

No 40.

Tula B. Jackson

VA

Choctaw Nation.

No 9.

Central Dist. Court.

No

Dawes Commission.

Filed June 27, 1903

Admitted

~ 4 5
South McAlester, Indian Territory, January 21, 1904.

Mr. D. H. Linebaugh,

Atoka, Indian Territory.

Dear Sir:

The Court has decided the Lula B. Trahern case in favor of the applicants. This of course will govern in the Ketural LeFlore case. The record does not show, however, that you have introduced record evidence of the citizenship of her husband L. C. LeFlore. We call this to your attention in connection with our statement to the Court this morning that when this proof is supplied your client will be entitled to a decision paralleling that in the Trahern case.

Yours very truly,

SUMMONS.

Duplicate

United States of America,
INDIAN TERRITORY,
Choctaw and Chickasaw Citizenship Court.

SS:

The President of the United States of America,

To the United States Marshal for the Indian Territory, ~~Southern~~ District,

GREETING:

YOU ARE COMMANDED TO SUMMONS P. S. Moseley

~~Governor of the Chickasaw nation~~

~~behalf of said nation~~

to answer in twenty days after the service of this summons upon ~~him~~ as

~~Governor of said nation~~

a complaint in Equity filed against ~~the Choctaw and Chickasaw nations~~

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, *South McAlester*

by *Lulu E. Johnson* and warn ~~him~~ that upon ~~his~~ ^{as said Governor} failure to answer, ~~the~~
on behalf of said nation the complaint will be taken for confessed, and you will make return of the summons on the

~~first day of next~~ instanter ~~Term of said Court.~~

and you are further commanded to notify said P. S. Moseley, Governor
aforesaid, that the papers, files and proceedings in the case of
Lulu E. Johnson file No. 9 in the District Court for
the Civilian District of the Indian Territory, have been trans-
ferred to the Choctaw and Chickasaw citizenship court, and that the
certificate of the Clerk of said Court for said Civilian
District, Indian Territory, has been attached thereto.

WITNESS the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L.

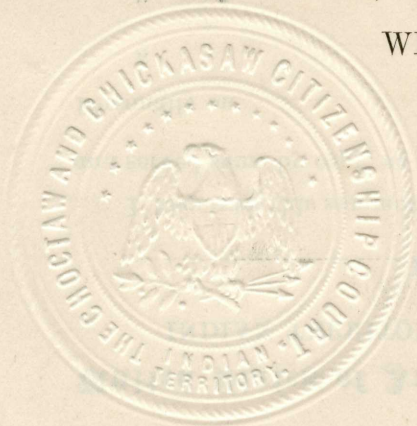
WEAVER and HENRY S. FOOTE, Associate Judges, and the Seal

thereof, at South McAlester, I. T., aforesaid,

this 13 day of March, A. D. 1903

James B. Cassasa
Clerk.

By _____, Deputy.



MARSHAL'S RETURN.

United States of America,

INDIAN TERRITORY,

DISTRICT.

ss:

I RECEIVED this summons this _____ day of _____, A. D. 190____, at _____ o'clock _____ m. and served same by copy, as follows:

Personally on _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
At Residence of _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.

With a member of defendant's family over 15 years of age there residing.

And the other persons named in this Summons are "not found in this District."

By _____, Deputy

U. S. Marshal.

DUPLICATE

No. *40 m*SUMMONS
IN EQUITY.*Lula E. Graham*

vs.

*Chaetan of Chickasaw
Nations*

Summons issued the *13* day
of *March*, 190*3*

Returnable *instantly* Term, 190____

Returned and filed _____, 190____

Clerk.

By _____, Deputy.

MARSHAL'S FEES.

Services, - - - - \$ _____

Miles, - - - - \$ _____

Expense, - - - - \$ _____

TOTAL, - - - - \$ _____

Horton & Brown
So. Me. Ala. S. F.
Attorney for Plaintiff.

5762b5m10-02

Lula B. Trahern,

vs. No. 9. Central Dist. Judgment, July 15, 1897.

Choctaw Nation.

On this 13th day of July, 1897, this cause coming on to be heard upon the pleadings, and upon the evidence produced therein, and the court being well and sufficiently advised in the premises, doth find that Lula B. Trahern, the appellant herein, is the wife of Louis T^rahern, who is a Choctaw Indian by blood, residing in the Choctaw Nation. And that since the rejection of this appellant, by the Dawes Commission her name has been placed upon the revised rolls of the Choctaw Nation, by the revisory board of said Nation, and that her said name appears on said revised rolls of the said Nation, as is shown by a certificate filed herein as evidence to that effect, under the hand and seal of the Honorable Green McCurtain as principal chief of said Nation.

It is therefore, ordered, decreed and adjudged by the court that the said appellant, Lula B. Trahern, is a citizen and member of the Choctaw Nation or tribe of Indians, by inter-marriage, and as such shall be enrolled. And that she is entitled to all the rights, privileges, benefits and immunities, of other citizens of said Choctaw Nation, and all such rights are hereby decreed to her.

IT IS FURTHER ordered, decreed and adjudged by the Court; That the decision heretofore made in this case, by the United States Commission to the Five Civilized Tribes known as the Dawes Commission in which the application of this appellant was denied, shall be and same is hereby reversed and it is ordered, that the said Commission shall place the name of this appellant on the rolls prepared or to be prepared by them of the Citizens of the Choctaw Nation by inter-marriage.

IT IS FURTHER ORDERED, that the Clerk of this court, shall transmit under his official hand and seal to the said Commission to the Five Civilized Tribes, information of this judgment or reverse

(2)

sal, and order of enrollment in such manner and form as shall be hereinafter required by General Order of this Court.

IT IS FURTHER ORDERED, decreed and adjudged by the Court that this appellant have and recover of the Choctaw Nation all her costs expended in this behalf.

SUMMONS.

Louplicut

United States of America,)
INDIAN TERRITORY,) ss:
Choctaw and Chickasaw Citizenship Court.)

The President of the United States of America,

To the United States Marshal for the Indian Territory, ~~Northern~~ District,

GREETING:

YOU ARE COMMANDED TO SUMMONS Green McCurtain

~~Principal Chief of the Choctaw nation~~

~~on behalf of said nation~~

to answer in twenty days after the service of this summons upon him

~~as Principal Chief of said nation~~

a complaint in Equity filed against ~~the Choctaw and Chickasaw nations~~

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, S. McAlester

by Lula E. Lohman and warn him that upon his ~~as said Prin. Chief~~ failure to answer, ~~the~~

~~on behalf of said nation the~~

complaint will be taken for confessed, and you will make return of the summons ~~on the~~

~~first day of next~~ instanter ~~Term of said Court~~

and you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the files papers and proceedings in the case of Lula E. Lohman file No. 9 in the District court for the Central District of the Indian Territory, have been transferred to the Choctaw and Chickasaw citizenship court, and that the certificate of the clerk of said court for said Central District, Indian Territory has been attached thereto.

WITNESS the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L.

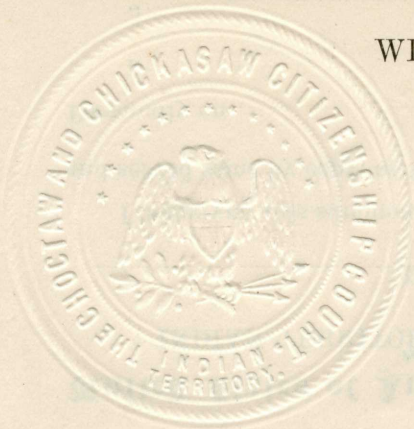
WEAVER and HENRY S. FOOTE, Associate Judges, and the Seal

thereof, at South McAlester, I. T., aforesaid,

this 13 day of March, A. D. 1903.

James B. Cassada
Clerk.

By _____, Deputy.



MARSHAL'S RETURN.

United States of America,

INDIAN TERRITORY,

DISTRICT.

ss:

I RECEIVED this summons this _____ day of _____, A. D. 190____, at _____ o'clock _____ m. and served same by copy, as follows:

Personally on _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 At Residence of _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.
 " _____ at _____ Ind. Ter. this _____ day of _____ 190____, at _____ o'clock _____ m.

With a member of defendant's family over 15 years of age there residing.

And the other persons named in this Summons are "not found in this District."

U. S. Marshal.

By _____, Deputy

No. 40 m

SUMMONS IN EQUITY.

Lula E. Johnson

vs.

Chadain & Chienasum
Natives

Summons issued the 13 day
of March, 1903

Returnable immediately Term, 1903

Returned and filed _____, 190____

Clerk.

By _____, Deputy.

MARSHAL'S FEES.

Services,	-	-	-	-	\$	_____
Miles,	-	-	-	-	\$	_____
Expense,	-	-	-	-	\$	_____
TOTAL,	-	-	-	-	\$	_____

Horton & Brown

Attorney for Plaintiff.

Dr. McAlister D.T.

File

In the Choctaw and Chickasaw Citizenship Court,
Sitting at South McAlester, Indian Territory.

Lula B. (or B) Trahern-----Appellant.

Vs. petition for leave to file certificate.

Choctaw and Chickasaw Nations,-----Appellee's.

Comes now, the appellant/, Lula B. Trahern, and continuing her request made in the record at the trial hereof, to be allowed there after to file a certificate of the tribal enrollment, duly approved by the Secretary of Interior, authenticated by the Commission to the Five Civilized Tribes of Indians, and presenting such certificate, duly authenticated, attached hereto, now asks that same be filed, as part of the record proof in this cause, to be considered by the court as if filed at the trial hereof.

Appellant says, that she made application to the aforesaid Commission for said certificate, in ample time to have had same for filing and use at the trial hereof, but that on account of the suspension of the Clerical force of said commission, because of exhausted appropriation, same could not be obtained.

By.

Lula B. Trahern

Heater W. Brown

Her attorney.

No

Lula B. Trahern
Appellant

Choctaw & Chickasaw
Nations Appellees

Petition for leave to file
Certificate

Wm. H. H. H.
Att. for Appellant

Next I desire in number 40, case of Lula B. Trahern vs. Choctaw and Chickasaw Nations, where the claimant claims the right to enrollment as a citizen by intermarriage, I desire to introduce and have filed as proof, the certificate of the Commission to the Five Civilized Tribes, showing that Louis Trahern has been enrolled by that Commission, and that his enrollment has been approved by the Secretary of the Interior.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED

21,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

THOS. T. ECKERT, President and General Manager.

Receiver's No.

Time Filed

Check

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

Amelia Travern
P. 317
Vol 7 Am St.
papers

ALL MESSAGES TAKEN BY THIS COMPANY ARE SUBJECT TO THE FOLLOWING TERMS:

To guard against mistakes or delays, the sender of a message should order it REPEATED ; that is, telegraphed back to the originating office for comparison. For this, one-half the regular rate is charged in addition. It is agreed between the sender of the following message and this Company, that said Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery of any UNREPEATED message, beyond the amount received for sending the same ; nor for mistakes or delays in the transmission or delivery, or for non-delivery of any REPEATED message, beyond fifty times the sum received for sending the same, unless specially insured, nor in any case for delays arising from unavoidable interruption in the working of its lines, or for errors in cipher or obscure messages. And this Company is hereby made the agent of the sender, without liability, to forward any message over the lines of any other Company when necessary to reach its destination.

Correctness in the transmission of a message to any point on the lines of this Company can be INSURED by contract in writing, stating agreed amount of risk, and payment of premium thereon, at the following rates, in addition to the usual charge for repeated messages, viz, one per cent. for any distance not exceeding 1,000 miles, and two per cent. for any greater distance. No employee of the Company is authorized to vary the foregoing.

No responsibility regarding messages attaches to this Company until the same are presented and accepted at one of its transmitting offices ; and if a message is sent to such office by one of the Company's messengers, he acts for that purpose as the agent of the sender.

Messages will be delivered free within the established free delivery limits of the terminal office. For delivery at a greater distance, a special charge will be made to cover the cost of such delivery.

The Company will not be liable for damages or statutory penalties in any case where the claim is not presented in writing within sixty days after the message is filed with the Company for transmission.

THOS. T. ECKERT, President* and General Manager.

IN THE CHOCTAW AND CHICASAW CITIZENSHIP COURT,
Sitting at South McAlester, I.T.

Lula E. (sometimes called,
Lula B. Trahern,-----Appellant.

Vs .

Choctaw and Chicasaw
Nations,-----Appellee's.

PETITION FOR APPEAL.

Comes now the above named appellant, Lula B. Trahern, sometimes called Lula E. Trahern, the E. having at times been used to perpetuate her maiden name of "Egleston", and files this her petition for appeal, and most respectfully represents and shows, that she is a white woman and is now entitled to enrollment as an intermarried citizen of the Choctaw nation of Indians, because of her marriage to Louis Trahern, who is a choctaw Indian by blood, and who is duly enrolled as such, and whose enrollment and rights as a Choctaw Indian are uncontested and un-disputed.

Appellant states that on and prior to September 9th 1896, this appellant resided with her said husband, at Cameron, I.T. and that she has ever since that date, continuously, and now resides with her said husband, in the Choctaw nation, and Chicasaw Nations of the Indian Territory, the present address being Pauls-valley, Indian Territory.

That on or about September, 9th 1896 this appellant prepared and filed with the United States Commission to the five civilized Tribes of Indians, commonly called and known as the "Dawes Commission" her application for enrollment as an intermarried citizen of the Choctaw Nation of Indians.

That thereafter, to-wit, on the 1st day of December, 1896, the aforesaid Commission, heard and determined her said application for enrollment as aforesaid, and denied the same.

That thereafter, to-wit, on the 15th day of January, 1897, your

petitioner filed her appeal from the aforesaid decision of the Dawes Commission, in the United States Court for the central District of The Indian Territory, sitting at South McAlester, in which said court her appeal was filed and docketed and numbered No. (9) in said court.

That thereafter, to-wit, on the 13th day of July, 1897, the said United States Court as aforesaid, heard and determined her said appeal, in her favor adjudging that she was entitled to enrollment as a Choctaw Indian by intermarriage.

That thereafter, to-wit, on the 17th day of December, 1902, this Honorable court, by its decision of that date, vacated, annulled and held void, the aforesaid judgment of the aforesaid United States Court, and wherefore she files this her appeal, because said decision deprives her of a favorable judgment.

Appellant further shows to the court, that pending her said appeal to the United States Court aforesaid, and before it finally proceeded to judgment, the Choctaw Tribal authorities placed the name of this appellant on the revised rolls of the Choctaw Tribe of Indians as will appear by the certificate of the custodian of said rolls attached hereto and asked to be considered herewith, and marked "A",

WHEREFORE, appellant prays that an appeal be granted her; that a writ of error issue, in manner and form, and directed, as by law and the rules of this court authorized and provided; that summons issue, and all such proceeding be had herein as by law permitted or required, and that upon final hearing hereof, that she be declared to be an inter-married citizen of the Choctaw nation, and entitled to all the rights privileges and benefits accruing to such, and for such further orders and judgments as to the court may seem meet and proper.

Thornton & Brewer
Her attorneys.

Lula B. Baker

P.D. Brewer on his oath states, that he did on the ___ day of March 1903, deliver to ___ of the firm of Mansfield McMurray and Cornish, a true copy of the above petition.

Subscribed and sworn to before me this ___ day of March, 1903.

Notary Public.

EXECUTIVE MANSION OF THE CHOCTAW NATION,

Sansboise, I.T.

This is to certify that Lula B. Trahern, is regularly enrolled on the revised rolls of the Choctaw nation, as an intermarried citizen of said nation, residing in Skullyville County. And I further certify that I have in my possession and custody the said revised rolls of said Choctaw Nation.

Given under my hand, and the great seal of the Choctaw Nation on this 19th day of June, 1897.

(signed) Green McCurtain,
Principal Chief of Choctaw Nation.

Attest,
Wallace Bond,
Private Secretary.

)SEAL)

IN THE CHOCTAW AND CHICKASAW CITIZEN-
SHIP COURT, SITTING AT SOUTH McALESTER,
JUNE TERM, 1903.

Lula B. Trahern, Plaintiff.

vs. No. 40

Choctaw and Chickasaw Nations, Defendants.

A N S W E R.

Come the Choctaw and Chickasaw Nations
by Mansfield, McMurray & Cornish their attorneys and
answering the petition of the plaintiff, Lula B.
Trahern deny that she is entitled to be admitted
and enrolled as a citizen by intermarriage of the
Choctaw Nation.

THE CHOCTAW NATION

THE CHICKASAW NATION

BY

ATTORNEYS.

Lulu B. Trahern,

--vs--

The Choctaw and Chickasaw Nations,

June 27, 1903.

No. 40-M.

Testimony taken before Judge Foote.

--o--o--

Horton & Brewer, Attorneys for Plaintiff, and
Mansfield, McM. & Cornish, for Defendants.

---o---

Mr. Horton;

This is a case where Lulu Trahern, sometimes called Lulu E., for the reason, that while her correct name is Lulu B., her maiden name was Eggleston, and since her marriage, she has at times used the middle initial "E", which is the reason for the name appearing at different times, perhaps, as Lulu B. in one instance and Lulu E., in another. We are compelled to state to the Court that on account of the fact that the Dawes Commission is not in operation at this time, we are informed that we will have to ask the Courts permission to file the certificate of the Dawes Commission, showing the tribal enrollment, together with the approval of the Secretary of the Interior, of the husband of the applicant later; said husband being Louis Trahern; that was granted in another case here and I presume it will be granted in this case.

Louis Trahern,

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

Mr. Horton:

What is your name?

A.--Louis Trahern.

Q.--What is your nationality?

A.--Choctaw.

Q.--Choctaw Indian?

A.--Yes sir.

Q.--Where do you reside at this time?

A.--Pauls Valley.

Q.--How long have you lived at Pauls Valley?

A.--A little over a year; a year the first of last April.

Q.--Where were you living prior to that time?

A.--At Cameron on the Frisco.

Q.--Where is Cameron?

A.--In the Choctaw Nation, twenty one miles south of Ft.
Smith on the Frisco.

Q.--How long have you lived at Cameron? You have stated
you are an Indian, have you been enrolled as such?

A.--Yes sir.

Q.--The applicant here, Mrs. Lulu B. Trahern, what
relation does she bear to you?

A.--She is my wife.

Q.--You are now on the Tribal Rolls as a Choctaw
Indian?

A.--Yes sir.

Louis Trahern,

being duly sworn testified on behalf of the Plaintiff,
as follows:--

Mr. Horton:

What is your name?

A.--Louis Trahern.

Q.--What is your nationality?

A.--Choctaw.

Q.--Choctaw Indian?

A.--Yes sir.

Q.--Where do you reside at this time?

A.--Pauls Valley.

Q.--How long have you lived at Pauls Valley?

A.--A little over a year; a year the first of last April.

Q.--Where were you living prior to that time?

A.--At Cameron on the Frisco.

Q.--Where is Cameron?

A.--In the Choctaw Nation, twenty one miles south of Ft.
Smith on the Frisco.

Q.--How long have you lived at Cameron? You have stated
you are an Indian, have you been enrolled as such?

A.--Yes sir.

Q.--The applicant here, Mrs. Lulu B. Trahern, what
relation does she bear to you?

A.--She is my wife.

Q.--You are now on the Tribal Rolls as a Choctaw
Indian?

A.--Yes sir.

Q.--When you married --- when did you marry Lulu B. Trahern?

A.--In 1890.

Q.--And have you lived with her continuously ever since that date?

A.--Yes sir.

Q.--As her husband?

A.--Yes sir.

Q.--Have you any children?

A.--Yes sir.

Q.--What are the names of the children?

A.--William A., James Walker Trahern, and Edward Trahern. ^{one we lost named}

Q.--Are they enrolled as Choctaw Indians by blood?

A.--Yes sir.

Q.--Where were you married to your wife?

A.--In Mississippi.

Q.--In what County?

A.--Yellowbuscha County.

Q.--What is this paper I hand you?

A.--It is the marriage certificate and license.

Q.--Your marriage certificate and license?

A.--Yes sir.

Mr. Horton;

We offer in evidence the marriage certificate of Louis Trahern and Lulu B. Eggleston, dated the 18th, day of November 1890, signed by Jos. H. Seay, Clerk. Also a certificate in the same paper of E.B. Miller, certifying to the solemnization of the Bonds of Matrimony between these said parties.

Also the certificate of J.W. Hillums, Clerk, by J.D.

Haile, Deputy Clerk. (Ex. "A")

Mr. Horton;

Q.--I believe you have stated that the relation of marriage has continuously existed between yourself and wife ever since the marriage as shown by the marriage license?

A.--Yes sir.

Q.--And on your removal to the Territory she came with you and has resided continuously with you as your wife?

A.--Yes sir.

Q.--Were Mrs Trahern, the applicant here, and yourself living here prior to the time of the filing of the application before the Dawes Commission?

A.--Yes sir, we were living here.

Q.--She did file an application before the Dawes Commission?

A.--I applied to the Commission sitting at Ft. Smith in 1896 and they rejected her.

Q.--Did you apply by attorney or by letter?

A.--By letter.

Q.--You wrote them a letter?

A.--Yes sir; told them I was on the roll and to put her on; I did not apply for myself and children.

Q.--You did not furnish any proof?

A.--No, sir.

Q.--She was afterwards denied?

A.--Yes, sir.

Q.--Know whether she afterwards procured an appeal to the United States Court?

A.--Yes sir.

Q.--What was the result?

A.--She got judgment admitting her to citizenship?

Q.--And was enrolled?

A.--Yes sir.

Q.--Mr. Trahern, what is that paper?

A.--A certificate from Green Mc Curtain, showing that she is on the rolls.

Q.--What rolls?

A.--Choctaw Rolls.

Q.--Explain about that further.

A.--Under Governor Gardner they would not have anything to do with the Dawes Commission at all; the nation said they were going to make their own rolls; they sent out a Board that enrolled me and my children and wife. They called it the "Advisory Board" and Green McCurtain was Chairman.

Mr. Horton;

We offer this certificate, which he identified as a certificate signed by Green McCurtain, Chief of the Choctaw Nation, certifying that Lulu B. Trahern, is regularly enrolled on the revised rolls of the Choctaw Nation, as an intermarried citizen of said Nation, residing in Skullyville County and further certifying that said Green Mc Curtain has in his possession and custody said revised rolls of the Choctaw Nation, bearing date of June 19th, 1897, and signed by Green McCurtain, Principal Chief of the Choctaw Nation. Attested by Wallace Bond, Private Secretary, under the Seal of the Choctaw Nation. (Ex. "B")

Q.--This enrollment by the revising board, I will ask you whether it was after she had been refused by the Commission on your letter?

A.--I think it was while the case was pending in the United States Court that they had out this "Revisory Board," with Green McCurtain, Chairman.

Mr. Cornish;

The Choctaw and Chickasaw Nations object to the introduction of any evidence, which attempts or tends to establish by oral testimony that Louis Trahern has a status as a Choctaw Citizen, except the certificate of the Tribunal vested with the Citizenship Power. The contention of the Choctaw and Chickasaw Nations being that it is incumbent upon the applicant for enrollment as a citizen by intermarriage to show to this Court, first, that the person through whom they claim is a citizen by blood of the Choctaw or Chickasaw Nations. With reference to the status of the person through whom marriage rights are claimed no testimony is competent except the certificate of the Commission to the Five Civilized Tribes showing the enrollment of such person by the Commission and the approval of that enrollment by the Secretary of the Interior, and any testimony other than that is incompetent and should not be considered. We particularly object to the certificate which has been introduced and which attempts to show the enrollment of the applicant by the action of the Tribal Authorities. Our contention is that that cannot have any possible bearing or influence on this case; the theory upon which this Court was created, the

theory upon which the Dawes Commission was created and the theory upon which the Secretary of the Interior is vested with his jurisdiction was that the action of the Tribal Authorities was not in accordance with the law and that these matters should be taken out of their hands. Our contention is that this Court is charged with the duty to look primarily into the right of each applicant, without reference to anything that has been done heretofore.

Mr. Horton;

I desire to say that the testimony elicited from this witness as to his tribal relations and being a member of a Tribe of Indians by blood, wherein he was asked if he was enrolled, has been asked not only for the purpose of showing that fact itself, but for the further purpose of identification, when we procured and filed, as soon as same could be had from the Dawes Commission, the certificate showing the Tribal enrollment of this witness, the husband of the applicant, showing the approval of the Secretary of the Interior. We further in answer to this objection to the certificate, under the hand and seal of the custodian of the roll, say that same is competent, showing that when in full power to so do, to make their rolls, the Choctaw Nation, through its regularly constituted body of officials, known as the "Revisory Board" or Commission, on the ground and in view of all the facts, did enroll this applicant as an intermarried citizen and that proof of such action is a competent circumstance in the

case.

Mr. Cornish;

Not only in this case, but for its effect on other cases, we object to the submission to this Court, of any action of the Tribal Authorities, with reference to the enrollment of any Indian or any body. Now, it is our contention, that the certificate, which is attempted to be introduced in this case is not competent and cannot be considered in this case. I desire to state that the certificate is dated in the year 1897; it purports to certify to the action of the Tribal Authorities of the Choctaw Nation, dated in 1897; now it has been officially determined that on the 10th, day of September, 1896, the limit fixed by the Act of June 10, 1896, that no power vested in the Tribes to fix citizenship in any degree and after that date all power ceased. Further more it has been held in the Circuit Court of Appeals in Kimberland vs. The Commission to the Five Civilized Tribes, that on the 10 day of September 1896, the time limit fixed by the Act of June 10, 1896, that all citizenship power and jurisdiction that had ever existed in the tribes in any extent, expired and after that date, no citizenship power vested in the tribes. Our contention is that it was the policy of the Government that all power over citizenship matters should be taken away from them and vested in the Tribunals of the Government; that it was done and the Government intended that it should be done and it has been determined that it was done and it has been decided by the United States Court for the

Eighth Circuit.

I will state that here are the requirements which face the applicant, first, is the person through whom you claim the right of enrollment by marriage, a citizen by blood of the Choctaw or Chickasaw Nations, and has the enrollment of such person been passed on favorably by the Commission to the Five Civilized Tribes and has that enrollment been approved by the Secretary of the Interior and have you filed before this Court the certificate of the Dawes Commission. Secondly, did you comply with the Tribal intermarriage laws when marrying this person and was the person a citizen at that time.

Cross Examination.

Mr. Cornish:

Q.--You were married to the applicant in Mississippi?

A.--Yes sir.

Q.--In the year 1890?

A.--Yes sir.

Q.--When did you remove to the Choctaw Nation?

A.--In the Spring of 1896.

Q.--Were you admitted as a citizen by the Choctaw Council?

A.--Yes sir.

Q.--What year?

A.--1895.

Q.--Then you were not admitted and recognized and enrolled as a citizen of the Choctaw Nation until the year 1895, is that true?

A.--Yes sir.

Q.--Then at the time you married your present wife you had not removed to the Choctaw Nation? And you were not a recognized citizen of the Choctaw Nation?

A.--No sir, not that year.

Q.--You have not since remarried?

A.--No sir.

Q.--That was the only marriage; the ceremony in Mississippi?

A.--Yes sir.

Q.--And that was before you removed to the Choctaw Nation and five years before you were admitted to citizenship?

A.--Yes sir.

Witness excused.

--O--

Mrs. Lulu B. Trahern,

being duly sworn, testified in her own behalf, as follows;--

Q.--Mrs. Trahern, you are the applicant in this case?

A.--Yes sir.

Q.--Were you ever enrolled as an intermarried citizen?

A.--Yes sir.

Q.--What is the name of your husband?

A.--Louis Trahern.

Q.--The witness who just left the stand?

A.--Yes sir.

Q.--What was your maiden name?

A.--Lulu B. Eggleston.

Q.--Lulu B. is your correct name, given you in infancy?

A.--Yes sir.

Q.--It appears that your application was made to the Commission in the name of Lulu E.; I will ask you to explain why you sometimes used Lulu E.? What did the "E" stand for?

A.--Eggleston.

Q.--That was for the purpose of retaining your family name of Eggleston?

A.--Yes sir.

Q.--You are the same person called Lulu B. Eggleston Trahern?

A.--Yes sir.

Q.--I will ask you when you were married to your husband?

A.--In November 1890.

Q.--I will ask you if you have lived with him continuously as his wife since that date?

A.--Yes sir.

Q.--You removed with him to the Territory from Mississippi?

A.--I did.

Q.--Been with him in the Territory ever since?

A.--Yes sir.

Q.--Where do you now reside?

A.--Pauls Valley.

Q.--How long have you resided there?

A.--A year the 3rd day of last April.

Q.--Where did you reside previous to your removal to Pauls Valley?

A.--Cameron, Choctaw Nation.

Q.--How long have you resided at Cameron?

A.--Since March 1896.

Q.--Did you make application, or your husband, or some one make it for you, for enrollment as an intermarried citizen?

A.--Yes sir.

Q.--Were you actually residing and living with your husband in the Choctaw Nation at the time?

A.--I was.

Q.--Have you and your husband any children?

A.--Yes sir, two living.

Q.--What are their names?

A.--William and James Walker Trahern.

Q.--They are living with you in the Choctaw Nation?

A.--Yes sir.

No cross examination.

Witness excused.

Mr. Brewer;

I will not ask the Court to make an order at this time, I simply desire now to apply, so that the Court, when it has the power to do so, can act upon the application granting me leave to file the certificate of the Commission to the Five Civilized Tribes, commonly known as the Dawes Commission, showing the Tribal Enrollment as a Choctaw Indian by blood of Louis Trahern, the husband of this applicant and showing that his said enrollment has been approved by the Secretary of the

Interior. The reason we have not this now is that we have been informed that for some reason the Clerical force of the Dawes Commission is not on duty and that the Commission is not prepared at this time and will not furnish such certificate.

Mr. Louis Trahern, Recalled.

for further cross examination.

Mr. Cornish:

Q.--The name of your wife was not included in the Act admitting you to citizenship?

A.--They told me down there that there was no use putting her in; that the intermarried ones would not get anything anyway.

Q.--Her name is not in the Act?

A.--I don't think it was.

Q.--Council seemed to think that the intermarried ones would not get anything?

A.--No sir, none of them would get anything.

And thereupon Plaintiffs announced that they rested their case.

Lula B. Trahern,

vs.

The Choctaw and Chickasaw Nations.

M ---

Horton & Brewer, Attorneys for Plaintiffs.

Mansfield, McMurray & Cornish, for Defendants.

--O--

Present and presiding the Honorable Spencer B. Adams,
Chief Judge and Walter L. Weaver Associate Judge.

JANUARY 11, 1904. This day this cause coming on to
be heard, both plaintiff and defendants being represented
by Counsel and both having announced ready for trial, the
following proceedings were had, to-wit:

JUDGE ADAMS:

How about the Trahern case.

Mr. Cornish:

If the Court please that is a question of law
entirely. He married in Mississippi in 1890.

JUDGE ADAMS:

He is a white man?

Mr. Cornish:

No sir. He was admitted by the Choctaw Council.

JUDGE ADAMS:

This his wife.

Mr. Cornish:

Yes sir.

JUDGE ADAMS:

White woman.

Mr. Cornish:

They came here in 95 and he was admitted, came here
bringing his wife with him in ninety-five and he was
admitted, and she is claiming to be a citizen by inter-
marriage. The position of the Nations is that at the time

he married he was not a citizen.

JUDGE ADAMS:

Is he a full blood.

Mr. Cornish:

No sir. For the purpose of this case he is a citizen now. He married five years before he was admitted and was not in a position to confer citizenship.

JUDGE ADAMS:

Whether the fact of his being admitted afterwards would confer citizenship upon his wife. What about his children.

MR. Cornish:

I don't know whether he has any children or not. The rule that has been followed is that the child take the status of his father where there is a legal marriage. If he was the only individual admitted by the Choctaw Council, that would not be of much assistance.

Mr. Horton:

There was some argument as to whether or not, he having married prior to the time that he was admitted could confer citizenship. Did he marry in Mississippi.

JUDGE ADAMS:

Yallobusha County.

Mr. Horton:

He came to the Territory and was admitted by the Act of the Council, or was he a citizen by blood.

Mr. Cornish:

That is the basis of his citizenship I presume so, a citizen by blood as the basis of his citizenship.

I will say to the Court of course that we are willing to take these cases up at any time, Mr. Horton might indicate a time and we will conform to that. Any time that will suit Mr. Horton's convenience.

Mr. Cornish:

I am ready to take up the Trahern case.. We think the condition which the record develops is that it is shown that he was not a citizen of the Choctaw Nation at the time of his marriage and therefore not in a position to confer citizenship upon a white woman.

JUDGE ADAMS:

Suppose you make up a little brief on that subject.

Mr. Horton:

This is Mr. Brewers case and he will attend to that.

JUDGE ADAMS:

Between now and Monday.

Mr. Horton:

We could not do it then, for the reason that our Court down here is in session and Mr. Brewer is busy and will be. That is a bothersome question. I don't know where in the world we would look for a precedent in it.

JUDGE WEAVER:

Couldn't you think it out.

JUDGE ADAMS:

If he is an Indian now, he was certainly an Indian when he married. He is no more of an Indian now than he is now.

Mr. Cornish.

Certainly his obtaining a judgment would not change his blood. He must be a recognized Indian in this Nation before he is able to confer citizenship. I think we might show that the Act of Council was void. So far as this case is concerned he is now a citizen. We should say that in ninety per cent of the persons admitted by Council, they were not entitled, and we therefore wish to urge that condition. If that condition should appear, the Act of the Choctaw Council

would be taken away from him and ~~xxxxxxxxxxxx~~
under the Curtis Act he has a tribal enrollment which
gives the Commission power to undo. His Act of
the Council is void and his name is on the tribal roll,
and that gives the Commission power to determine whether
he is on the roll.

JUDGE ADAMS:

Is his ancestors on the roll back there.

Mr. Cornish:

He is evidently the descendant of a fourteenth article
Choctaw. I was just showing to the Court that we might
say successfully that the act of the Choctaw Council was
not worth the paper it was written on, but for the
purpose of this case he is an Indian. The question is
was he such a citizen of this Nation at the time of his
marriage as would make him illegible to confer citizenship
by intermarriage.

Mr. Horton:

Your Honor knows how our term of court at this place is.
We only have until the eighth of February, and course
there are many people coming into the office and it will
be so much of the time.

JUDGE ADAMS:

It would not take much time to get these matters up.
I hate to take these cases up piece meal. We have got
the contention of both sides. We have got the point of
these two cases. How much time do you want.

Mr. Horton:

I would like to have all that the Court can give us.
It is a question of trying to prepare something
that would be of some value to the Court in reaching a
logical and sound conclusion in these matters.

JUDGE ADAMS:

Confer with him and let us know.

Mr. Horton:

If the Court could give us thirty days.

JUDGE WEAVER:

You see him and let us know, and let him come up.

In the Choctaw and Chickasaw Citizenship Court, sitting at
South McAlester, in the Central District of the Indian Terri-
tory, in the Choctaw Nation.

Lula B. Trahern, alias
Lula E. Trahern,
Appellant,

vs.

No. 40.

The Choctaw and Chickasaw Nations,
Appellees.

The treaty of 1866 with the Choctaw and Chickasaw
Nations provided, in section 38 thereof, that

"Every white person who having married a Choctaw or
Chickasaw, resides in the said Choctaw or Chickasaw Nation
&c. x x x x x x x is to be deemed a member of said Nation,
x x x x x ".

As has heretofore been declared in cases decided in this
Court, to entitle a white person to be deemed a member of
said Nation or Nations, the white person must have married a
Choctaw or Chickasaw, and must reside in the Choctaw or
Chickasaw Nation after said marriage.

That is to say, a valid marriage to a Choctaw or Chick-
asaw, must be followed by a residence in one of said Nations,
as the case may be.

A male Choctaw, under the laws and regulations of said
Nation, can contract a marriage which is legal, outside said
Nation and under the laws of any other State, and then
bringing his white wife to reside in said Nation of which he
is a member, and she afterwards there resides as his wife,
she is to be deemed a member of said Nation.

Two things must concur. The valid marriage must take place by a male member of the tribe or Nation to a white woman; and she must live and reside with her husband in said Nation in which he resides.

The question involved in this case is whether a Choctaw man by blood, married in Mississippi, before he has been enrolled as a Choctaw by blood, in the Choctaw Nation, Indian Territory, can by removing and living in the Choctaw Nation with his wife so married, convert her, so to speak, without re-marrying her, into a member of said tribe? That is to say, does the marriage, valid in all respects as such, and followed by residence, entitle the white woman to membership in the Nation of her husband from the time of her husband's enrollment as a Choctaw by blood (under the existing laws and treaties,) by the Commission to the Five Civilized Tribes and the approval thereof by the Secretary of the Interior?

I think that these things are sufficient under Section 38 of the treaty of 1866.

There is, of course, a vast difference between the status of a white man marrying a Choctaw or Chickasaw woman, and a white woman marrying a Choctaw or Chickasaw man.

The white man must marry in the Nation he wishes to become a member of by intermarriage, according to its laws and regulations, and reside therein thereafter and remain with his wife. A white woman can be validly married to a Choctaw man in any jurisdiction outside the Nation, and by then residing in said Nation in the marital state with her Choctaw husband, be deemed from such marriage and residence a member of that Nation.

I can not see how a marriage, valid before her husband, a Choctaw by blood, became identified and entitled to enrollment in the respective Nation, and valid thereafter, and followed by her residence continuously after his recognition and identification, does not entitle the white wife to be deemed a member of the Nation of which her husband is a member.

This conclusion, it seems to me, is according to the letter and spirit of section 38 of the treaty of 1866, and in accordance with the laws and regulations of the Choctaw Nation.

Such a state of facts and conditions brings about what the treaty intended, to wit; a valid marriage (& insuring the legitimacy of the offspring, if any, of such marriage,) and residence in the Nation as a member thereof; which are the two essential things the said treaty seeks to effectuate.

I think that the appellant here, Lula E. Trahern, sometimes called Lula E. Trahern, should be declared entitled to intermarried citizenship in the Choctaw Nation, and all rights accruing therefrom, and IT IS SO ORDERED.

(Signed) Henry S. Foote
Associate Judge.

We concur:

(Signed) Spencer B. Adams
Chief Judge.

(Signed) Walter L. Weaver
Associate Judge.