosh and operated as a toll bridge, the only passage over Elk Creek on the Texas trail which was the only north and south road through the Indian Territory in the early days. The imprint of the old trail is visible through that vicinity, though large native trees have grown in many places on the trail since it was discontinued many years ago.

After our visit to the site of the Elk Creek Bridge, we drove to Heney Springs. There Mr. Berryhill directed me to several points of interest. He pointed out to me a place northeast of the spring where he saw government soldiers in 1866 taking up union soldiers that fell in battle and were buried there and removing them to the National cemetery at Ft. Gibson. The Federal

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soldiers taken up were identified by the brass buttons on their uniforms, while remains that were found without brass buttons were recognized as Confederates, their shallow graves refilled and left on the field. About two hundred feet east of the spring we found a large cavity in the earth about forty feet across and four feet deep which Mr. Berryhill told me was the result of an explosion of the Confederate powder magazine which took place during the battle of Honey Springs. South of the springs about one hundred yards is where the old Honey Springs church and school stood. It was a log structure and the first church built in that part of the Indian Territory in the early fifties. William F. McIntosh preached at that Church for several years. It was a Baptist Church. Near the site of the old Church we found the neglected remains of the original Honey Springs burial ground, in which there were many early settlers buried and at one time

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graves with headstones, but from various causes these stones have been destroyed, or knocked down and became covered over by the drifting sands of time. After much effort, we were able to locate but one headstone of one of the later graves which was concealed from view by the dense growth of brush and briars that cover the place. Upon this single stone we found the following inscription; Sue Emma Rogers, daughter of W. B. and K. D. Rogers, born 1871, died 1878.

About one hundred yards north of the springs stands the crumbling walls of an old stone building with ghostly appearance, standing as a monument to the constructive efforts of the early settlers and is all that remains of the, one time, famous Honey Springs, one of the first, and most important camp sites and watering places on the old Texas trail in pioneer days. The im-

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prints of the old trail are yet visable there.

The old building stands at the east side of the county road, facing east as it was built to face the Texas trail, the only road through this part of the country at that time. It was a story and a half building, 12 X 14 feet, door in front, one window in rear 30 X 48 inches and one smaller window in front on the second floor.

Mr. Berryhill informed me that the remains of this old building was standing when he was at Honey Springs in 1866 and he was told that it was used by the Confederate army for some purpose during the war.