

For Claimants

Wm Buckley -- Gavin S.T. Dead
 Tom Jones -- " " " " Dead
 Thomas P. Lewis --
 Marcus Lewis --
 Sarah Lewis --
 Thomas Hicks --- Checotah S.T. Dead
 Hattie Hicks --- " " "
 Oliver Fryor ---
 Edward M. Lewis -- Shawnee, O.T. Pass
 Julius M. Leard --
 Joseph A. Johnson --
 E. C. Johnson -- Shawnee, O.T.
 Jesse B. Mathis Econ tuckka S.T.
 Jacob S. Bender --
 Lewis H. Gaylor -- Shawnee, O.T.
 Frank A. Brumble -- Shawnee, O.T.
 Sherman P. Pabor --
 Thos P. Lewis -- Shawnee O.T.
 H.C. Roper --- " "
 Geo W. McKibben " "
 Zora P. Lewis " "
 Preston Early " "
 Jane F Page Pacolo S.T.

For Nations

David Leard -- Brook Lawn Miss
 Sam Whiteley -- Spiro S.T.
 Simon E. Lewis -- Do McAlester S.T.
 P. L. Sexton --- Poteau S.T.
 Mrs J. B. Mathis -- Econ tuckka O.T.
 Mose Price -- Hockett City Ark
 Hiram H. Early -- Six miles E. of Texoma
 Elisha Lewis Brook Lawn, Miss

No 58

Zora P. Lewis et al
v

Chectaw Nation

No 101

Central Dist Court

No

David Com mussion

See No 59

1 My name is Sam Whiteley, I am 48 yrs
2 of age, a resident of Spind, when I have
3 lived about five years; I came here from
4 Franklin County, Arkansas when I had
5 lived a part of two years in about the year
6 1888, during the first year of Harverson's ad-
7 ministration, I met Joe Edwards who is
8 now an applicant for citizenship in
9 the Choctaw Nation; at that time said
10 Edwards was living in Logan County
11 Arkansas and have known him in-
12 timately since that time, At the time
13 I first met him he was a married
14 man, ~~I have seen his mother and~~
15 ~~she has been to my house to visit, His~~
16 Mother's maiden name was Doak, I never knew
17 his father, but was well acquainted
18 with the Doak family, I knew ~~the~~
19 ~~brother~~ two brothers of Joe Edwards
20 named Mel and Lou and they
21 were his only brothers or sisters so far
22 as I know, said Edwards married
23 a woman named Ophelia Lewis whom
24 I understood he married about
25 Hackett City, S. T. I knew Mrs Sam
26 Edwards's mother Mrs Lewis, but
27 did not know her father, During the
28 whole time I knew the family I never
29 heard of them being Indians until
30 in 1895 I saw in the Ozark papers
31 that said Edwards had proved up
32 his Indian citizenship but I

1 then understood the claim came
2 through ~~the~~ Edwards, but I now
3 hear they claim through Mrs Edwards
4 Son + Mrs Edwards live near Enterprise
5 S. T. and so far as I know make no
6 claim to citizenship

7 I knew a sister of Mrs Edwards, the
8 wife of George M Edwards, who lived
9 near Oklahoma City, O. T. about a
10 year ago and a brother who lived
11 near Oklahoma City, O. T. I knew
12 him in about 1894, I never heard
13 of him claiming citizenship.

14 ~~John~~ John Edwards was raised about
15 Mountainburg, Crawford County Ark and
16 is a man of about 47 years. Mrs
17 Edwards was raised near Hockett
18 City S. T.

19
20 Sam. Whiteley

21 Subscribed and sworn to before me this 7th
22 day of April 1903

23 W. H. Mason

24 Notary Public
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Alfred Deard of
Lucas O. Whitely

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1 Indian Territory
2 Cherokee Nation }.

3 My name is Mrs. Hiram H. Early.

4 My P.O. is Texanna.

5 I have known the Lewises who are applicants
6 for citizenship in the Choctaw Nation for twenty-five
7 years. When they first came to the Territory they
8 leased a place from Sarah McKinney for four years.
9 I saw a great deal of them, they lived just across
10 the River from us.

11 I attended a log rolling ~~at~~ given by the
12 Lewises once, and the dinner was served at Dave
13 Lewises. He showed me two bales of cotton &
14 said "Bunt Susie, these two bales of cotton & some
15 more like them are going to prove me a Choctaw".
16 I asked him if he was a Choctaw in fact.
17 He nodded his head & winked his eye, and said, "that
18 don't matter." ^{all I know of} that was the first I ever heard
19 of their having or claiming Indian blood. ~~that they~~

20 My husband, Hiram H. Early, who first married
21 one of the Lewises, says that old man Lewis
22 told him on many occasions that he ^{was any of his} ~~had not~~
23 ^{family} ~~had~~ ~~have~~ any ~~Choctaw~~ Indian blood, & that he
24 wished they did have. When they went to apply for
25 citizenship they tried to get Hiram H. Early to join
26 him in the application, but he said that the
27 case was a wholesale fraud, and he refused to
28 have anything to do with it. Presley Early who
29 married Sefy Lewis, is Hiram H. Early's brother.
30 Hiram H. Early knows & more about the case than
31 most any other witness. He is at Checotah today.

32 Susan A. Early.

App'd and
Susan A. Early

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[Faint, mostly illegible handwriting on lined paper, possibly bleed-through from the reverse side. Some legible words include "Susan A. Early" and "App'd and".]

App'd and W
Susan A. Early

My name is Jane F. Page; I am a
Choctaw Indian by blood and my
post office is Pecola V.T. Several
years ago a man named Lewis
of whom I had heard came to my
house and asked me to be a wit-
ness for him in his citizenship
case. He claimed to be a Choctaw
Indian and claimed to be related
to an old man, a full blood Indian
whom I knew well but whose
name I cannot now recall. The
old man returned to Mississippi and
I understand he died there. I
went to Jansen, Ark., to testify for
Mr Lewis, but all I knew was
that ~~Lewis~~ the old man was an
Indian and that Lewis claimed
to be related to him. My cousin
Willis Folsom now deceased went
with me and was also a witness.
He knew more about him than
I did. I never knew anything about
Lewis' family or his Indian blood
except what he told me.

The old Indian man ~~was~~ mentioned
above was related to and lived with
Adam Morris' family in Sugar Loaf

S-58

Zora P Lewis

Affidavit of Jane J. Page

(Copy)

File: Zoot Lewis Case

Office of
CIRCUIT CLERK MOSHOLATUBBEE DISTRICT, CHOCTAW NATION.

Poteau, Ind. Ter. May 14th 1903.

Mansfield, McMurry & Cornish,

South McAlester, I.T.

Dear Sir:- Yours of the 2nd to hand, in reply have to say that since I talked to your Mr. Rosenwinkel on the train at Atoka I came home the next day and went to Red Oak, I.T. to Circuit Court and have been there ever since until this morning. I will be up to see you in a few days I think I can be of some benefit to you in the Biddie, Bagwell and Lewis cases and perhaps some other cases in this country that I do not call to mind just now. Just as soon as I can leave home you may look for me.

Yours very respectfully,

(Signed) T.J. Sexton,

Circuit Clerk.

001100 01
South McAlester, Indian Territory, September 23, 1903.

Honorable
Oaklodge, Indian Territory.

Dear Mr. Bowers:

The purpose of this letter is to inquire if you know or have ever known a man of the name of Marcus Lewis and Sarah Lewis, his wife. These people made some affidavits in some citizenship cases before Stephen Wheeler, United States Commissioner at Fort Smith, some years ago.

We are extremely anxious to locate them and will thank you to write us at once if you know them and if they are living and if so, where.

Your friends,

South McAlester, Indian Territory, September 23, 1903.

South McAlester, Indian Territory, September 23, 1903.

Honorable Green McCurtain,
Principal Chief, Choctaw Nation,
Kinta, Indian Territory.

Dear Governor:

The purpose of this letter is to inquire if you know or have ever known a man of the name of Marcus Lewis and Sarah Lewis, his wife. These people made some affidavits in some citizenship cases before Stephen Wheeler, United States Commissioner at Fort Smith, some years ago.

We are extremely anxious to locate them and will thank you to write us at once if you know them and if they are living and if so, where.

Your friends,

Oak Lodge, I. T., Oct. 3. 1903.

Wansfield M. Mairny Smith
J. W. Alister Jr.

Dear Sirs. —

I have made diligent inquiry as
to Marcus & Sarah Lewis but cannot get
any trace of them — my time though has
been very limited on account of preparing
for Council — I think later, I may
be able to get some information of them
I will be at your especial demand
after Council adjourns —

Very truly
yours
James Bower

Zona Lewis

file for 1 year use

Kinta, I.T., September 28, 1903.

Messrs Mansfield, McMurray & Cornish,

S. McAlester, Indian Territory.

Gentlemen:

Replying to your letter of the 23rd inst, wherein you inquire whether or not I know the whereabouts of Marcus and Sarah Lewis, I beg to advise that I am unable to get any information with reference to these people, and I do not remember anything of such people having ever lived in this section.

Yours truly,

Green. McCurtain
Prin Chief C.N.

South McAlester, Indian Territory, June 3, 1903.

Zora P. Lewis, et al,

vs.

Choctaw Nation.

LETTER OF INSTRUCTIONS.

TO _____.

The papers and files in the above case are herewith delivered to you and you are directed to investigate the same conforming in the main to the instructions contained in this letter.

The principal applicants in this case, are the Lewis's, the Early's, the Edwards's, the Pryor's and others. Some claim by blood and some by intermarriage. They state that James M. Lewis was a Choctaw Indian and duly recognized as such in the state of Mississippi, and that Zora P. Lewis is the widow of said James M. Lewis, she having married him in the State of Mississippi in 1838; that the other applicants are the legal descendants of the said James M. Lewis and Zora P. Lewis.

Thomas Hicks of Checotah, Indian Territory in an affidavit made before J. B. Marrs, Notary Public of Checotah says that he was personally well ac-

acquainted with James M. Lewis and Zora P. Lewis, and that he knew them to be man and wife, and that he knew James Madison Lewis was the son of Susanna King, a full blood Choctaw woman; that he knew them in Sebastain County, Arkansas; that James M. Lewis died in the Choctaw Nation in 1875; he knew the children of James M. Lewis, and gives their names. We think it likely that Thomas R. Hicks knows nothing whatever of the applicants, or their Indian blood; that he never knew such a person as Susanna King, and that he never perhaps saw James M. Lewis. You are directed to see the witness and question him closely and carefully, and take from him an affidavit embodying all the facts you can get of advantage to the Nations.

attended to

Hettie Hicks, of Checotah, who perhaps is the wife of Thomas R. Hicks also made an affidavit in this case, the same being an exact duplicate of the affidavit made by Thomas R. Hicks. You are directed also to see Hettie Hicks and deal with her as directed above.

Jessie B. Mathis, whose post office is Econtuchka, Indian Territory also made an affidavit in this case, before W. W. Ives, in which he stated

Lives 10 miles northwest of Shawnee, Okla.

that he was acquainted with the applicants herein;
that they were the sons and daughter of James M.
Lewis and the grand children of Susanna King, which
last was a Choctaw Indian by blood made these state-
ments from his own personal knowledge. We are sure
this testimony is not from the witnesses own per-
sonal knowledge, and that it was furnished him.
You are directed to see Jesse B. Mathis and procure
from him an affidavit setting forth what facts you can
get from him or advantage to the Nations.

Jacob S. Bender, whose post office is not
given made an affidavit before W. W. Ives in the
very words of the affidavit of Jesse B. Mathis.
You are directed to see John S. Bender and deal with
him as above directed.

*Lives in a half a
mile of Jossie
Mathis*

Yours very truly,

Dictated

In the case of Zora P. Lewis, et al,
I was directed to see Thomas Hicks and Hettie Hicks,
both of Checotah, Indian Territory. I went to Checo-
tah and learned that Thomas Hicks is dead. I saw
Hettie Hicks, his widow however, and took from her
the affidavit appended hereto, showing that she
knows nothing in the world about the applicants,
and that her testimony was procured through an im-
position.

I was further directed to see Jesse B.
Mathis and Jacob S. Bender. I learned from Mrs.
Hicks that Jesse B. Mathis and Jacob S. Bender
both live at Econtucka, about ten miles North-east
of Shawnee, Oklahoma Territory.

Yours very truly,

Northern District.

My name is Hettie Hicks.
I am forty years of age. My P.O. is Checotah, Ok.
I live 12 miles northwest of Checotah. I never
knew Susana King. I do not know where she lived, nor
do I know anything about her. I do not remem-
ber ever to have heard anything about her.
I knew James M. Lewis, deceased, who was the
husband of Zora B. Lewis. I also knew Zora B.
Lewis. They claim to be Choctaw Indians.
I know nothing about their Indian blood.
I have never heard anything about their
Indian blood except what they have told me.
My husband Thomas Hicks, is dead. He knew
nothing more about the Lewis's than I do.

My husband & I were witnesses for them on
the last time they made their application for cit-
izenship. The only testimony we gave or could
have given was that they were the same
family of people who had applied for cit-
izenship in the Choctaw Nation once before.
In appearance they do not show Indian blood.

Hettie Hicks

Subscribed & sworn to before me this 5th day of June, 1903.

A. H. Richardson

" Notary Public

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Mrs. Julia Hicks

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Mrs. Hicks further says that J.
E. Arnold, a negro, procured
the making of these affidavits;
that she & her husband were
supposed to have signed
them only as witnesses.

She says that she knew James
Madison Lewis in his lifetime,
and never heard him or any
of his family claim Indian
blood while he lived -

Says that her husband
knew Mr. Arnold's mother
in Ft. Smith & knew her
to be a negro.

Indian Territory
Western District.

My name is H. H. Early. I am 53 years of age. My P.O. is Texana, D.S. I live 6 miles east of Texana.

I have known the Lewises, who are applicants for citizenship in the Choctaw Nation, since the year 1871. I have been intimately acquainted with them. My first wife was a daughter of Zora P. Lewis & James M. Lewis.

The Lewises came from Sebastian Co. Ark. to the Choctaw Nation in 1875. They lived in Arkansas four or five years before they came to the Choctaw. Their P.O. in Arkansas was Enterprise. They lived neighbors to me there. I married Sarah J. Lewis in Arkansas. She afterwards married a McKibben.

During all the time they lived in Arkansas I never heard any of the family claim to have any Indian blood of any kind. Afterwards some of them moved into the Choctaw Nation, & began to claim ~~Indian~~ Choctaw blood; and those living in Arkansas joined in with them. They hired witnesses to testify for them, and they made up a general slush fund to ~~pay~~ hire witnesses with. They wanted me to go into it but I refused to. They hired a man named Lewis, ^{as they said} who lived in the Choctaw Nation & who claimed to be a Choctaw, to testify in their behalf. He swore that they were blood kin to him. They did not pay him ~~that~~ what they agreed to. I have forgotten Lewis's given name. Lewis, ^{I think} was pot negro. I have heard that Lewis afterwards swore in Court - I think at Ft. Smith - that he had sworn falsely in their case, and that they had hired him to do so. The negro Lewis told me that they had not paid him all they agreed

to pay, other he was going to tell the truth on them.
Simon Lewis will know the name of the negro
Lewis. I think he is still living. Simon Lewis will
know a good deal about this case. I have heard
that Simon was in the employ of these people.

I was personally acquainted with James Madison
Lewis. He was my father-in-law. I have heard
him say time & again that he did not have any
Indian blood, and that he wished he did have. He
said that ~~not~~ knowing there was no Indian
blood in him, he wanted not attempt to prove a
right in the Nation for the whole Territory. He
was a good man, none of the Lewises claimed
any Indian blood as long as James Madison
Lewis lived, and they wanted not be claiming
today if he was still living. The Lewises leased
land from Sarah McKinney ^{or Mrs. McKinney} just across the
Canadian River from here for four years
before they claimed Indian blood. They were
living on leased land when James Madison
Lewis died. James Madison Lewis never did
move to the Choctaw Nation. He lived in Ark.
He died in a wagon while he was going back to
Ark. after visiting the Lewises here.

I never heard of Susanna King in my life.
The Seards have changed their names. They used to
spell W & pronounce it Land.

The Lewis boys, sons of James M. Lewis, have
told me time & again that they didn't have any
right here; but that they could prove one just
the same & were going to do it.

They were to give the negro Lewis some ponies,
three bales of cotton, & something else, amounting in all
to about \$300⁰⁰. They wanted me to pay a part of it,
but I refused to do it. That turned the family

1 against me, and finally led to the separation
2 of my self + wife -

3 The Lewises come from near Brookhaven,
4 Miss. They were related to some Kings there, who
5 still live near Brookhaven. They have a great
6 many kin in Brookhaven. Elisha Lewis, who
7 still lives in Brookhaven is a half brother of
8 James M. Lewis. Their whole family history
9 can be learned in Brookhaven.

10 Miriam M. Early
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Zona P. Lewis, et al.

Statement of H. H. Early.

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Blank lined area on the right side of the page, with numbers 1 through 16 written vertically along the left edge of this section.

Zora P. Lewis et al
No 58
Ex parte = Denied

- + Zora P. Lewis,
- + Thomas P. Lewis,
- + Zora S. Early,
- + Olivia Pryor,
- + { Gale B. Wooding, or Gale B. Lewis or
Gail B. Lewis
- + Marshal Cowart,
- + Virgil Cowart,
- + Angelina Adams or Angelina Labor
- + Julius W. Beard. or Angelina Labor
- + Madison Leard, or Madison L. Leard
- + Jack Leard
- + Maude Early
- + Hugh Early

- + Lydia Clark
- + Lawrence Lewis
- + Laura Lewis
- + Lucy Adams
- + Nellie Goodwin, or Nellie Early
- + George L McKibbin or George Lewis
McKibbin
- + Cassie O. McKibbin or McKibben
- + Claud McKibbin or McKibben
- + Thomas P. McKibbin or McKibben
- + Frank A Lead
- + Mabel Adams
- + Belle F Roper
- + Rhoda L Roper
- x Amanda P. Roper

+ Zora Roper
+ Frank A Lewis
+ Zora A Lewis
+ Edward S Lewis
+ Sodie Leard
+ Nannie Leard
+ Willie Tabor
+ Ben Tabor
+ Herschel Tabor
+ Kufe ~~Stougl~~ Douglass, or Douglas
+ Henry Jordan
+ Rhoda Jordan
+ Zora Jordan
+ George Pryor
+ James Pryor
+ Mary F Pryor or Mary E. Pryor
+ Elric G Hicks

+ James D Lewis
+ Andth L Lewis or Anthas L Lewis
+ Oscar Lewis
+ Joseph Roper,
+ Joseph H Leard,
+ Sarah E Lewis,
+ Augusta M Lewis
+ Samuel P Cowart
+ George V. Cowart
+ Anna Cowart
~~Net~~
+ Belle ~~W~~ ~~B~~ Lord

5 ~~1~~ Denied
1 Dismissed

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____, _____ o'clock _____ m.

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

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

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

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

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

" _____ at _____ Ind. Ter. this _____ day of _____ 190____, _____ 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. 58 m

SUMMONS
IN EQUITY.

John P. Lewis et al
vs.

Cherokee & Chickasaw Nations

Summons issued the 19 day
of March, 1903

Returnable instant Term, 1903

Returned and filed _____, 190____

Clerk.
By _____, Deputy.

MARSHAL'S FEES.

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

Nancy Ed Lewis
Samuelson
Attorney for Plaintiff.

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. Mosley, Governor

of the Chickasaw nation,

on 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, *So. Mc Alester*

by *John P. Lewis, et al* and warn him that upon his failure to answer, the

as said Governor, 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 ~~instant~~ *instant* Term of said Court.

and you are further commanded to notify said P.S. Mosley, Governor aforesaid, that the papers, files and proceedings in the case of

John P. Lewis, File No. *5-8* 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 Mc Alester, I.T.*, aforesaid,

this *29* day of *March*, A. D. 190*3*

James B. Casper
Clerk.

By _____, Deputy.

James D. Lewis, Antha L. Lewis, Oscar Lewis, Joseph Roper, Joseph H. Lerad are Choctaw Indians by blood, and that Sarah E. Lewis, Augusta M. Lewis and Anna Cowart Belle Leard have been duly and legally married to Choctaw Indians according to Choctaw laws. It is therefore by the court considered, ordered and adjudged that the said applicants above named are hereby admitted to citizenship in the Choctaw Nation, with all their rights privileges and benefits of such citizenship aforesaid in and to the Choctaw Nation.

The Court further finds that the ^{other} ~~applicants~~ applicants, to-wit: Preston Early, Joseph M. Edwards, Samuel Pryor, H. C. Roper, George W. McKibben, ~~Thom~~ Sherman Tabor, George Clark, and Gus Adams, are not married according to the laws of the Choctaw Nation; and it is by the Court considered, adjudged and decreed that said Preston Early, Joseph M. Edwards, Samuel Pryor, H. C. Roper, George W. McKibben, Sherman Tabor, George Clark, and Gus Adams, be denied all rights of citizenship, that their names be excluded for the rolls of Choctaw citizens of the Choctaw Nation, prepared or to be prepared by the Commission to the Five Civilized Tribes and that as to said parties the Choctaw Nation have and recover of them its costs.

It is further ordered and adjudged by the Court that the clerk of this court shall transmit to the Commission to the Five Civilized Tribes a certified copy of this judgment and decree, and that said ~~xxx~~ Commission shall place the names as aforesaid of said plaintiffs upon the rolls prepared or to be prepared by them of the citizens and members respectively of the Choctaw Nation, and that such persons so admitted, as citizens and members of the Choctaw Nation as aforesaid, shall be entitled to all the rights, privileges, immunities and benefits of citizens of said Choctaw Nation in all respects.

It is further ordered that the plaintiffs have and recover of and from the Choctaw Nation all their costs in this behalf laid out and expended, for which let execution issue.

REPORT ON THE PRESENT STATUS OF THE ZORA P. LEWIS CASE.

The applicants herein claim that Susanna King was a full blood Choctaw Indian woman; that she had a son named James Madison Lewis, a half blood Choctaw, now deceased, who was the husband of Zora P. Lewis and the father of the principal applicants herein.

W.M. Jones, who lived near Garvin, Indian Territory, swore in 1896 that he was 68 years of age, and was well and personally acquainted with James Madison Lewis in the old Choctaw Nation in the State of Mississippi, and knew him to be a Choctaw Indian by blood.

This witness is now dead. Simon Taylor, of Garvin, I.T., prosecuting attorney of Red River County, in a statement made to D.A. Richardson, said that he knew W.M. Jones; that he was mentally unbalanced and at times wholly insane. We think the facts are that W.M. Jones was never in Mississippi, and that he knew nothing of these people at all.

Simon Taylor and others near Garvin should be summoned to show Taylor's mental condition, and if possible to impeach him.

Marcus Lewis and his wife, Sarah Lewis, in an affidavit made before Stephen Wheeler, swore that they (affiants) are citizens by blood of the Choctaw Nation and came here from the state of Mississippi. That "my father, David Lewis, was a Choctaw Indian. My mother, Sarah Anne Lewis, nee Hardesty, was a daughter of Jane King, who was a full blood Indian. My grandfather on my father's side was also named David, was a full blood Choctaw, and had an uncle named David who was a full blood Choctaw.....My grandfather's uncle David was also the uncle of James Madison Lewis; his mother was also a King of the same family of Kings as the said Jane King."

In connection with this testimony, Hiram H. Early, in a statement made to D.A. Richardson, says: "They (the applicants herein) hired a man named Lewis, who lived in the Choctaw Nation and claimed to be a Choctaw, to testify in their behalf. Lewis was part negro. He swore that the applicants were blood kin to him. They did not pay him

what they agreed to. I have forgotten Lewis's given name.He told me that they had not paid him what they agreed to pay, and that he was going to tell the truth on them."

Hiram H. Early is the most valuable witness the Nations have in this case. His testimony should be taken in contradiction of Marcus Lewis's affidavit. He will also testify to other material facts which we shall have occasion to notice further on. Marcus Lewis, perhaps can be impeached in Hiram H. Early's neighborhood.

Thomas R. Hicks and Hettie Hicks, his wife, of Checotah, I. T., swore in 1896 to quite a long affidavit, in which they are made to say: that they "are personally acquainted with James Madison Lewis, and know him to be a son of Susanna King, a full blood Choctaw woman".

Thomas R. Hicks is now dead. His widow, Hettie Hicks, in June, 1903, lived 12 miles northwest of Checotah, I. T.; and on that date she made a signed statement to D. A. Richardson, in which she said that she "never knew Susanna King and does not remember ever to have heard of her". I know nothing about their (the Lewises) Indian blood. I have never heard anything about their Indian blood except what they have told me. My husband, Thomas R. Hicks, knew nothing more about the Lewises than I do". She denies making the statements contained in her affidavit. Her testimony should be taken before the Court.

Jesse B. Mathis and Jacob Bender, both of whom now live at Econ-tuchka about 9 miles northeast of Shawnee, O. T., made affidavits in 1896 in behalf of Edward M. Lewis, in which they state that they know the applicant to be a son of James M. Lewis and a grandson of Susanna King, who was a Choctaw woman by blood; and know this from their own personal knowledge.

Both of these parties have subsequently given written statements to D. A. Richardson, denying that they ever made such an affidavit, and stating that they know nothing about the rights of these applicants except what the applicants themselves have told them.

Jesse B. Mathis was very indignant on seeing what his purported

affidavit contained;and he will make a willing witness for the Nations.

The evidence of both of these witnesses should be taken before the court.

Mrs. Jane F. Page, of Pocola, I.T., has made an affidavit before W.H. Moore, in which she says that she knows nothing about the race or blood of the Lewis applicants. That she never knew anything about them except what they told her, and that she has forgotten that.

Her testimony should be taken before the Court in contradiction of her affidavit in the record. (A copy of her original affidavit is not among our papers; but the Citizenship Court record shows that her affidavit was offered in evidence by Harley.)

Hiram H. Early, of Texanna, I.T., gave a written statement to D.A. Richardson in this case, which see. He is by far the most important witness in this case we have been able to find. His first wife was a daughter of James M. Lewis. He knew them for years before they ever claimed Indian blood. He knows of their hiring witnesses, and raising a slush fund among themselves for the corruption of witnesses. He says that these people never claimed Indian blood until after the death of James Madison Lewis; and that he has heard James Madison Lewis say TIME AND AGAIN that he, Lewis, did not have any Indian blood, and that he wished he did have. Says that James Madison Lewis never did live in the Nation. Tells of the Lewises leasing land from Sarah McKinney for four years after they came into the Nation. He never heard of Susanna King. The Lewis boys have often told him that they had no right here, but that they were going to prove one just the same.

He says that the Lewises were to give Marcus Lewis some ponies, three bales of cotton, and some goods amounting in all to \$300, to get him to swear for them, and they wanted Early to go in with them.

His testimony should be taken in court by all means.

Hiram H. Early further says: "The Lewises came from near Brook-

haven, Mississippi. They were related to some Kings there who still live near Brookhaven. They have a great many kin in Brookhaven. Elisha Lewis who is still living in Brookhaven is a half brother of James M. Lewis. Their whole family history can be learned in Brookhaven."

This case should be investigated along those lines in and around Brookhaven, Mississippi.

Mrs. Hiram H. Early should also be had before the court as a witness. See her statement/

Zora P. Lewis, et al.

Evidence for Nations -

Take testimony of Hettie Hicks, of Checotah, O.T., along the lines of her affidavit, showing that she & her husband, Thomas R. Hicks, were imposed upon when they made their former affidavit -

Take testimony of Jusse B. Mathis, of Ecantuchka, (9 miles northeast of Shawnee, O.T.) along lines of affidavit showing that he was imposed upon in former purported affidavit -

Take testimony of Jacob S. Bender, the same -

~~Hiram~~ Take testimony of Hiram H. Early along lines of his affidavit, and also as bearing upon Marcus Lewis

Also take testimony of Mrs. Hiram H. Early along lines of affidavit.

W. M. Ritchey of Garvin, Indian Territory
gave testimony in the case of Zora P. Lewis, et al,
vs. Choctaw Nation in which he stated that he was 85
years old; that he was well and personally acquaint-
ed with James M. Lewis in the Choctaw Nation in
Mississippi, and that said James M. Lewis was a
Choctaw by blood. The applicants in this case
claim from James M. Lewis, Zora P. Lewis claiming to
be his widow, and she says that she was married to
him in the State of Mississippi in the year 1838.
The other applicants in the case are the children and
grand children of the same James M. Lewis. You are
directed to see W. M. Ritchey at Garvin, and take
his affidavit in the case. We think you can de-
velop the fact that he never knew such a man as
James M. Lewis in Mississippi, or that if he did
know such a man, he was not a Choctaw Indian. We are
of the opinion that this testimony was furnished
witness already written out.

William Jones of Garvin, Indian Territory
gave testimony in the Zora P. Lewis case, in which
he stated that he was 68 years of age; that he was
well acquainted with James M. Lewis in the old
Choctaw Nation in Mississippi, and that said James M.
Lewis was a Choctaw Indian by blood. You are
directed to deal with William Jones in the same man-
ner as that prescribed for W. M. Ritchey.

Handwritten signature

Handwritten signature

...the subject in this case
...with James M. Lewis in the Choctaw Nation in
...the Choctaw Nation in which he resides...

South McAlester, Indian Territory,
June 1, 1903.

Zora P. Lewis, et al.,

vs

The Choctaw Nation.

R E P O R T

To Mansfield, McMurray & Cornish.

I was instructed to see W.M. Richey of Garvin,
and William Jones of the same town. I went to Garvin
and found that both W.M. Richey and Wm. M. Jones are dead.

Respectfully submitted.

D.A. Richardson

Red River Co.
Choctaw Nation }

I, Simon Taylor, a
full blood Choctaw Indian, state that
I knew W. M. Jones. He is dead now.
He was mentally unbalanced, and at
times was wholly insane.

Simon Taylor.

Oklahoma Territory
Pottawatomie County

My name is J. S. Bender.
I am forty-five years old. My P. O. is Shawnee, O. T.
I was born and raised in Arkansas. I ~~do~~ never
knew any persons who claimed Cherokee blood.
I never knew Susanna King. The Lewises claim
Cherokee blood through Susanna King. I know
nothing about the race or blood of the Lewises
except what they claim and have told me. The
Lewises claim Cherokee blood.

J. S. Bender

J. E. Arnold wrote out affidavit
He read it. Did not read statement
Only supposed identifying the
children of James Madison Lewis

Knew James M. Lewis from 1870
to 1878 or 1879 - He never
claimed to be Cherokee

2 Ottawa County).

3 My name is Eliza B.
4 Mathis. I am the wife of Jossie B. Mathis. I
5 know the Lewises who are claimants for citizen
6 ship in the Choctaw Nation. Three of my brothers
7 married into the family. I have known the
8 Lewises since the year 1871. I knew them in
9 Arkansas. They never made any pretension to
10 being Indians at that time, and if any one had
11 called them Indians they would have been insulted.
12 When they first began to claim citizenship after they
13 moved from Arkansas to the Indian Territory. At
14 first they claimed through old man Lewis whom
15 they called Madison Lewis. Then Woodson
16 Browned, whom I do believe to be a negro, but
17 who calls himself an Indian, got in with them,
18 and from that time on they claimed through
19 Zora P. Lewis, and not through the old man.
20 I know nothing about the ancestors of these peo-
21 ple. I understand that old lady Lewis was born
22 in Virginia, and that the family came from
23 Broadhaven, Miss. to Arkansas. My husband
24 knows nothing more about them than I do, I
25 never knew or heard of Susanna King. I understand
26 though that old man Lewis had a sister who
27 married a King.

28 Eliza B. Mathis

29 Mrs. Mathis also says that Lewis & his family homesteaded
30 land in Sebastian Co. Ark.

31 See Hiram H. Early, 6 miles east of Texanna, Ark,
32 married a daughter of Lewis - separated.

A family came with the Lewises from Miss. by the name Price. Mose Price is
one of the boys - He lives 1 1/2 miles from Hallett's City - old lady's name was Sallie
Price.

Oklahoma Territory,
Pottawatomie County.

My name is Jessie B. Mathis. I am 57 years old, and my P.O. is Shawnee, O.T. I live about nine miles northeast of Shawnee. I know the Lewises who are applicants for citizenship in the Choctaw^{Nation}, I knew none of their ancestors, and I knew nothing about the merits of their claim. I never knew a woman by the name of Susanna King, and I knew nothing about her. I once made an affidavit in behalf of old man Lewis. I never made an affidavit in behalf of Zora P. Lewis. The applicants did not claim through her then, but claimed through the old man.

I have examined a copy of what purports to be an affidavit made by me in this case. I never made any such affidavit, and the purported affidavit is a fabrication. All that I said & could say was that I had heard the Lewis children say that they had Choctaw blood.

Jessie B. Mathis

J. B. Donald wrote out the affidavit - Only intended to identify children of James M. Lewis -
Knew James M. Lewis from 1878 + 1879 - He never claimed to be Choctaw -
(See purported affidavit - Typewritten form)

SUBPŒNA.

Choctaw and Chickasaw Citizenship Court,

INDIAN TERRITORY,

Central District

The President of the United States of America,

To Hiram H. Early, and Mrs Hiram H. Early, *Reyanna & P* - (7 miles east of town on Belle Star Mountain), Greeting:

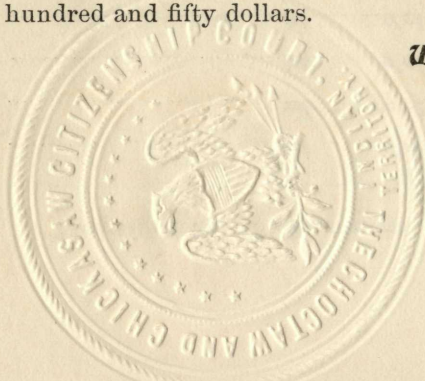
We command you, that all and singular business and excuses being laid aside, you, and each of you, appear and attend before the Judges of the Choctaw and Chickasaw Citizenship Court in the Indian Territory, at a Court to be held at its Court Room, *South McAlester*, in the Indian Territory, on the *4* day of *February*, 190*4*,

at *10* o'clock *A*. m., to testify and give evidence in a certain cause pending in said Court, then and there to be tried, between *Zora P. Lewis et al*, Plaintiff, and *Choctaw and Chickasaw Nations*, Defendant, on the part of *defendants*

And this you, or any of you, are not to omit, upon the penalty upon you, and every one of you, of two hundred and fifty dollars.

Witness, the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L. WEAVER and HENRY S. FOSTER, Associate Judges of said Court, and the Seal thereof, at *South McAlester* Indian Territory, this *29* day of *January*, A. D. 190*4*

James B. Cassada
Clerk.
By _____, Deputy.



INDIAN TERRITORY,
CENTRAL DISTRICT.

MARSHAL'S RETURN.

I received this Subpoena at _____ o'clock _____ M. on the _____ day of _____, 190____, and served the same by reading it in the presence and hearing of _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ o'clock _____ M. on the _____ day of _____, 190____.

FEES.

Services, _____ \$
_____ miles, at 6 cents per mile, \$ _____
Total, _____ \$

By _____

D. A. Richardson on oath says that he is not a party to the within entitled suit, and that he is more than 21 years of age; that he duly served the within subpoena on Hiram H. Early and his wife, Mrs. Hiram H. Early, at their home 8 miles east of Texanna, I. T., at 4.30 P.M. Jan. 31, 1904, by reading the same to each of said parties within their presence and hearing and also by delivering to each of them a true and perfect copy hereof.

D. A. Richardson

Subscribed and sworn to before me this 3rd day of Feb., 1904.

E. Aaron Bayl
Notary Public.

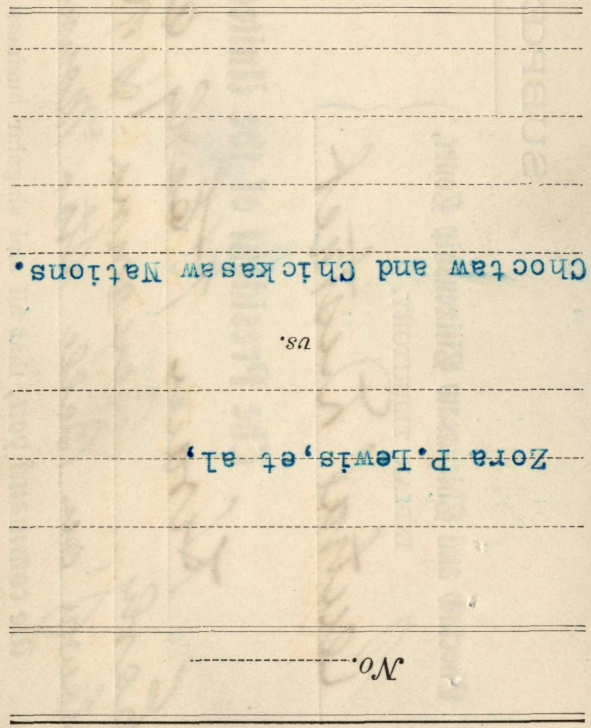
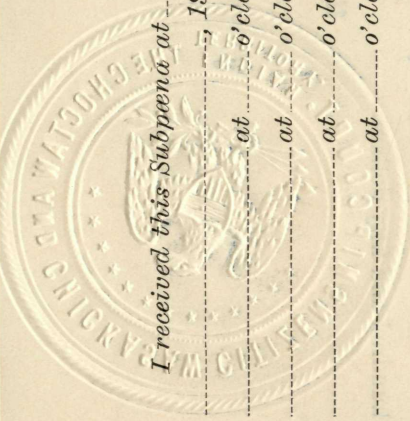
SUBPENA.

Choctaw and Chickasaw Nations.

Zora P. Lewis, et al,

vs.

No. _____



SUBPENA.

Choctaw and Chickasaw Citizenship Court,

INDIAN TERRITORY,

Central District

The President of the United States of America,

To

Hattie Hicks, Checotah & P
(12 miles Northwest of town)

Greeting:

We command you, that all and singular business and excuses being laid aside, you, and each of you, appear and attend before the Judges of the Choctaw and Chickasaw Citizenship Court in the Indian Territory,

at a Court to be held at its Court Room, South McAlester, in the Indian Territory, on the 4 day of February, 1904,

at 10 o'clock a.m., to testify and give evidence in a certain cause pending in said Court, then and there to be tried, between Tom P. Lewis et al, Plaintiff, and Choctaw and Chickasaw Tribes, Defendant, on the part of defendants

And this you, or any of you, are not to omit, upon the penalty upon you, and every one of you, of two hundred and fifty dollars.

Witness, the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L. WEAVER

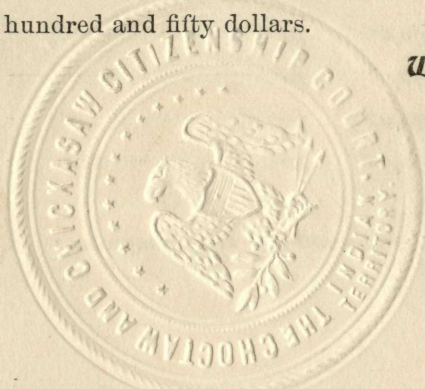
and HENRY S. FOOTE, Associate Judges of said Court, and the Seal thereof,

at South McAlester, Indian Territory, this 29

day of January, A. D. 1904

James B. Cassada
Clerk.

By _____, Deputy.



MARSHAL'S RETURN.

INDIAN TERRITORY,
CENTRAL DISTRICT.

D. J. Richardson on oath says that he is more
S. Marshal.
Deputy

that he is more than 21 years of age and not a party to the within entitled
action; and that he duly served the within subpoena on Mrs.
Hettie Hicks at her residence 12 miles north west of Checotah,
T. T., at 11 o'clock A. M., January 31, 1904, by correctly reading
the same to her in her presence and hearing, and also by deliv-
ering to her a true and correct copy hereof.

Subscribed and sworn to before me this 3rd day of Feb., 1904.

D. J. Richardson

E. Everett Boyd
Notary Public.

SUBPCENA.

I received this Subpena at _____ o'clock _____ M. on the _____
_____, 190____, and served the same by reading it in the presence and hearing of
_____ at _____ o'clock _____ M. on the _____ day of _____, 190____.
_____ at _____ o'clock _____ M. on the _____ day of _____, 190____.
_____ at _____ o'clock _____ M. on the _____ day of _____, 190____.
_____ at _____ o'clock _____ M. on the _____ day of _____, 190____.

FEES.

Services, _____ \$ _____
_____ miles, at 6 cents per mile, \$ _____
Total, - - - \$ _____

Choctaw and Chickasaw Nations.

Zora P. Lewis, et al,

No. _____

SUBPCENA.

Choctaw and Chickasaw Citizenship Court,

INDIAN TERRITORY,

Central District

The President of the United States of America,

To

Jacob S. Bender, Econtuehka O.T.
(9 miles Northeast of Shawnee O.T.)

Greeting:

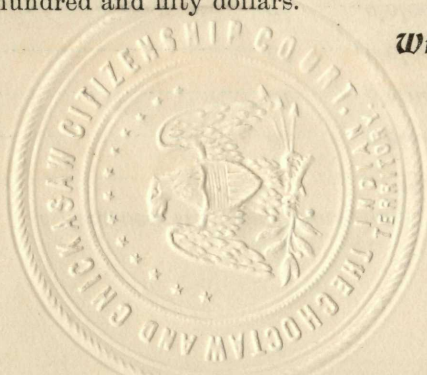
We command you, that all and singular business and excuses being laid aside, you, and each of you, appear and attend before the Judges of the Choctaw and Chickasaw Citizenship Court in the Indian Territory,

at South McAlester, at a Court to be held at its Court Room, in the Indian Territory, on the 4 day of February, 1904,

at 10 o'clock A. M., to testify and give evidence in a certain cause pending in said Court, then and there to be tried, between Zora P. Lewis et al, Plaintiff, and Choctaw and Chickasaw Nations, Defendant, on the part of defendants

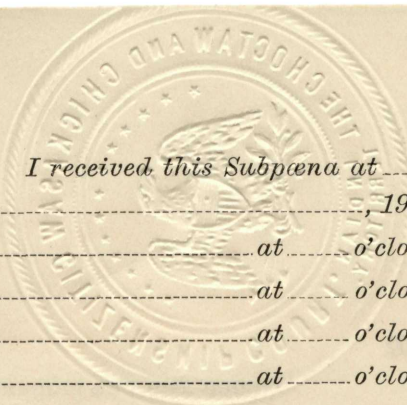
And this you, or any of you, are not to omit, upon the penalty upon you, and every one of you, of two hundred and fifty dollars.

Witness, the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L. WEAVER and HENRY S. FOOTE, Associate Judges of said Court, and the Seal thereof, at South McAlester, Indian Territory, this 29 day of January, A. D. 1904



J. B. Casson
Clerk.

By _____, Deputy.



MARSHAL'S RETURN.

I received this Subpoena at _____ o'clock _____ M. on the _____ day of _____, 190____, and served the same by reading it in the presence and hearing of _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____

FEES.

Services, _____ \$ _____
 _____ miles, at 6 cents per mile, \$ _____

U. S. Marshal.

Total, - - \$ _____

By _____, Deputy.

No. _____

U.S.

SUBPOENA.

*I acknowledge service of this
 within subpoena on this Feb. 1, 1908
 J. J. Burdick*

SUBPÆNA.

Choctaw and Chickasaw Citizenship Court,

INDIAN TERRITORY,

Central District

The President of the United States of America,

To

Jesse B Mathis, Econtuckha, O P
(9 north east of Shawnee O P)

Greeting:

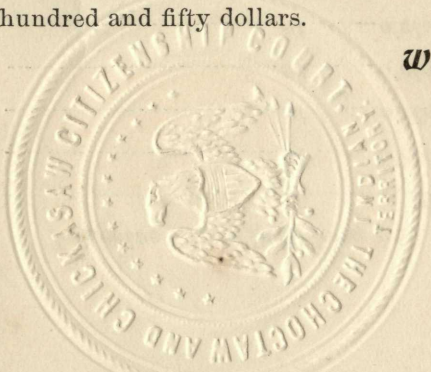
We command you, that all and singular business and excuses being laid aside, you, and each of you, appear and attend before the Judges of the Choctaw and Chickasaw Citizenship Court in the Indian Territory, at a Court to be held at its Court Room, *South McAlester*, in the Indian Territory, on the *4* day of *February*, 190*4*, at *10* o'clock *a.* m., to testify and give evidence in a certain cause pending in said Court, then and there to be tried, between *Zora P. Lewis et al*, Plaintiff, and *Choctaw and Chickasaw Nations*, Defendant, on the part of *Defendants*

And this you, or any of you, are not to omit, upon the penalty upon you, and every one of you, of two hundred and fifty dollars.

Witness, the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L. WEAVER and HENRY S. FOOTE, Associate Judges of said Court, and the Seal thereof, at *South McAlester*, Indian Territory, this *29* day of *January*, A. D. 190*4*

James B. Cassada
Clerk.

By _____, Deputy.



MARSHAL'S RETURN.

I received this Subpoena at _____ o'clock _____ M. on the _____ day of _____, 190____, and served the same by reading it in the presence and hearing of _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____ at _____ o'clock _____ M. on the _____ day of _____, 190____, at _____

FEEES.

Services, _____ \$ _____
_____ miles, at 6 cents per mile, \$ _____
Total, - - - \$ _____

U. S. Marshal.

By _____, Deputy.

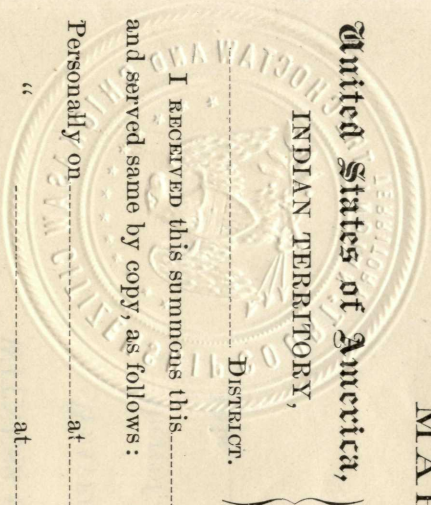
No. _____

vs.

SUBPOENA.

26th 1904
I hereby acknowledge service of the within subpoena, on this
J. B. Martin

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... o'clock m.
 " at Ind. Ter. this day of 190... o'clock m.
 " at Ind. Ter. this day of 190... o'clock m.
 " at Ind. Ter. this day of 190... o'clock m.
 At Residence of at Ind. Ter. this day of 190... o'clock m.
 " at Ind. Ter. this day of 190... o'clock m.
 " at Ind. Ter. this day of 190... 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. *58-M*

SUMMONS
IN EQUITY.

Zora P Lewis et al

vs.

Lehectaw + Chekaraw Nations

Summons issued the *19* day
of *March*, 190*3*

Returnable *instantly* Term, 190...

Returned and filed 190...

Clerk.

By Deputy.

MARSHAL'S FEES.

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

Harley + Lewis
S. McAlester ds Attorney for Plaintiff.

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, ^{Northern} District,

GREETING:

YOU ARE COMMANDED TO SUMMONS Green Mc Curtain, 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, So McAlester by Jera P Lewis et al and warn him that upon his failure to answer, ~~the~~ as Principal Chief of said Nation, 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 Mc Curtain, Principal Chief aforesaid, that the files, papers and proceedings in the case of Jera P Lewis et al File No. 101, in the District Court, for the Bentral 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 Bentral District, Indian Territory, has been attached thereto.

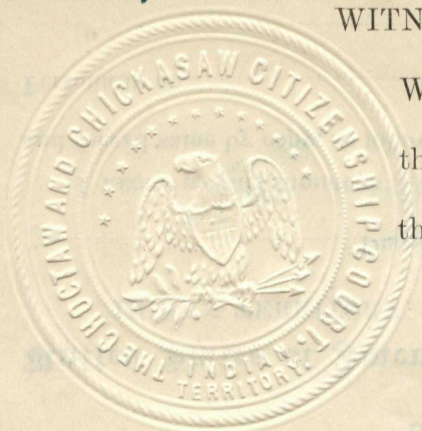
WITNESS the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L.

WEAVER and HENRY S. FOOTE, Associate Judges, and the Seal thereof, at South Mc Alester, I.T., aforesaid,

this 19 day of March, A. D. 1903

Jas B. Bassada Clerk.

By E. S. Bevil, Deputy.



In the Choctaw and Chickasaw Citizenship Court.

September 22, 1903.

Zora P. Lewis, et al.,

vs.

C & C Nations.

Before Judges Weaver & Foote.

Harley & Lewis for the plaintiffs.

M McM & Cornish for defendants.

This cause coming on to be heard on this day the following proceedings were had:

Mr. Cornish:

Before proceeding I desire to call attention to a motion which we have filed in this case to make more definite and certain which seeks to elicit from you information as to whether or not any one or all of the ancestors through whom these applicants claim complied with the fourteenth article of the treaty of 1830 or removed to the Choctaw Nation when the Choctaw Indians removed West; what is your response to that motion?

Mr. Harley:

If the court pleases, we take it that the court will take the same action in this case on the motion and demurrer referred to that was taken in the other cases. We presume that the motion will just simply be filed and that the court will not pass on the matter at this time.

Judge Weaver:

Yes, sir.

Mr. Cornish:

It is not a matter of argument, I understand that the sufficiency of the motion-what the motion seeks to elicit will be passed upon later. I wish the record to show now whether or not you will respond to the motion?

Mr. Harley:

We take the position that we do not have to reply to it.

Mr. Cornish:

Then you decline to furnish the information which the motion asks for?

Mr. Harley:

Yes; at this time.

Judge Weaver:

Proceed.

Mr. Harley:

We have a large amount of documentary evidence to offer at this time after that has been done we can then swear the witnesses. On behalf of the applicants and all of the applicants in this case we desire to offer first the original application of Zora P. Lewis, et al., --as I stated we desire to offer the original application of Zora P. Lewis, et al., filed before the Dawes Commission in 1896. Attached to and forming a part of that original petition is a list of all the parties in the cause and we desire to offer that list which is attached to the original petition. I presume that the original petition and this list of names might be marked as one exhibit -Exhibit "A". I don't presume that it will be necessary to take up the time of the Court now in reading the names of the applicants in this case as their names are set out in the original list.

We next desire to offer the receipt showing that a copy of the original petition in this case was served on Stewart, Gordon and Haley as attorneys for the Choctaw Nation and service accepted by them together with the affidavit set out in the receipt which might be marked exhibit "B", this receipt being dated September 7, 1896.

Now this record is very cumbersome; I will first ask leave to offer the entire record in the case filed before the Dawes Commission and before the United States court as a whole and later I shall offer it individually.

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the record as a whole and state in support of such objections that the Nations have objections to offer to every part of the record and these objections are based upon different grounds and it would be impossible to shape these objections so the record could be intelligently made up if offered as a whole. If the gentleman states that he expects to offer it in parts I see no reason why he should offer it as a whole.

Judge Foote:

That is no way to offer it.

Mr. Harley:

We prefer to offer it as a whole.

Mr. Cornish:

That record contains many papers; now he proposes to offer it in parts because in offering it there might possibly be some papers that he will overlook, of course in that event we would not have an opportunity to object to such a paper at all. We certainly object to that.

Mr. Harley:

I expect to offer it as a whole and then in parts.

Mr. Cornish:

You now offer all of it. We will say that record contains fifty pieces; then you go back and offer it piece by piece and introduce for instance thirty-five pieces, that would leave fifteen pieces to which we could not object.

Judge Weaver:

I would suggest that you offer the record piece by piece.

Mr. Harley:

I next will offer the affidavit of Thomas P. Lewis made on the second day of September 1896. I may offer these in a little broken up form because I shall take it just as I find it.

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and in support of such objections state that it is a part of a void proceeding had before the Commission to the Five Civilized Tribes to which both nations were necessary parties and to which the Choctaw Nation only was made a party and for the further reason that it has not been shown that the witness who made the affidavit is dead.

Judge Weaver:

The Court will receive the paper subject to the objection to be passed on later.

Mr. Harley:

We next introduce the affidavit of Sarah Lewis taken on the 21, day of October 1878 which we ask be marked exhibit "D".

Mr. Cornish:

The Choctaw and Chickasaw Nations state the same objections previously urged and in addition urge that it is not such an affidavit which in any event might have been made use of before the Commission to the Five Civilized Tribes under the specific terms of the act of Congress of June 10, 1896.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the affidavit of Thomas R. Hicks taken on September 1, 1896, which we ask to be marked exhibit "E".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and in support of such objections state that it was made use of in a void proceeding before the Commission to the Five Civilized Tribes under the act of Congress of June 10, 1896 to which the Choctaw and Chickasaw Nations were both interested and necessary parties and to which the Choctaw Nation only was made a party and for the further reason that has not first been shown that the witness is dead.

Mr. Harley:

We next offer the affidavit of Hettie Hicks taken on September 1, 1896 (exhibit "F")

Mr. Cornish:

The nations object and state the same objections urged to the paper just introduced.

Judge Weaver.

It is understood that the same ruling is made.

Mr. Harley:

We next offer the affidavit of T. H. DuBois, taken on August 31, 1896, with reference to births of applicants which we ask to have marked exhibit "G".

Mr. Cornish:

The nations object and state the same grounds for objections.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the affidavit of T. H. DuBois taken on August 31, 1896, with reference to births of applicants; which we ask to be marked exhibit "H".

Mr. Cornish:

The nations object and state the same grounds for objections.

Judge Weaver:

Same ruling.

Mr. Cornish:

In addition to the objections already urged to the introduction of the affidavits of T. H. DuBois with reference to births and deaths the nations object to their introduction for the reason that they purport to be certificates of certain entries as they appear upon a certain family bible, we urge now that the bible is the best evidence.

Mr. Harley:

We next offer the affidavit of T. H. DuBois taken on August 31, 1896, with reference to births of applicants in this case.

Mr. Cornish:

Do you insist that that is an affidavit?

Mr. Harley:

We will style it a certificate instead of an affidavit.

Judge Foote:

What is it?

Mr. Harley:

It is a certificate stating that he has examined a certain family bible. This is exhibit "I":

Mr. Cornish:

The nations object to the introduction of the paper referred to and state all of the objections previously urged and urge that it is not competent in any event because it purports to be a certificate of certain entries on a family bible. Our contention is that in no event can this be regarded as competent testimony, the bible itself is the best evidence if properly identified by those who have it in custody.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the certificate of T. H. DuBois made August 31, 1896 with reference to deaths of applicants as taken from the family bible and ask that it be marked exhibit "J".

Mr. Cornish:

The nations object and urge the same objections.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the application of Olivia Pryor made before the Commission to the Five Civilized Tribes in 1896 and ask to have the same marked exhibit "K".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and state that it is a part of a void proceeding had before the Commission to the Five Civilized Tribes under the act of June 10, 1896; it is the contention of the nations that it is void for the reason that the Choctaw and Chickasaw Nations were both necessary and interested parties and the Choctaw Nation only was made a party.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer in evidence the original marriage certificate of S. V. Pryor and Mrs. Olivia Jordan dated June 1, 1890, which ask to have marked exhibit "L".

We next offer the affidavit of Olivia Pryor taken on the 18th of August 1896, before W. W. Ives, Notary Public, which we ask to be marked exhibit "M".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and in support of such objections state that it was taken and made use of before the Commission to the Five Civilized Tribes in a void proceeding for the reason that both the Choctaw and Chickasaw Nations were interested and necessary parties and the Choctaw Nation only was made a party and furthermore it has not been shown that the person who made the affidavit is dead.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the affidavit of Edward M. Lewis taken before W. W. Ives, Notary Public, on the 27th day of August 1896, which we ask to have marked exhibit "N".

Mr. Cornish:

The Choctaw and Chickasaw Nations object and set forth the same objections previously urged.

Judge Weaver:

Same ruling.

Mr. Harley:

We next offer the original marriage certificate of Henry Jordan and Mrs. L. Douglas dated June 18, 1883, which we ask to have marked exhibit "O".

Mr. Harley:

We next offer the original application of Virgil Cowart before the Commission to the Five Civilized Tribes in 1896 which we ask to have marked exhibit "P".

Mr. Cornish:

The nations object and set forth the same objections previously urged.

Mr. Harley:

We next offer the original application of Samuel V. Pryor; Samuel P. Cowart and George Cowart, before the Commission to the Five Civilized Tribes in 1896 and ask to have the same marked exhibit "Q".

Mr. Cornish:

The same objections on behalf of the Choctaw and Chickasaw Nations.

Mr. Harley:

We next offer the affidavit and certificate of Olivia Pryor taken before W. W. Ives on September 1, 1896, which we ask to have marked exhibit "R".

Mr. Cornish:

The same objections urged on behalf of the Choctaw and Chickasaw Nations.

Mr. Harley:

We next offer the original application of Zora Roper, nee Cowart made before the Commission to the Five Civilized Tribes in 1896, which we ask to have marked exhibit "S".

Mr. McMurray:

The same objections on behalf of the Nations.

Mr. Harley:

We next offer the affidavit of C. C. Johnson taken before W. W. Ives, Notary Public, on the 26th day of August 1896, which we ask to have marked exhibit "T".

Mr. Cornish:

The Nations set forth the same objections.

Mr. Harley:

We next offer the affidavit of Joseph A. Johnson taken on the 26th day of August 1896 before W. W. Ives, Notary Public, which we ask to have marked exhibit "U".

Mr. Cornish:

The Choctaw and Chickasaw nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Edward M. Lewis made before the Commission to the Five Civilized Tribes in 1896 which we ask to have marked exhibit "V".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Jesse B. Matthis taken on August 18, 1896, before W. W. Ives, Notary Public, and filed before the Commission to the Five Civilized Tribes; which we ask be marked exhibit "W".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Jacob S. Bender, taken before W. W. Ives, Notary Public, on August 18, 1896, and filed before the Commission to the Five Civilized Tribes in 1896, which we ask to have marked exhibit "X".

Mr. Cornish:

The nations state the same objections.

Mr. Harley:

We next offer the joint affidavit of Zora A., Edward H. Lewis and William H. Guyer, taken on the 27th of August 1896 before W. W. Ives, Notary Public, and filed before the Commission to the Five Civilized Tribes in 1896 which we ask to have marked exhibit "Y".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Frank A. Trenkle taken before W. W. Ives, Notary Public, on the 27th day of August 1896, and filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask be marked exhibit "Z".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Edward M. Lewis with reference to records of births and marriages in the family of Edward M. Lewis and Sarah E. Lewis as shown by the record found in the family bible taken on the 21 st of September 1896, before W. W. Ives, Notary Public, and filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit "AA".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and set forth all of the objections previously urged and in addition state that it is incompetent for the reason that it purports to reflect by affidavit certain original entries found in a bible, the contention of the nations being that the only competent testimony in this connection would be the family bible itself after being properly identified by the person in whose custody it is.

Mr. Harley:

We next offer the original application of Angeline Tabor, et al., filed before the Commission to the Five Civilized Tribes in the case in 1896, which we ask to have marked exhibit "BB".

Mr. Cornish:

The nations object to the introduction of the paper referred to and in support of such objections state that it was filed and made use of in a void proceeding before the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896; such proceeding was void because the Choctaw and Chickasaw nations were both necessary and interested parties thereto and the Choctaw Nation only was made a party.

Mr. Harley:

We next offer the original application of Marshall Cowart filed in this case before the Commission to the Five Civilized Tribes in 1896 which we ask to have marked exhibit "CC".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Sherman T. Tabor taken on August 24, 1896, and filed before the Commission to the Five Civilized Tribes in this case in 1896 and have the same marked exhibit "DD".

Mr. Cornish:

The Choctaw and Chickasaw Nations object and set forth the same objections previously urged and in addition state that it has not first been shown that the witness is dead.

Mr. Harley:

In this case there are a number of persons whose affidavits we are offering who are dead while some of them are not dead. I take it that it does not make any difference whether I prove the death of these witnesses now or afterwards.

We now offer the original application of Julius M. Leard et al., filed in this case before the Commission to the five Civilized Tribes in 1896, which we ask to have marked exhibit "EE".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the certificate of T. H. DuBois dated August 31, 1896, with reference to deaths which we ask to have marked exhibit "FF".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and state that in no event can it be considered as evidence in this case for the reason that it purports to be a certification of certain record entries that appear in a certain family bible. The only proper evidence would be the book itself after being identified by the person having it in custody.

Mr. Harley:

We next offer the certificate of T. H. DuBois taken on August 31, 1896, with reference to marriages of applicants in this case; which we ask to have marked exhibit "GG".

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the paper referred to and set forth the same objections as urged to the paper just previously offered.

Mr. Harley:

We next offer the certificate of T. H. DuBois dated August 31, 1896 and filed in this case with reference to births of applicants which we ask to have marked exhibit "HH".

Mr. Cornish:

The Nations object and set forth the same objections previously urged.

Mr. Harley:

We next offer the affidavit of James P. Lewis taken before W. W. Ives, Notary Public, on August 28, 1896, and filed in this case before the Commission to the Five Civilized Tribes in 1896, and ask to have the same marked exhibit "II".

Mr. Cornish:

The nations object to the introduction of the paper referred to and in support of such objections state that it was taken and made use of before the Commission to the Five Civilized Tribes in a proceeding that is void for the reason that both the Choctaw and Choctaw Nations, the necessary and interested parties were not parties thereto and secondly it has not been shown that the witness who made the affidavit is dead.

Mr. Harley:

We next offer the affidavit of H. C. Roper taken before W. W. Ives, Notary Public, on the 28th day of August 1896, before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have the same marked exhibit "JJ".

Mr. Cornish:

The Nations object and set forth the same objections.

Judge Foote:

Where was Mr. Ives located?

Mr. Harley:

Pottowatomie County, Oklahoma.

Mr. Harley:

We next offer the original application of Joseph H. Leard et al., filed before the Commission to the Five Civilized Tribes in 1896 and ask to have the same marked exhibit "KK".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of H. C. Roper taken on the 26th day of August 1896 before W. W. Ives, Notary Public, filed before the Commission to the Five Civilized Tribes in 1896 and ask to have the same marked exhibit "LL".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of George W. McKibben taken before W. W. Ives, Notary Public, on the 26th day of August 1896 filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit "MM".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Julius M. Leard, guardian for Madison L. Leard; Jackson A. Leard; Maud Early and Houston H. Early, filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have the same marked exhibit "NN".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Thomas P. Lewis et al., filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have the same marked exhibit "OO".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Thomas P. Lewis, taken before W. W. Ives, Notary Public, on the 3rd day of September 1896, and filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ~~asked~~ be marked exhibit "PP".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Lydia Clark, et al filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have the same marked exhibit "QQ".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original marriage certificate of George A. Clark and Lydia Lewis which were heretofore filed before the Commission to the Five Civilized Tribes in this case and ask that the same be marked exhibit "RR".

We next offer the original application of Preston Early, guardian for James B. Lewis, filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit "SS".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Sarah Jane Me Kibben, et al., to the Commission to the Five Civilized Tribes in this case in 1896 which we ask be marked exhibit "TT".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original marriage certificate of George W. McKibben and Sarah Jane Lewis which we ask to have marked exhibit "UU".

Judge Foote:

Where is the certificate from?

Mr. Harley:

It is not dated at all--dated September 22, 1880.

Mr. Cornish:

It says "according to the laws of this state" but it does not say what state.

Mr. Harley:

We next offer the affidavit of Jesse B. Matthis taken on the 27th day of August 1896 before W. W. Ives, Notary Public and filed before the Commission to the Five Civilized Tribes in this case in 1896, which we ask to have marked exhibit "VV".

Mr. Cornish:

The nations object and set forth the same objections previously urged.

Mr. Harley:

We next offer the original application of Zora F. Early, nee Lewis, et al., filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit "WW".

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Zora P. Lewis taken before W. W. Ives, Notary Public, on the 28th day of August 1896, and filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit "XX".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of George W. McKibben taken on the 28th day of August 1896 before W. W. Ives, Notary Public, and filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask that the same be marked exhibit "YY".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Zira S. Early taken on the 28th of August 1896, before W. W. Ives, Notary Public, and filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have it marked exhibit "ZZ".

Mr. Cornish:

The Nations object and set forth the same objections.

Mr. Harley:

We next offer the affidavit of Preston Early taken on the 25th day of August 1896 before Joe Hillman, Notary Public, and filed before the Commission to the Five Civilized Tribes in this case in 1896 which we ask to have marked exhibit number one (1).

Judge Foote:

Where does Mr. Hillman reside?

Mr. Harley:

He lives at Krebbs now.

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original application of Lucy Adams, et al., filed before the Commission to the Five Civilized Tribes in this case in 1896 and ask to have the same marked exhibit number two, (2).

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original marriage license and certificate of Gus Adams and Lucy Early, the certificate being dated June 10, 1894, which was filed before the Commission to the Five Civilized Tribes in 1896 which we ask to have marked exhibit number three (3). This was in Oklahoma, issued by the county authorities of the County of Pottawattomie of the Territory of Oklahoma.

Mr. Harley:

I next offer the brief of M. M. Lindly, filed before the Commission to the Five Civilized Tribes in 1896, and ask to have it marked exhibit number four (4).

We next offer the affidavit of Marcus Lewis taken before Stephen Wheeler, United States Commissioner and filed in this case before the Commission to the Five Civilized Tribes in 1896 and ask to have the same marked exhibit number five (5).

Mr. Cornish:

The Nations object to the introduction of the paper referred to and set forth the same objections previously urged and in addition state that it is not such an affidavit as in any event could have been filed and made use of before the Commission to the Five Civilized Tribes under the specific terms of the act of June 10, 1896, it being therein provided that affidavits may be received by the Commission "heretofore taken where the witness giving said testimony is dead or now residing beyond the limits of said Territory". An examination of this affidavit on the face of it shows that it does not come within either class and therefore cannot be considered as evidence in this case.

Mr. Harley:

We next offer the judgment of the Commission to the Five Civilized Tribes in this case denying the claims of the applicants signed by H. M. Jacoway, dated at Ft Smith December 4, 1896, which we ask to have marked exhibit number six (6).

Mr. Cornish:

Choctaw and Chickasaw nations object to the introduction of the paper referred to and state in support of such objections that it

is part of a void proceeding had before the Commission to the Five Civilized Tribes to which both nations were necessary and interested parties and to which only the Choctaw Nation was made a party.

Mr. Harley:

We next offer the notice of appeal in the case of Zora P. Lewis, et al., vs. Choctaw Nation from the decision of the Commission to the Five Civilized Tribes in said cause signed by Zora P. Lewis, by M. N. Lindly, attorney, and further signed service accepted September second, Stewart, Gordon & Hailey, attorneys for the Choctaw Nation, which we ask to have marked exhibit number seven (7).

Mr. Cornish:

The nations object to the introduction of the paper referred to and in support of such objections state that it was a part of a void proceeding before the United States Court for the Central District of the Indian Territory, it being the contention of the Choctaw and Chickasaw Nations that such proceeding was void first for the reason that both the Choctaw and Chickasaw Nations were interested and necessary parties and the Choctaw Nation only was made a party and secondly the United States Court tried the case de novo when it should have reviewed the record of the Commission.

Mr. Harley:

We next offer the affidavit of appeal from the decision of the Commission to the Five Civilized Tribes in this case styled Zora P. Lewis vs. Choctaw Nation signed M. M. Lindly, subscribed and sworn to on the 15th day of January 1897 which we ask to have marked exhibit number eight (8).

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the original petition for the appeal in the case of Zora P. Lewis, et al., vs. Choctaw Nation from the decision of the Commission to the Five Civilized Tribes signed by M. M. Lindly, attorney for applicants, which we ask to have marked exhibit number nine (9).

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Harley:

We next offer the notice to take depositions in the case of Zora P. Lewis, et al., vs. Choctaw Nation pending in the United States court for the Central District of the Indian to Stewart, Gordon & Hailey, attorneys for the Choctaw Nation, signed by M. M. Lindley, attorney for applicants and ask that it be marked exhibit number ten (10).

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Lewis:

We offer in evidence the deposition of George W. Vann and ask that it be marked exhibit number eleven (11). It was taken before Jesse W. Warson, Notary Public for the Northern District of the Indian Territory on the 11th day of August 1897.

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Lewis:

We offer in evidence the deposition of Jane F. Page, also the notice given prior thereto of the taking of such depositions and ask that it be marked exhibit number twelve (12). That was taken before J. M. Hawkins, Justice of the Peace of Sebastian County, Arkansas on September 7th, 1897. The deposition of Jane F. Page was filed in the United States Court for the Central District of the Indian Territory on August 11th, 1897 and attached to this deposition is the certificate of the notice.

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Lewis.

I have now a deposition--there are several of them taken under one notice all attached and filed at the same time. I might possibly offer them together. The deposition of Preston Early; Edward M. Lewis and Thomas P. Lewis taken on notice and filed in the United States court for the Central District of the Indian Territory on August 13, 1897. Exhibit 13.

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Lewis:

We offer in evidence the deposition of Ben H. Baily taken after notice and filed in the United States court for the Central District of the Indian Territory on July 26, 1897 and to be marked exhibit fourteen (14).

Mr. Cornish:

The nations object and set forth the same objections.

Mr. Lewis:

We now offer in evidence the judgment of the District court for the Central District of the Indian Territory rendered on the 19th day of January 1898 attached to the return of the writ or error issued from this court on the 13th day of March 1903 --exhibit fifteen (15).

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the judgment of the United States court for the Central District of the Indian Territory in this case except in so far as it identifies the present applicants as the same persons passed upon and in support of such objections state the same objections previously urged.

Mr. Harley:

We will offer proof of the death of the parties who made affidavits.

Zora S. Early, called as a witness on behalf of the plaintiffs after being duly sworn testified as follows:

Direct examination by Mr. Harley.

- Q State your name? A Zora S. Early.
Q You are the wife of Preston Early? A Yes, sir.
Q Did you know Edward M. Lewis? A Yes, sir.
Q Is he now living or dead? A He is dead.
Q About how long has he been dead? A Near three years.
Q Was he related to you in any way? A He was my brother.
Q Did you see him after he was dead? A Yes, sir.
Q You were present at the time of his funeral? A Yes, sir.
Q Do you know Thomas R. Hicks? A Yes, sir.
Q Is he living or dead? A He is dead.
Q Was he related to you in any way? A No, sir.
Q By marriage? AA No, sir.
Q He is dead; about how long has he been dead Mrs. Early, about how many years? A About four years as near as I remember.
Q Did you know Sherman Tabor? A Yes, sir.
Q Is he living or dead? A He is dead.
Q About how many years has he been dead? A He has been dead a little over four years.
Q Was he related to you in any way? A He married my niece.
Q Who was Sarah Lewis, Mrs. Early if you know? A I had a sister named Sarah Lewis was my sister-in-law.
Q Is she living or dead? A She is living.
Q Where is she? A Out near Stanton.
Q Do you know Marcus Lewis? A No, sir; I do not personally know him.
Q Did you know of him? A Yes; I heard of him.
Q Do you know whether he is living or dead? A No, sir; I don't know but I have heard that he is dead.
Q You don't know of your own knowledge? A No, sir.
Q Do you know Jesse B. Matthis? A Yes, sir.
Q Is he living? A Yes, sir.
Q Is he in the Indian Territory? A No, sir; he is in Oklahoma.
Q He lives in Oklahoma? A Yes, sir.
Q Do you know Jacob S. Bender? A Yes, sir.
Q Is he dead or living? A Yes; he is living.
Q Does he live in the Indian Territory? A No, sir; he lives in Oklahoma.

Cross examination by Mr. Cornish.

- Q Have you any personal knowledge of the death of Thomas R. Hicks?
A No, sir; I just heard he was dead.

- Q Do you know whether Sarah Lewis is living or dead; Sarah Lewis who is the wife of Marcus Lewis? A No, sir; I don't know.
Q Don't know anything about that? A No, sir.

Witness excused...

Preston Early called as a witness on behalf of the plaintiffs after being duly sworn testified as follows:

Direct examination by Mr. Harley.

- Q Your name is Preston Early? A Yes, sir.
Q You are the husband of Mrs. Early who has just left the stand?
A Yes, sir.
Q Mr. Early do you know Edward M. Lewis? A Yes, sir.
Q Is he living or dead? A He is dead.
Q Where did he die? A He died in Center, Indian Territory.
Q Did you see him after he was dead-attend his funeral? A Yes, sir.
Q Did you know Thomas R. Hicks? A Yes, sir.
Q Was he relate d to you by marriage or otherwise? A No, I reckon-- not that I know for certain.
Q Is he living or dead? A He is dead.
Q About how long has he been dead? A About I reckon four years.
Q Where did he die? A He died out close to the town of Checotah.
Q Checotah, in the Creek Nation? A Yes, sir.
Q Do you know Jesse B. Matthis? A Yes, sir.
Q Where does he live? A In Oklahoma.
Q Is he living or dead now? A He is living unless he died in the last week.
- Q Do you know his post office address? A His postoffice is Shawnee.
Q Do you know Jack S. Bender? A Yes, sir.
Q Is he living or dead? A Living.
Q Where does he live? A Right there by Matthis, four or five miles from Shawnee.
Q Do you know of Marcus Lewis? A No, sir; I never saw him.
Q Do you know of him? A Yes; I heard a heap of him.--heard right smart of him.
Q Did he ever live in the Indian Territory? A Why I don't know where he lived,--he was out of the line there I reckon probably in the Nation but I don't know. He lived not far from where--.
Q Have you made inquiry to try to find out whether he is living or dead? A They have tried to find out what became of him and tried to find him but they never have heard what became of him They could not find him or have not done it.
Q You have made efforts? A Yes; we have made efforts to hunt him.
Q Did you know Sarah Lewis; Marcus Lewis' wife? A I have heard that his wife's name was Sarah.
Q Have you and the other plaintiffs in this case made efforts to find out whether she is living or dead? A I don't know but I think they have tried to find out something about that.
Q You have not yourself personally? A No, sir.
Q Did you know Sherman Tabor? A Yes, sir.
Q Is he related to you in any way by marriage? A I think he married my wife's niece.
Q Is he living or dead? A He is dead.
Q Did you know Willis Folsom? A I have seen the man several times but I never got acquainted with him much.
Q Is he living or dead? A I don't know sir but I think he is dead.
Q Have you or any of the other plaintiffs in this case made any efforts to locate him? A I think they probably have-I think he is dead though.

Cross examination by Mr. Cornish.

- Q You have no personal knowledge of Marcus Lewis whether he is dead or his wife? A No, sir.
- Q And you have no personal knowledge about Willis Folsom? A No, sir I have no knowledge.
- Q What do you know about Hicks, were you present when he died? A No, sir.
- Q Did you attend his funeral? A No, sir.

Mr. Harley:

- Q Why did you state that he is dead? A His wife drew a good deal of money-about 4000 dollars on his insurance; that is what I heard kin folks say--telling me about it.
- Q Life Insurance--you have been informed that he was dead? A Yes; it was in the papers.

Witness excused..

Mr. Lewis:

I will ask the court to allow me to introduce the affidavit of Willis F. Folsom taken after notice before J. M. Hawkins on the 10th day of September 1897.

Mr. Cornish:

The nations object to the introduction of the paper referred to and state the same objections previously urged.

Zora S. Early, witness for plaintiffs, recalled testified:

Re-direct by Mr. Harley.

- Q What is the name of your father? A James Madison Lewis.
- Q What was the name of your mother? A Zora P. Lewis.
- Q Is your father living or dead? A Dead.
- Q Is your mother living or dead? A She is dead.
- Q Is your mother in such condition that she could attend this trial? A No, sir; she was not able.
- Q What is her physical condition now? A She is getting very old.
- Q Can she get around by herself? A She can around the huouse.
- Q About how old is she? A She is seventy-nine years old.
- Q How is her mental condition at this time; is she in a proper condition to testify? A I don't think she is able to.
- Q Is her mind weakened in any way now? A Only by old age I think.
- Q Is she very feeble? A She is not helpless, she is able to go around in the house.
- Q Do you know Rhoda T. Lewis? A Yes, sir.
- Q Who is she? A She is my sister.
- Q Whom did she marry if anybody? A She married Sam. Cowart.
- Q Is she now living or dead? A She is dead.
- Q I believe you testified that Edward M. Lewis was your brother? A Yes, sir.
- Q And that he was dead? A Yes, sir.
- Q Whom did he marry? A Sarah Adams.
- Q Do you know John B. Lewis? A Yes, sir.
- Q Who was he? A My brother.
- Q Is he living or dead? A He is dead.

Q Whom did he marry? A He married Betsy Jane Cowart.
Q Did you know Susanna E. Lewis? A Yes, sir.
Q Who was she? A My sister.
Q Is she living or dead? A Dead.
Q Do you know whom she married? A David J. Leard.
Q Do you know Thomas P. Lewis? A Yes, sir.
Q Is he related to you? A Yes, sir, my brother.
Q Is he living and present? A Yes, sir.
Q Did you know David S. Lewis? A Yes, sir.
Q Living or dead? A Dead.
Q Was he related to you? A He was my brother.
Q Did you know Mary D. Lewis? A Yes, sir.
Q Is she living or dead? A Dead.
Q Was she related to you? A My sister.
Q Whom did she marry? A S. T. Hicks.
Q Did you know Sarah J. Lewis? A Yes, sir.
Q Was she related to you? A Yes, sir, she was my sister.
Q Is she living or dead? A Dead.
Q Whom did she marry? A George W. McKibben.
Q Did you know Ophelia S. Lewis? A Yes, sir.
Q Related to you? A My sister.
Q Living and present? A Yes, sir.
Q Whom did she marry? A Joseph M. Edwards.
Q Did you know William W. Lewis? A Yes, sir.
Q Who was he? A My brother.
Q Is he living or dead? A Dead.
Q Whom did he marry? A He did not marry.
Q I will ask you and call over the list of the applicants in this case and ask you if you know them and whether they are living or dead; Edward M. Lewis? A Dead.
Q Sarah E. Lewis, wife of Edward M. Lewis, is she living or dead? A She is living.
Q Do you know her? A Yes, sir.
Q Thomas P. Lewis? A He is living.
Q Do you know Augusta Ann Lewis? A Yes, sir.
Q Who is she? A Thomas P. Lewis' wife.
Q Is she living? A Yes, sir.
Q Do you know Sarah Jane McKibben? A Yes, sir.
Q Living or dead? A Dead.
Q She is your sister? A Yes, sir.
Q Do you know Preston Early? A Yes, sir.
Q He is your husband? A Yes, sir.
Q Ophelia S. Edwards; do you know her? A Yes, sir.
Q She is your sister? A Yes, sir.
Q She is present? A Yes, sir.
Q Do you know Joseph M. Edwards? A Yes, sir.
Q He is present? A Yes, sir.
Q Do you know Olivia Pryor? A Yes, sir.
Q Is she here? A Yes, sir.
Q Who was her father and mother? A Samuel and Rhoda T. Cowart.
Q Rhoda Cowart your sister? A Yes, sir.
Q Do you know Samuel Pryor her husband? A Yes, sir.
Q He is present is he? A Yes, sir.
Q Do you know Gale B. Lewis? A Yes, sir.
Q What is her present name? A Wording.
Q Who was her father and mother? A Edward M. and Sarah M. Lewis.
Q Edward M. was your brother? A Yes, sir.
Q Do you know Marshall Cowart? A Yes, sir.
Q Is he living or dead? A Yes, sir; living. ?????
Q Who were his father and mother? A Samuel Cowart and -----
Q His mother was your sister? A Yes, sir.

Q Do you know Virgil Cowart? A Yes, sir.
Q A brother of Marshall Cowart? A Yes, sir.
Q Is he living? A Yes, sir.
Q Do you know Zora Roper? A Yes, sir.
Q Is she living or dead? A Living.
Q Who was her father or mother? A Sam Cowart and Rhoda Cowart.
Q She is your niece? A Yes, sir.
Q Do you know H. C. Roper? A Yes, sir.
Q Is he living or dead? A Living.
Q Is he present? A Yes, sir.
Q Do you know Samuel P. Cowart? A Yes, sir.
Q Who was his father and mother? A Samuel Cowart and Rhoda T. Cowart.
Q He is your nephew? A Yes, sir.
Q Living or dead? A Living.
Q Do you know George W. McKibben? A Yes, sir.
Q He living or dead? A Living.
Q Is he the husband of Sarah J. McKibben? A Yes, sir.
Q Is she your sister? A Yes, sir.
Q She is dead? A Yes, sir.
Q Do you know Anna Cowart? A Yes, sir.
Q Who is she? A Virgie-----.
Q Do you know----? David Gale & Susanna Leard.
Q Do you know Sherman Tabor? A Yes, sir.
Q Who is he? A He was Angeline Tabors' husband.
Q He living or dead? A Dead.
Q Has he married again? A Yes, sir.
Q What is her present name? A ~~-----~~ Adams.
Q What is her husband's name? A John Adams.
Q He is present? A No, sir.
Q Is she present? A No, sir.
Q Do you know Julius M. Leard? A Yes, sir.
Q Who was his father and mother? A David Leard and Susanna Leard
Q His mother was your sister? A Yes, sir.
Q He is your nephew; is he living or dead? A He is living and present.
Q Do you know Mary C. Leard? A Yes, sir.
Q Who is she? A She is Julius' wife.
Q Do you know Madison L. Leard? A Yes, sir.
Q Who was his father and mother? A David Leard and Susanna Leard.
Q He is also your nephew? A Yes, sir.
Q Is he living? A Yes, sir.
Q Do you know Jack Leard? A Yes, sir.
Q Is he a brother of Madison? A Yes, sir.
Q Is he living or dead? A He is living.
Q Do you know Maud Early? A Yes, sir.
Q Who is she? A She is my sister's daughter.
Q Is she living? A She is living.
Q Do you know Hugh Early? A Yes, sir.
Q Who is he? A Maud Early's brother.
Q Is he living? A Yes, sir.
Q Do you know Lydia Clark? A Yes, sir.
Q Who was her father and mother? A Thomas P. Lewis.
Q Do you remember her mother's name? A Amanda Lewis.
Q Is she married-Lydia married? A Yes, sir.
Q What is her husband's name? A George Clark.
Q Is she present? A Yes, sir.
Q Do you know George Clark, her husband? A Yes, sir.

- Q Is he present? A No, sir.
Q Living or dead? A Living.
Q Do you know Lawrence Lewis? A Yes, sir.
Q Living or dead? A Living.
Q Who was his father and mother? A ----- & -----.
Q Do you know Laura Lewis? A Yes, sir.
Q She living or dead? A Living.
Q Who was her father and mother? A Thomas P. & Amanda.
Q Is she married? A Yes, sir.
Q Who is her husband? A Davis.
Q What is her husband's first name? A Peter Davis.
Q Do you know Lucy Adams? A Yes, sir.
Q She living or dead? A Shedis living.
Q Who was her father and mother? A Why she is my daughter.
Q Do you know Gus Adams? A Yes, sir.
Q Who is he? A He is Lucy Adams' husband.
Q He living or dead? A Living.
Q Do you know Nellie Early? A Yes, sir.
Q Living or dead? A Living.
Q Who is she? A My daughter
Q She married? A Yes, sir.
Q What is her husband's name? A John Goodwin, her name now is
Nellie Goodwin.
Q How long has she been married? A About three years.
Q Do you know George Lewis McKibben? A Yes, sir.
Q Who was his father and mother? A George W. McKibben and
Sarah J. McKibben.
Q Is George McKibben living or dead? A He is living.
Q Do you know Cassie O. McKibben? A Yes, sir.
Q Who is she? A She is George and Sarah J. McKibben's daughter.
Q Is she married? A No, sir.
Q She is living? A Yes, sir.
Q Do you know Claud McKibben? A Yes, sir.
Q Living or dead? A Living.
Q Who is his father and mother? A George and Sarah J. McKibben.
Q Do you know Thomas P. McKibben? A Yes, sir.
Q Living or dead? A Dead.
Q Who is his father and mother? A George W. McKibben and Sarah J.
McKibben.
Q Do you know Charles Edwards? A Yes, sir.
Q Who was his father and mother? A Joseph M. and Ophelia Edwards.
Q Living or dead? A Living.
Q Married? A No, sir.
Q Do you know Lula Edwards? A Yes, sir.
Q Living or dead? A Dead.
Q Do you know Lula Edwards? A Yes, sir.
Q Living or dead? A She is living.
Q Who is her father and mother? A Joseph M. Edwards and
Ophelia.
Q She married? A Yes, sir.
Q What is her present name? A I don't know.
Q Do you know Martha J. Edwards? A Yes, sir.
Q She a sister of Charley and Lula? A Yes, sir.
Q Is she living? A Yes, sir.
Q What is her husband's name? A Oscar Smith.
Q Do you know David L. Edwards? A Yes, sir.
Q Is she married? A No, sir.
Q She a sister of the other Edwards children? A Yes, sir.
Q Do you know _____ Edwards? A Yes, sir.
Q She living or dead? A She is living.
Q Who is her father and mother? A Augustus & Lucy Adams.

- Q She is your granddaughter? A Yes, sir.
Q Do you know Ben F _____? A Yes, sir.
Q Living or dead? A Living.

Q Do you know Rhoda L. Roper? A Yes, sir.
Q Who is she? A -----
Q Is she living or dead? A Living.
Q Do you know Amanda Roper? A Yes, sir.
Q Who is she? A She is a sister of Belle.
Q Do you know Frank A. Leard? A Yes, sir.
Q Living or dead? A Living.
Q Who is he? A He is Julius Leard's son.
Q What was his mother's name? A Mary.
Q Do you know Zora A. Lewis? A Yes, sir.
Q Is she living or dead? A She is living.
Q Who was her father and mother? A Edward M. Lewis and Sarah Lewis.
Q Do you know Edward H. Lewis? A Yes, sir.
Q Living or dead? A Living.
Q Who was his father and mother? A Edward Lewis & -----.
Q Do you know-----? A Yes, sir.
Q She living or dead? A She is living.
Q Who was her father and mother? A Julius and Mary Leard.
Q Do you know Mattie Leard? A Yes, sir.
Q Living or dead? A Yes, sir.
Q Sister of Susie Leard? A Yes, sir.
Q Do you know Willis Tabor? A Yes, sir.
Q Living or dead? A Living.
Q Who is his father and mother? A Sherman Tabor &-----.
Q Do you know Ben Tabor? A Yes, sir.
Q Living or dead? A Living.
Q Brother of Will Tabor? A Yes, sir.
Q Do you know Herschel Tabor? A Yes, sir.
Q Is he living or dead? A He is living.
Q Who was his father and mother? A Angeline Tabor and Sherman Tabor.
Q Do you know Kyle Douglas? A Yes, sir.
Q Is he living or dead? A Living.
Q Who was his father and mother? A Olivia and Kyle Douglas.
Q Is his father living or dead? A Dead.
Q Do you know Henry Jordan? A Yes, sir.
Q Is he living or dead? A Living.
Q Who was his father and mother? A Olivia Jordan -afterwards her name was Pryor.
Q She had been married three times? A Yes, sir.
Q Do you know Rhoda Jordan? A Yes, sir.
Q Is she a sister of Henry Jordan? A Yes, sir.
Q Living or dead? A Living.
Q Do you know Zora Jordan? A Yes, sir.
Q Is she living or dead? A Dead.
Q Do you know George Pryor? A Yes, sir.
Q Who is his father and mother? A Sam Pryor and Olivia Pryor.
Q Do you know James Pryor? A Yes, sir.
Q Brother of George Pryor? A Yes, sir.
Q You know Mary E. Pryor? A Yes, sir.
Q Is she living or dead? A Living.
Q She a sister of George Pryor? A Yes, sir.

The next now is Ura C. Hicks, we do not care to appear for him any further, we ask leave to dismiss the case as to him at once.

Judge Foote

We are not going to dismiss anything here-Judge Weaver and myself.

Mr. Harley:

- Q Do you know James B. Lewis? A Yes, sir.
Q Is he living or dead? A He is living.
Q Who was his father and mother? A David Lewis and Lena Lewis.
Q What relation was David Lewis to you? A My brother.
Q Do you know Autha L. Lewis? A Yes, sir.
Q Was she a sister of James M. Lewis? A No, sir.
Q Is she married? AA No, sir; she is a child.
Q Do you know Oscar Lewis? A Yes, sir.
Q Is he living or dead? A Living.
Q Who was his father and mother? A Thomas P. Lewis &-----.
Q Do you know Joseph W. Roper? A Yes, sir.
Q Is he living or dead? A Living.
Q Who was his father and mother? A H. C. Roper and Zora Roper.
Q Do you know Joseph H. Leard? A Yes, sir.
Q Is he living or dead? A He is living.
Q Who was his father and mother? A David and Susanna Leard, who was my sister.
Q Do you know Belle Leard? A Yes, sir.
Q Who was she? A Joseph H. Leard's wife.
Q How old are you now Mrs. Early? A Forty-five years old.
Q Where were you married? A I was married in New Hope in the Choctaw Nation.
Q You remember when? A June 24, 1875.
Q Whom did you marry? A Preston Early.
Q How many children have you by Preston Early now living? A I have two.
Q By whom were you married Mrs. Early? A Parson Sheppard.
Q Did they have any licenses at the time? A No, sir; they did not have to have any licenses at that time.
Q You have lived with Mr. Early ever since as his wife? A Yes, sir.
Q Was anybody present at the time of your marriage to Mr. Early?
A Yes, sir.
Q Who? A I don't know of anybody except Ophelia Edwards and ---
----they were present.
Q Your sister? A Yes, my sister.
Q Where were you born Mrs. Early? A In Mississippi.
Q In Mississippi? A Yes, sir.
Q How old were you when you left Mississippi? A I was about nine years old.
Q Whereabouts were you born? A In Lawrence county.
Q What postoffice? A Brookhaven.
Q And lived in Mississippi until you were nine months old? A Yes, sir.
Q Do you remember anything that happened while you lived in Mississippi? A No, not a great deal.
Q You remember leaving there? A Yes; I remember leaving there.
Q When you left there where did you start for? A For the Indian Territory.
Q Why did you start from Mississippi to the Indian Territory; did you hear your parents say so? A Well I don't remember much about what they said but I know they were coming to the Indian Territory.
Q Did you go from Mississippi directly to the Indian Territory?
A No, sir; we stopped in Arkansas.

- Q What place in Arkansas? A We first stopped in Monroe County-my father did, stopped there and made a crop and then came to Sebastian County.
- Q Did he come near the line of the Territory? A Yes; we were not far from the line.
- Q Did anyone else come along with your party except your own family? A No, sir; not that I remember of.
- Q Do you remember your father and mother? A Yes, sir.
- Q Their looks and appearance? A Yes, sir.
- Q Did your father and mother look like Indians, did they claim to be Indians and if so what tribe?

Mr. Cornish:

The Choctaw and Chickasaw nations object to the introduction of any testimony which tends to establish by hearsay anything except family relationship and pedigree and then only after the relationship of the witness to the person whose statements are sought to be reflected as been first established by testimony other than his own. Our contention is that it is not competent to establish a specific fact, racial status or blood by hearsay testimony.

Judge Weaver:

The objections will be considered by the Court.

witness:

- A They claimed to be Choctaws.
- Q State what appearance they had? A I don't remember how my father looked. He was gray when I can remember; I could not hardly tell you how he looked only I remember that he looked gray ever since I can remember.
- Q How about your mother? A My mother did not show Indian.
- Q How old was you when your father and mother died? A My mother is living.
- Q How old were you when your father died? A I was about seventeen years old.
- Q How old was your father when he died? A Sixty-two years old.
- Q Whom did you hear claim Indian blood; your father or mother? A My father.
- Q How did he claim to get his Indian blood; from whom did you heard him say? A From his grandmother--no from his mother who was my grandmother.
- Q What was her name? A Her name was King before she married.
- Q Do you remember her first name? A No, sir; I have heard my father tell but I don't remember.
- Q You did not know her personally? A No, sir.

Cross examination by Mr. Cornish.

- Q You were living in Oklahoma when this application was made in 1896? A Yes, sir.
- Q Where in Oklahoma? A Near Shawnee.
- Q How long had you lived there before you made this application? A Why about three years I guess.

- Q What other members of this family-what other persons having families whose names appear in this application were living in Oklahoma at the same time; was Thomas P. Lewis living there?
A Yes, sir.
- Q What other persons were living there? A Thomas P. Lewis, Edward M. Lewis.
- Q What others? A Sarah Jane McKibben.
- Q What others? A Why I don't remember whether there were any others or not.
- Q Well the Cowarts, were they living there at the time? A They lived there but I don't know whether they lived there then or not.
- Q Did Julius M. Leard live in Oklahoma with his family? A Yes, sir.
- Q What other heads of families? A Roper and his family.
- Q Were not practicably all of these people living in the territory of Oklahoma at that time or about that time the great majority of them were living there were they not? A I think they were--there were some living in the Indian Territory.
- Q They went to the territory of Oklahoma to homestead land?
A Some of them did.
- Q Did your husband homestead land in Oklahoma? A Yes, sir.
- Q Where? A North-East of Shawnee.
- Q How much did he homestead? A 120 acres.
- Q What year did he enter that land--file his homestead papers?
A In 1892.
- Q Swore he was a citizen of the United States did he not? A I was not there.
- Q How long did you live on that land Mrs. Early? A I could not tell you exactly but between five and six years.
- Q Does your husband still own that land? A No, sir.
- Q Did he sell it when he left there? A Yes, sir.
- Q Did Thomas P. Lewis homestead land? A No, sir.
- Q Where did he live, in Oklahoma? A No, sir.
- Q Are you sure of that? A Yes, sir.
- Q When did he remove from Oklahoma to the territory-what year?
A I think it was '97.
- Q Edward M. Lewis where did he live in Oklahoma? A I can't remember the county that he lived in.
- Q Did he live in a different part of the territory from you? A
A Yes, sir.
- Q He homesteaded lands? A Yes, sir.
- Q Then Edward M. Lewis, the present applicant in this case, homesteaded land in Oklahoma? A Yes, sir.
- Q You know how much land? A No, sir.
- Q What year did he enter this land? A I don't remember.
- Q You don't know what kind of a citizen he claimed to be when he filed his homestead papers? A No, sir.
- Q You don't know anything about that? A No, sir.
- Q When did he remove from Oklahoma to the Indian Territory? A He removed in the Winter of 1897 or '98.
- Q You don't know whether it was '97 or '98? A No, sir.
- Q What did he do with his land when he left Oklahoma? A The River washed it away.
- Q Did he make any disposition of it; did the river wash it all away? A I think he moved his house to one corner that was not washed away and then sold it.
- Q Did McKibben homestead land? A Yes, sir.
- Q What county did he homestead land in? A Pottowattomie.

- Q That was down close to where you lived? A Yes, sir.
- Q What did he do with that land? A They sold it.
- Q When did they remove to the Choctaw Nation? A At the same time that Edward Lewis did.
- Q What other heads of families who are related to you homesteaded land in Oklahoma besides these, that you remember? A Virgil Cowart, homesteaded there.
- Q Who else? A Julius Leard I think.
- Q How about the Pryor people? A The never homesteaded land.
- Q How about the Jourdans? A They never homesteaded.
- Q The Tabors? A No, sir; they did not.
- Q Where did Cowart take up his land? A In Pottowattomie County.
- Q How much land did he homestead? A 80 acres.
- Q When did he leave Oklahoma and move to the Choctaw Nation? A Why I don't remember what year but I know he sold out and left there two or three years before we left.
- Q Where did Julius Leard take up land? A He took up land near Maud.
- Q What county was that in? A Pottowattomie County.
- Q How much land did he take up? A I don't know.
- Q Now about the physical condition of your mother; your mother is not bed ridden? A No, sir.
- Q She moved about the place? A Yes, sir.
- Q Does she live with you? A Yes, sir.
- Q How far from the house has she gone within the past month? A Why she went out to see a sick lady the other day.
- Q How far is that from where you live? A About hundredyads.
- Q From where you live? A Yes, sir.
- Q When did she go to church the last time? A I forget-last July or August.
- Q That is about two months ago? A Yes, sir.
- Q Her condition now is no worse than it was then; it is about the same? A No, sir; I don't think so, some times she has a sick spell.
- Q But her general condition now is just the same as it was when she went to church? A Yes, sir.
- Q How far from your home is the church? A About a couple of miles.
- Q What other neighbors has she visited within the past few months? A She has not visited any.
- Q You were born in Lawrence County, Mississippi and left there when you were nine years old? A Yes, sir.
- Q Then you were born in 1858? A Yes, sir.
- Q You left there a year or two after the War; about '66 or '67? A We left there in '69.
- Q Your father owned land there? A Yes, sir.
- Q Do you remember the place that you lived on? A I have a slight remembrance of it.
- Q Close to what postoffice was it? A Brookhaven.
- Q What sized farm did your father own? A I could not tell you.
- Q Do you know from whom he bought that farm? A No, sir.
- Q Do you know how he disposed of it when he left there? A He sold it.
- Q Do you know to whom he sold it? A No, sir.
- Q He and his family moved West? A Yes, sir.
- Q Where did you make your first stop after you left Mississippi? A Monroe County, Arkansas.
- Q Was your father a farmer? A Yes, sir.
- Q Did he make a crop there? A Yes, sir.
- Q Rent land? A Yes, sir.
- Q Did he own any land in Monroe County? A No, sir.

- Q Where did you remove to from Monroe County? A We came on to Fort Smith.
- Q The town of Ft Smith? A Yes, sir.
- Q How long did you stay in the town of Fort Smith? A Only a short time.
- Q Then you moved into the country? A Yes, sir.
- Q Then where did you stop; where did you remove to when you moved out of the town of Ft Smith? A Ten or twelve miles South of Ft Smith.
- Q What was your neighborhood; down near to Jenny Lind? A No, sir; we were west of Jenny Lind.
- Q Near Hackett City? A Four miles North of Hackett City.
- Q You moved on a farm there? A Yes, sir.
- Q How long did your father and his family live on that particular farm after you moved there; did your father own the farm? A Yes, sir.
- Q What was the size of that farm? A Why I don't remember.
- Q Was it a good large farm or a small farm? A Small farm.
- Q How far was that from the Indian Territory line? A Not over a mile.
- Q It was never contended by your father or anybody that that farm was in the Indian Territory? A No, sir.
- Q He knew that farm was in Arkansas? A Yes, sir.
- Q He knew he bought a farm in Arkansas? A Yes, sir.
- Q You know what he gave for it? A No, sir.
- Q How long did he live on it? A Two or three years.
- Q Fix the year as near as you can when you got on to that farm out of Ft Smith? A I think it was seventy-one.
- Q Now he lived on that farm two or three years? A Yes, sir.
- Q What did he do with the farm sell it? A No, sir; he died.
- Q Died on the farm? A No, sir; but he owned it when he died.
- Q What year did he die? A He died in '75.
- Q You made the statement some time ago that at the time you were married to Preston Early in 1874 or five that you did not procure a license because licenses were not required in the Choctaw nation, what did you mean by that statement? A Well they did not get licenses.
- Q Who did get licenses? A Anybody that married.
- Q You did not make any effort in complying with the Choctaw laws in marrying? A No, sir.
- Q Then you don't mean to create the impression to the court that you were married in accordance with the laws and requirements of the Choctaw nation did you?

Mr. Harley:

We object to that question because that is a matter of opinion-the witness may state the facts.

Mr. Cornish:

This lady made the statement and I think made it under a misapprehension now I want her to state----?

Mr. Harley:

We still object. If she states the facts her intention must be drawn by the court.

Judge Weaver:

Q Your objection will be noted.

Mr. Cornish:

Q You don't mean to create the impression that you were marrying in the same way that the Choctaw Indians married; or did you mean to say that you married like everybody else that lived in the Choctaw nation at that time? A Yes, sir.

Q Do you know anything about the application of these people to the Choctaw Council for citizenship; did you have information and knowledge of the transaction that occurred before the council? A I was not there but I heard what was said about it.

Q They went to council? A Yes, sir.

Q And the council rejected them? A I don't know whether the council rejected them.

Q You know that the council did not pass an act admitting them? A Yes, sir.

Q These people made an effort to get the council to do that? A Yes, I reckon.

Judge Foote:

Q You say you came from Lawrence county, Mississippi? A Yes, sir.

Q From near Brookhaven? A Yes, sir.

Q How far did you live from Brookhaven? A I don't remember but it was not over eight or ten miles I guess.

Q You know in what direction, either below or on the railroad? A We did not live on the railroad.

Q Did you live West or East of the railroad? A I don't remember what direction we lived from Brookhaven.

Q Did you ever see any Indians down there? A I never seen any full-bloods.

Q They are down in South Mississippi are they not? A Yes, sir.

adjournment until 10:00 A. M. September 23, 1903.

September 23, 1903.

Before the Choctaw and Chickasaw Citizenship Court.

Zora P. Lewis, et al,

vs. No. 58

C & C Nations.

Harley & Lewis for Plaintiffs.

M. McM & Cornish for Nations.

Before Judges Weaver & Foote.

Zora S. Early, being duly sworn took the stand.

BR MR. HARLEY.

Q. Mrs. Earley there is one or two of these claimants that we did not ask you fully about yesterday. Do you know William Gyer?

A. Yes sir.

Q. Do you know his wife?

A. Yes sir.

Q. What was her name before she married Gyer?

A. Her name was Lewis; Zora Addie Lewis.

Q. That was Zora A. Lewis?

A. Yes sir.

Q. Who was her father and mother?

A. Edward M. Lewis and Laura N. Lewis?

Q. Edward M. Lewis her father was your brother?

A. Yes sir.

Q. What is her name now?

A. Sussana Goddard.

Q. Is she living or dead?

A. She is living

Q. Do you know whether or she she married Gyer after her original application was filed with the Dawes Commission or before?

A. She married afterward.

Q. Do you remember the year?

A. I think it was 98.

Q. Do you know Jim Leard?

A. Yes sir.

Q. Who was his father and mother?

A. David J. Leard and Susan L ard.

A. His mother your sister?

A. Yes sir.

Q. Did you know his wife?

A. Yes sir.

Q. What was her name?

A. Mary Martin?

Q. Is she living or dead?

A. She is dead.

CORNISH.

Q. Your mother is still living?

A. Yes sir.

Q. Where was your father born?

A. Born in Mississippi.

Q. Where in Mississippi

aA. I cannot tell you.

Q. In what year?

A. 1824.

Q. Have you heard your mother say where she was born and where she lived before her marriage to your father?

A. Unable to state that.

Q. Where in Mississippi, what county?

A. Cannot tell you that.

Q. Your father was born in 1812?

A. I don't know. Don't now where he was born?

Q. Then you are unable to state where he was born?

A. No sir.

Q. How are you able to state that your father was born in Mississippi at all?

A. Heard him say that he was , heard him state the County.

Q. Not able to state in what County?

A. No sir.

Q. Not able to state in what County he heard he was born?

A. No sir.

Q. Who is David J. Leard?

A. He is the father of Julius Leard

Q. How is he related to you?

A. Married my sister.

Q. What wa her name?

A. Susanna.

Q. Living?

A. No sir.

Q. When did she died?

A. Died about ten or twelve years ago.

Q. Died before this application was made to the Commission in 1896?

A. Yes sir.

Q. Which of these applicants; which of the applicants in this case whose names are mentioned in this paper which Mr. Harley had yesterday; which of those persons do not now live in the Choctaw-Chickasaw Nations?

A. All live in the Choctaw Chickasaw Nations except Jim Leard, he is an applicant.

Q. What is his full name?

A. James D. Leard.

Q. How is he related to you?

A. Brothers child.

Q. Nephew?

A. Yes sir.

Q. Where does he live?

A. In Oklahoma.

Q. What County?

A. Pottowatomie County.

Q. How pld is he?

A. I guess he is about twenty-three.

Q. Own property there?

A. Yes sir.

Q. Mother own property there?

A. Yes sir, owned a farm.

Q. How far from Shawnee?

A. Seven or eight miles.

Q. What size farm was it?

A. About eighty acres.

Q. Is his father living?

A. Father dead.

Q. Are there any other of these persons who live outside of the Choctaw-Chickasaw Nations at this time?

A. Maude Early is out of the Nationat this time. Across the river in Oklahoma.

Q. Married woman?

A. Yes sir.

Q. What is her husbands name?

A. _____

Q. When did they go there?

A. this spring.

Q. She is an applicant in this case?

A. Yes sir.

Q. Then I understand you to say that the husband of this woman is not in the Indian Territory, but lives in Oklahoma upon rented land?

A. Yes sir.

Q. Near what post office?

A. Violet, Oklahoma Territory.

Q. Any other persons who are non-residents of the Choctaw and Chickasaw Nations?

A. Don't recall any others.

Q. How many children did your mother Zora P. Lewis have?

A. Eleven.

Q. Name them?

A. Rodah T., Edward M., John B., Susanna E., Thomas P., David S.,

Mary P/, Sarah J., Zora S., Ohpelia S., William W.

Q. Is Rhoda T., living?

A. No sir.

Q. Married before she died?

A. Yes sir.

Q. Who did she marry?

A. Sam Cowart.

Q. Party to this suit?

A. Yes sir.

Q. John B. Living?

A. No sir.

Q. Married before he died?

A. Yes sir.

Q. Have children?

A. Had one child.

Q. That child living?

A. Yes sir.

Q. Where ~~ix~~ is that child living?

A. Living in Lousiana.

Q. The daughter of your brother John B. is now living in the State of Louisiana?

A. Yes sir.

Q. Married woman?

A. Yes sir.

Q. Got two children?

Q. Daughter of John B. and her children and family are now in the State of Louisiana and are not parties to this suiy?

A. Yes sir.

Q. Susanna E., living.

A. _____

Q. Who did she marry?

A. Married David Leard.

Q. Have children?

A. Yes sir.

Q. Her children parties to this suit?

A. Yes sir.

Q. Thomas P. party to this suit?

A. Yes sir.

Q. Davis S. have children?

A. Yes sir.

Q. His children parties to this suit?

A. Yes sir.

Q. Who did Mary P. marry?

A. She married Hicks.

Q. Is she and ~~xxxx~~ and her children parties to this suit?

A. Yes sir her child is?

Q. What is his name?

A. Ulric Hicks.

Q. Sarah J. married?

A. Yes sir.

A. Yes sir.

Q. Who did she marry?

A. McKibben.

Q. Sarah J. McKibben in this suit?

A. Yes sir.

Q. What brothers and sisters did your father have?

A. Well I don't know that he had any whole brothers. He had some half brothers.

Q. From whom did your father claim to derive his Indian blood?

A. From his mother.

Q. How many half brothers and sisters did he have?

A. Why I think he had three half brothers and one half sister.

Q. By the same mother or same father?

A. Same father.

Q. Were these half brothers and sisters that you mention not the children of your fathers mother?

A. No sir.

Q. What children besides your father did your fathers mother have?

A. I do not remember ever having seen any of them.

Q. What have you heard about it?

A. One is named Terresa.

Q. That is the child of your fathers mother?

A. Yes sir.

Q. What other children did she have?

A. I cannot remember the names.

Q. Did she have several others?

A. Two or three others that died before my recollection.

Q. Your understanding that they married and had a family before that time?

A. I don't know.

Q. Don't know anything about these children of your fathers mother and their descendants?

A. No sir.

Q. What about Terresa, did she marry?

A. Yes sir.

Q. Where are the descendants of Terresa living at this time?

A. Mississippi.

JUDGE FOOTE:

Live near Brookhaven?

A. Yes sir.

witness excused.

THOMAS P. LEWIS, being introduced as a witness on behalf of plaintiffs, took the stand.

BY MR. HARLEY.

Q. Your name is Thomas P. Lewis?

A. Yes sir.

Q. How old are you Mr. Lewis?

A. Born in 1849.

Q. Where do you live?

A. I live twenty-five miles South-west of here in the Choctaw Nation.

Q. What is your post office?

A. Stuart.

Q. You are one of the applicants in this case are you?

A. Yes sir.

Q. Are you related to Mrs. Zora Early?

A. Yes sir.

Q. In what way?

A. Sister, full sister.

Q. What was the name of your father?

James M. Lewis.

Q. What was your mothers name?

Zora P. Lewis.

Q. Do you know Marcus Lewis?

A. Yes sir.

Q. Were you acquainted with him in Fort Smith, Arkansas?

A. Yes sir.

Q. Were you present when he made an affidavit with reference to the applicants in this case in Fort Smith, Arkansas, before Stephen Wheeler, United States Commissioner?

A. Yes sir.

Q. I will ask you who signed that affidavit?

A. Marcus Lewis.

Q. "Affidavit handed witness".

Q. Read over it and see if you recognize it?

Q. Do you recognize that affidavit?

A. Yes sir, to the best of my belief.

Q. That affidavit purports to be signed by Marcus Lewis, and to have been taken before Stephen Wheeler, United States Commissioner at Fort Smith, Arkansas. It bears no date and purports to have been witnessed by W. M. Melette. Did Marcus Lewis make that affidavit?

A. Yes sir.

Q. Who was present?

A. I was.

Q. I wish you would state as nearly as you can about what year he made this particular affidavit?

A. I believe it was in '76; it was not later than '77.

Q. Where were you born, Mr. Lewis?

Q. Lincoln County.

Q. Near what post office or trading point?

A. Brookhaven post office.

Q. About how far did you live from Brookhaven?

A. I was born in three miles of Brookhaven, and when the railroad passed through there it was moved two miles further away, and that put me five miles away. After the Illinois Central came through there they moved the town two miles further away, so Brookhaven of today would be about five miles from where I was born.

Q. Which direction was the town from where you were born?

A. Northeast. The town would be Northeast.

Q. Did you continue living in that same neighborhood until you left Mississippi?

A. No sir, moved seven miles further away.

Q. Well did you afterwards leave Mississippi?

A. Yes sir.

Q. With whom did you leave?

A. Left with my oldest sister Rhoda T. Cowart.

Q. Where was your father at that time?

A. In Mississippi, yet.

Q. You left ahead of your father?

A. Yes sir.

Q. About how old were you when you left Mississippi?

A. I was about twenty years old.

Q. When you left Mississippi where did you start to Mr. Lewis?

A. Started to the Choctaw Nation.

Q. This present Choctaw Nation?

A. Yes sir, we did not start with the intention of coming straight there at that time. We came on into Arkansas and waited until father came on.

Q. Father afterwards joined you in Arkansas?

A. Yes sir.

Q. Remember about when your father joined you in Arkansas?

A. Winter of '69.

Q. Where did you stop when you came to Arkansas?

A. We stopped at Claredon, Arkansas, Monroe County, stopped on White River, made a crop there.

Q. That is where your father joined you with the rest of the family?

A. Yes sir.

Q. How long did you stay there?

A. We lived there until spring of 70, may have been 71.

Q. When did you come to Fort Smith, Arkansas?

A. About 71.

Q. Did you live in Fort Smith?

A. No sir.

Q. Where did you settle?

A. About twelve or thirteen miles from Fort Smith.

Q. Near what point or post office?

A. Enterprise . Enterprise about two and one half or three miles, between twelve and thirteen miles from Fort Smith.

Q. How long did you continue living there?

A. I do not just remember how long we staid there.

Q. Did you afterwards come into the Choctaw Nation?

A. Yes sir.

Q. Do ou remember about what year y ou came into the Choctaw Nation?

A. Me and my family moved into the Choctaw Nation in, think it was 74. I had been in the Choctaw Nation and worked here, but did not move my family until fall of 74.

Q. Did you ever see your grand father and grand mother?

A. I saw my grand father, but not my grand mother.

Q. That was your grand father on your fathers side?

A. Yes sir.

Q. What was your grand fathers name?

A. William Lewis.

Q. What was your grandmothers name on your father's side?

A. My father said his mother was named Susxanna.

Q. What was her name before she married your father?

A. Heard that it was Susanna King.

Q. Have you been advised as to her being a white woman or an Indian by your family, and has it been handed down to you by family tradition as to what your grand father was as to blood?

CORNISH:

If the Court please I desire to renew the objection herein urged as to the introduction of hear say testimony, which tends to establish any specific fact, as it is the contention of the Choctaw and Chickasaw Nations that hear say testimony is only competent to establish relationship, and particularly is it not competent to introduce hear say testimony where the same tends to establish blood.

A. It has been my understanding from my family from my earliest recollection that she was part Choctaw.

Q. What was your understanding with reference to your grand father, as to whether he was a white person or an Indian, as handed down to you by your family tradition?

A. He was a white man best of my recollection.

Q. You claim your Indian blood through your grand mother, Susanna Lewis, formerly Susanna King?

A. Yes sir.

Q. Were you told and was it handed down to you by your family tradition as to how much Indian blood your grand mother had?

A. My recollection was that she was a half breed.

Q. Never saw your grand mother?

A. No sir.

Q. Did you and the balance of your brothers and sisters, together with their families make application to the Choctaw Council to be admitted as members of the Choctaw tribe of Indians by blood?

A. I didn't go myself, but my understanding is that three of them went.

Q. Who

A. Preston Early, mother and sister Sue.

Q. About when did they go before the Council, about what year?

A. I can't tell what year it was.

Q. Mr. Lewis, what is your wife's name?

A. Angeline N. Lewis.

Q. Living?

A. Yes sir.

Q. Have you any children?

A. Yes sir, I was accidentally married twice.

Q. What are the names of your children?

A. Liddy.

Q. She is married?

A. Yes sir.

Q. Who did she marry?

A. George A. Clark.

Q. He living?

A. Yes sir.

Q. Her name is Liddy Clark?

A. Yes sir.

Q. What is your next child?

A. Laura.

Q. Living?

A. Yes sir.

Q. Laura, is she married?

A. Yes sir.

Q. What is her husband's name?

A. Named F. P. Davis.

Q. Her name is now Laura Davis?

A. Yes sir.

Q. She is living?

A. Yes sir.

Q. What is your next child?

A. Anthy Lewis.

Q. Is she married?

A. No sir.

Q. Is she living?

A. Yes sir.

Q. What is the name of your next child?

A. Oscar Lewis.

Q. How old is he?

A. Eight years old.

Q. Living?

A. Yes sir.

Q. Have you any others?

A. No sir.

Q. Where were you and your present wife, Angeline N. Lewis married?

A. Married in the Creek Nation. We were living in the Choctaw Nation at the time but went into the Creek Nation. Her and me both were living in the Choctaw Nation at that time. The minister lived in the Creek Nation.

Q. Well when you left Mississippi you left for the purpose of coming to the Choctaw Nation. When you started to the Choctaw Nation was your purpose in coming here, why did you leave Mississippi to come to the Choctaw Nation?

A. To get homes here in the Nation. To live here in the Nation.

Q. What caused you to think you could get homes here in the Nation?

A. Why we had learned that we would have no trouble when coming here in getting homes.

Q. Were you claiming at that time that you were Choctaw Indians?

A. Yes sir.

Q. Came here for the purpose of settling with the Choctaws, the Indians?

A. Yes sir.

Q. Did you afterwards take up lands here?

A. Yes sir.

Q. Just as other Choctaws. Did you take lands and hold them just as other Choctaws?

A. Yes sir.

Q. Have you seen your mother lately?

A. I have not saw her since May.

Q. Still living so far as you know?

A. Yes sir so far as I know.

BY MR. CORNISH:

Q. You say you and your father and his family left Mississippi to come to the Choctaw Nation?

A. Yes sir.

Q. Why didn't you come?

A. We did come.

Q. Is it not a fact that your father stopped in the State of Arkansas and bought land?

A. No sir.

Q. How did he acquire that land near Hackett City that he owned?

A. He bought the improvements.

Q. He acquired title to the land didn't he? He had the right to live on it in the State of Arkansas didn't he?

A. Yes sir.

Q. How much land was it that he bought?

A. Bought the improvements on eighty acres.

Q. What did he do with it when he left it?

A. Don't know.

Q. State to the Court what you mean by saying that he bought the improvements on eighty acres? What do you mean by saying that he bought improvements in Arkansas ?

A. Well the land upon which he bought the improvements belonged to the State of Arkansas, the Government of the United States.

Q. Didn't he enter the land under the laws of the United States for the purpose of acquiring title to it after acquiring these improvements?

A. I don't recollect. I believe he homesteaded it.

Q. Do you mean to create the impression that a Choctaw Indian would buy land?

A. No sir

Q. Did he homestead the land?

A. Yes sir.

Q. Then your father homesteaded land in the State of Arkansas instead of coming to the Choctaw Nation?

A. Yes sir.

Q. How far was that from the line of the Choctaw Nation?

A. I can't tell.

Q. About how far, you were there?

A. It was less than a mile.

Q. It was not in the Choctaw Nation?

A. No sir.

Q. What excuse do you give for that after you were on your way to the Choctaw Nation as a Choctaw Indian?

A. What is my excuse for what?

Q. If your father claimed to be a Choctaw Indian and was on his way to the Choctaw Nation to take up land, why did he stop in the State of Arkansas and homestead land?

A. I cannot tell you.

Q. When did you move to Oklahoma Territory?

A. 22nd day of April, 1889.

Q. You went there to homestead land under the new opening of that country didn't you?

A. Yes sir.

Q. Where did you stop in Oklahoma?

A. I stopped in Oklahoma City.

Q. How many of your brothers went with you to Oklahoma?

A. One my brother in Louisiana.

Q. Did he homestead land when he got there?

A. I don't know.

Q. What other persons whose name appear in this suit went to Oklahoma about that time?

A. Julia Leard, Virgil Cowart, H. C. Roper, Edward Lewis, I do not really know the others.

Q. You stated that you went to Oklahoma for the purpose of homesteading land, did you get any land?

A. No sir could not find any.

Q. Why did you leave the Choctaw Nation with its twelve million acres of land to go to Oklahoma?

A. The fact was I was forced to leave

Q. Your people had gone to the Choctaw Council and endeavored to be admitted and were rejected by the Choctaw authorities?

A. Yes sir.

Q. Were ~~x~~ rejected every time they made their application until they got to the United States Court?

A. Yes sir.

Q. Now you stated in response to a suggested question by Mr. Harley that you removed in 1870 and took up lands like other Choctaws?

A. I moved here into the Nation and went to improving a place.

Q. That place, didn't sell it did you?

A. No sir.

Q. Were not recognized by the Choctaw tribal authorities were you?

A. I staid there seven years.

Q. You were never recognized by the Choctaw tribal government as a Choctaw Indian were you?

A. We claimed a right.

Q. You have just said have you not that your claim was rejected by the Council?

A. Yes sir.

Q. Were you present when the affidavit of Mrs. Hettis Hicjs was taken in 1896 by this man Ives?

A. I cannot say that I was.

Q. Do you know or not.

A. I cannot say.

Q. Were you present when the affidavit of her husband, Thomas R. Hicks was taken?

A. I was present when there was an affidavit taken, but I disremember the Notaries name, but it was not in Oklahoma.

Q. You were present when this affidavit of Thomas R. Hicks was written?

A. Yes sir.

Q. Who wrote that affidavit?

A. I take that write back.

Q. Where was it taken?

Q. Don't you remember who did the writing?

A. No sir.

Q. You were the representative of this case when this affidavit was taken?

A. Yes sir, but I don't remember the man's name.

Q. Were you present when the affidavit of Jacob S. Bender was taken?

A. No sir.

Q. But you were present when the affidavit of Hicks was taken, and you were there for the purpose of getting that affidavit?

A. Yes sir.

Q. What do you say about the affidavit of Jesse B. Moss?

A. Don't know.

Q. Was the affidavit of Mrs. Hettie Hicks taken at the same time as that of Thomas R. Hicks?

A. I think it was.

Q. Then Julius M. Leard, Virgil Cowart, H. C. Roper, who are parties to this suit went to Oklahoma, at the opening of that country and homesteaded lands under the laws of the United States?

A. I don't know whether Julius M. Leard homesteaded land.

Q. Virgil Cowart, H. C. Roper, Edward M. Lewis homesteaded land?

A. Yes sir.

Q. You were present before Stephen Wheeler when this affidavit of Marcus Lewis was taken?

A. Yes sir.

Q. Where is Marcus Lewis?

A. I don't know.

Q. Know that he is dead?

A. Do not.

Q. Was the affidavit of Sarah, his wife taken at the same time?

A. Yes sir.

Q. Do not know that he is dead do you?

A. No sir.

Q. Q. You were born in 1849, and were about twenty years old when you

left the State of Mississippi?

A. Yes sir.

Q. Father not born in the State of Mississippi?

A. Yes sir.

Q. Where was your father born?

A. Born in Mississippi, South-West part.

Q. In what County?

A. Dont know that it was in Counties when he was born.

Q. Near what post office?

A. Near Brookhaven.

Q. How far from where he lived at the time he left there was it?

A. I don't remember ever hearing him point out.

Q. Don't know anything of your fathers life from the time he was born?

A. No sir except from hearsay, said he was born right there in the County.

WEAVER:

Who was this Marcus Lewis, any relation of yours?

A. Said he was an own cousin of father.

Q. How long since you have heard anything of him or his wife?

A. Why it has been over twenty years.

Q. Where was he living at the time the affidavit was made?

A. Living ten or fifteen miles from Fort Smith, near where Major Parg~~er~~ lived.

Q. Never seen them since they made the affidavit?

A. One or twice.

Q. Never seen or hear of them for twenty years?

A. No sir.

Q. Ever made any effort to find them?

A. Yes sir we made an effort to find them when we were having our trials . We sent representatives all over the Nation. Sent out persons to hunt them all over the country.

Cornish:

Q. When was that, before that time?

A. Yes sir.

Q. How long before they made this affidavit was it that you first saw them?

A. Cannot remember.

Q. About how long.

Q. Not more than a year or two.

Q. Your father was dead then, where was your father at that time?

A. I can't tell.

Your father died in Arkansas didn't he?

A. Fathed died in August 75.

Q. Are you able to state whether or not these people had ever seen your father?

A. No sir.

Q. Who got these Indians and took them to Fort Smith, Marcus and Sarah Lewis?

A. I was in the party.

Q. Were they full blood Choctaw Indians?

A. Nearly full blood Choctaw Indians, wife was full blood, don't think he was quite full bood.

Q. Look like full blood Choctaw Indians?

A. Yes sir.

Q. How old were these people?

A. Why I can't remember.

Q. About as old as you were then?

A. Yes sir.

Q. When was that about 1876, about twenty-seven years ago?

A. Yes sir.

Q. How old are you now?

A. fifty-four years old.

Q. Then he was about twenty-seven years old.

AQ. Looked about as old then as I am now.

Q. Old then as you are now?

A. Yes sir.

Q. How old was his wife?

A. About his age, didn't look like a young woman.

Q. For what purpose did they make that affidavit? What did they hope to accomplish?

A. Hoped to accomplish our citizenship?

Q. When and how?

A. Before the Council.

Q. That affidavit was made before your application to Council?

A. Yes sir.

Q. Then that affidavit was taken before the Council and used before the Council?

A. Father was sent down there?

Q. Then you don't know what occurred down there?

A. No sir.

Q. Affidavit was carried there by your father?

A. Yes sir.

Q. Council rejected you upon whatever showing was made?

A. Was rejected.

JUDGE FOOTE:

You say you were born in Lincoln County, Mississippi in 1849?

A. Yes sir.

Q. Were there any full blood Indians living there then?

A. Don't remember were any were living.

Q. You know all the prominent white people in that County?

A. Know a good many of them.

Q. Know Thomas R. Stockton, know R. H. Thomas, know Judge Cassada and Hiram Cassda?

A. Have heard of Judge Cassada ever since I can recollect.

Q. Acquainted with a good many white people in that County?

A. Yes sir.

Q. Did you undertake to pass as an Indian, your father and the rest of them claimed to be white people?

A. Why we never denied being Indian.

Q. Did anybody ever say you were Indians?

A. I don't know what they said about it.

Q. Your father lived there a gerat many years didn't he?

A. Yes sir.

Q. Did he not register and vote?

A. Yes sir, he voted.

Q. Made no effort to make any showing by people who lived there in support of your claim?

A. Marcus Lewis was from that County, he was out here.

Q. That County is right on the railroad running from Memphis, and been running for forty years?

A. Yes sir.

Q. Lawrence County is one of the best civilized Counties in the State?

A. Cannot say that.

Q. Never made any effort to get any statement from people back there to show that you were Indians. Why ~~wxxxx~~ did you not go back there instead of getting people from Oklahoma and Creek Nation that had lived in that County. The fact is that you did not make any effort in that direction?

A. Don't think we ever sent anybody back there.

Cornish:

Q. Did your father or any one of your ancestors somply with the requirements of the fourteenth article of the treaty of 1830 between the Choctaw Nation and the United States?

A. Don't know the fourteenth article.

Q. Didn't so far as you know?

A. No sir.

Q. Do you know anything about the treaty?

A. No sir.

Q. Don't know if your father ever had any connection with the trea y?

A. No sir.

Q. Then you don't know if your father did anything?

A. No sir.

MR. HARLEY:

Are you or your father lawyers?

A. No sir.

Q. You had counsel employed to advise you and look after your interests?

A. Yes sir.

Q. Relied on the advice of your ~~h~~ lawyers as to what was required?

A. Yes sir.

Q. You you called a wealthy man or a man in moderate circumstances?

A. In modereeate circumstances.

Q. Are you able to hve people traveling over the surrounding States in search of evidence?

A. No sir.

Q. You gathered such evidence in this country as you could find without going to the unnecessary expense of sending representatives to Mississippi?

A. Yes sir.

Q. You have been relying upon the advice of your counsel as to the character of evidence you should take in this case have you?

A. Yes sir.

Q. FOOTNOTE:

Do you mean to say that your counsel did not suggest to you the propriety of getting witnesses from that section of the country from which your father came?

A. Never did.

Harley:

Mr. Lewis a while ago in answer to a question propounded by Mr. Cornish, you said that you and the other members of your family were forced to leave, I wish you would state full the facts why you were forced to leave?

A. Well it was this way, my borhter went tosee the Agent at Muskogee It was understood that they were going to put us out, and he went to see the Agent.

Q. Did he gox to see the Agent as the representative of the gove rn-

ment of the United States?

A. Yes sir., and the Agent told him that if he did not get out he would put him out.

Q. Well when he was told that by the agent he came and advised the rest of you?

A. Yes sir.

Q. Where were you living at that time?

A. Living at Brooken, Choctaw Nation.

Q. Were you holding land at that time?

A Yes sir.

Q. What became of your plave when you left it?

A. I dont know what became of it.

Q. Sell your improvements?

A. Sold it on credit, but never got anything out of it.

Q. To whom did you sell it?

A. To Richmond McGee.

CORNISH:

Q. Then it isa fact that you and these applicants were practically put out of the Choctaw Nation by the United States authorities?

A. Call it what you please.

Q. After you had been to the Council?

A. Yes sir.

Q. Then the Indian Agent told you to get out and you got?

A. Yes sir.

witness excused.

B. H. BAILEY, a witness for the plaintiffs, being next duly sworn took the stand.

BY MR. HARLEY:

Q. State your name?

A. Bajamine H. Bailey.

Q. How old are you Captain?

A. Sixty-four years old.

Q. Where do you live?

A. South M. A. ...

Q. How long have you lived here?

A. About thirteen years, ever since the town has been built.

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

A. Altogether I think about fifty-five or fifty-six years in the Indian Territory.

Q. What business are you engaged in now?

A. Not engaged in any business right now, I am on the equalization board in the city right now.

Q. What business have you been engaged in during the greater part of the time Captain?

A. Mercantile business.

Q. Did you ever know Zora P. Lewis, one of the applicants in this case?

A. Yes sir.

Q. Know her husband?

A. Yes sir.

Q. ~~What was~~ his name?

A. Name was James.

Q. Where did you first know them, Captain?

A. Where did I first know them?

Q. Yes sir?

A. They camped in front of my store, about ten miles South of Fort Smith, a little village named Enterprise in 1870, I believe it was.

Q. Say they camped in front of your store?

A. Yes sir.

Q. Know where they were from?

CORNISH:

Will the Court permit to go into the record the hearsay testimony of these applicants made to this witness.

WEAVER: I think Mr. Cornish we will proceed.

A. I don't know sir where they were from, said they were from Mississippi.

Q. What were they Captain with reference to being Indians or white people?

CORNISH:

I would stop and take a stand in the case that this question should not be answered. It seems to me that it is a disgrace to the Court to make an effort to introduce such testimony. It seems to me that it is a disgrace to the Court to proceed without regard to the propriety and the Court should not permit it. Nobody knows what will become of this record, and it does seem to me, that it is a discourtesy to offer it.

HARLEY:

Really I am not in the habit of having counsel talk to me in such a way. I am not in the habit of seeing my honor and my reputation as a lawyer questioned.

CORNISH:

I desire to say that I in no way assailed your standing as a lawyer, but I did say that the question just asked this witness was an insult.

JUDGE FOOTE:

The situation as I understand it is is that we are not going to rule out any evidence at this time.

JUDGE FOOTE:

Answer the question.

A. Well I don't know that I can. I hardly know how to answer that question. I can this some of them looked like Indians, and some of them did not show their Indian blood. Some of the family did not have the Indian look at all. I believe that if about the only way I can answer it.

Q. Some of them you say did not like like Indians, did some of them look like Indians?

A. Yes sir some of them looked very much like Indians.

Q. You have lived among the Indians nearly all your life?

A. Yes sir, I have traded pretty much all my life with th civilized Indians and in fact with the blanket Indians.

Q. Now Captain I wish you would state the names of the parties there that you can recall at this time?

A. I don't know that I can, it has been so long since I knew them I do not know that I can state the names.

Q. Can you give any?

A. One of the boys that showed the Indian, I do not remember his name.

Q. Give the names of any of the children of Zora P. Lewis who were with the party at that time?

A. There were two or three of the children that showed the Indian more than--

Q. I do not mean with reference to showing the Indian, but give the names of such of the children of Zora P. Lewis that you can remember or that you know to be their children?

A. There was Tom, and I believe one that was named Dave, I have forgotten their names. Neber was intimately acquainted with them, they used to come to the store and trade.

Q. Know Mrs. Early over there?

A. Don't believe I did, don't remember her.

Q. Remember Mrs. Edwards here?

A. Yes sir I remember her. I remember her because I have been at their house since, probably about twenty years ago, when they were on Canadian River. I was buying cattle. Stopped there at their house.

Q. Remember her given name?

A. No sir I do not.

Q. Stopped at their house about twenty years ago?

A. Yessir.

Q. Were they living on the lands as Choctaws or where they living there as the tenants of other parties?

A. They were living there as Choctaws. Had a farm and was raising stock. Had about eighteen or twenty head of cattle there at one time.

Q. Farm of their own?

A. Yes sir.

Q. Who did Mrs. Edwards marry, what is the name of her husband?

A. J. A. Edwards.

Q. Know him?

A. Yes sir.

Q. About how long have you known Joe Edwards?

A. I don't know I have not seen much of him for the last twenty-five years, think it was 70, but it was about then.

Q. Do you recall the names of any other children?

A. Well there was one that married a man named Leard and one married a man named C. P. Hicks.

Q. Now Captain you say that when you first met them they camped in front of your store, did they live in that community?

A. Yes sir they lived about a mile or two miles and a half from me just on the line. Do not know how long, not over a year.

Q. Where did they move?

A. Moved into the Choctaw Nation.

Q. Now captain do you remember with reference to the family of Zora Lewis and her husband James Lewis, as to who showed the Indian blood the most, the boys or the girls?

A. I don't know that. I believe though that Mrs. Leard, the oldest one showed Indian more than any of the balance. That is my impression just now.

Q. Do you know whether they were recognized in any way as Indians or not Captain?

A. No sir I can't say as to that, I think though that they were generally looked upon as Indians. They claimed to be Indians when they first came there.

Q. You are not related to any of these parties in any way?

A. No sir.

Q. No interest in this case?

A. No sir.

CORNISH:

Q. Captain you don't know anything about these people as to where they came from except what they told you do you?

A. No sir.

Q. Q. Are you able to name the children whom you say had the appear-

ance of Indian~~s~~ blood?

A. No sir I cannot say that I can except Mrs. Leard.

Q? Grown woman at that time?

A. Yes sir.

Q. Is it not a fact that this man James M. Lewis homesteaded land close to you?

A. No sir.

Q. You have no knowledge of this man having homesteaded land near you?

A. No sir.

Q. When was it that you knew this man Edwards in the Choctaw Nation?

A. Some years ago.

Q. How long was that?

A. About twenty years ago, it may have been twenty-one years ago.

Q. You say he was living there as a Choctaw Indian. How are you able to make that statement- what do you base that on?

A. Well only in this way he had a farm there and claimed to be a Choctaw citizen.

Q. You do not have any knowledge of the application of these people to the Choctaw Council, and the rejection of their claim by the Choctaw Nation?

A. No sir.

Q. You met Joe Edwards twenty-five years ago?

A. Yes sir.

Q. Have you any information of him having sold his place?

A. No sir.

JUDGE FOOTE:

You said that they had Indian blood, are you sufficient of an expert of persons having Indian blood that a man having on fourth or one eighth blood can you tell that he was Indian?

A. I didn't say that they were Indians.

Q. I am asking you if a person having that degree of blood can you tell it?

A. No sir.

witness excused.

MRS. LYDIA CLARK, being first duly sworn took the stand.

BY MR. HARLEY.

Q. How old are your Mrs. Clark?

A. Teenty-seven.

Q. What is your post office present time?

A. Stuart.

Q. Live near Stuart in the Choctaw Nation?

A. Yes sir.

Q. What is your husbands name?

A. George Clark.

Q. Is he living?

A. Yes sir.

Q. Who was your father and mother?

A. T. P. and Amanda Lewis.

Q. Thomas P. Lewis, the witness who has testified?

A. Yes sir.

When were you and your husband first married?

A. November 25, 1894.

Q. Where were you married?

A. Pratt County, Oklahoma.

Q. Were you and your husband aftereads married again?

A. Yes sir.

Q. When was that?

A. In August 98.

Q. Where were you married that time?

A. Here in McAester.

Q. Had you and your husband been divorced?

A. No sir.

Q. Married the second time for the purpose of complying with the Choctaw law with reference to marriage?

A. Yes sir.

Q. When you were married the second time did your husband procure a marriage license in accordance with the laws of the Choctaw Na-

tion?

A. Yes sir.

Q. Did he comply with the Choctaw law in all respects in that marriage?

A. I don't know, don't know what the laws are.

Q. Well did he get a license from the Choctaw authorities?

A. He said that he did.

Q. What became of your marriage license and certificate that you got when you married the second time?

A. I don't know.

Q. Don't know where it is now?

A. No sir.

Q. Have you any children?

A. No sir.

~~Q~~ CORNISH:

Q. Whatever may have been done with reference to this ~~x~~ second marriage about which you speak, it was after you and the other applicants ~~xx~~ in this case had been admitted by Judge Claytons Court was it not?

A. Yes sir.

witness excused/

WILLIAM KYLE, a witness for the plaintiffs, being first duly sworn took the stand.

BY MR. HARLEY:

Q. Your name is William Kyle?

A. Yes sir.

Q. Married?

A. Yes sir.

Q. What was your wife's name before you married her?

A. Zora A. Lewis.

Q. Who was the father and mother of your wife?

A. Edward M. Lewis and Sarah P. Lewis.

Q. When were you first married to your wife?

A? On September 6 '98.

Q. Q. First time you were married?

A. Yes sir.

Q. She now living is she?

A. Yes sir.

Q. When you married your wife did you comply with the laws of the Choctaw Nation with reference to the marriage of citizens of the Choctaw Nation?

A. No sir.

Q. Did you afterwards marry your wife again?

A. Yes sir.

Q. When was the second marriage?

A. 1899.

Q. Had you been divorced from your wife?

A. No sir.

Q. You married the second time for the purpose of complying with the laws of the Choctaw Nation with reference to the marriage with members of that tribe?

A. Yes sir.

Q. Where were you married the second time?

A. South McAlester.

Q. In whose office, or what place in South McAlester?

A. In Mr. Lindly's office, M. M. Lindly.

Q. Did you comply with the laws of the Choctaw Nation in your second marriage.

A. Yes sir.

Q. Did you procure a license from the Choctaw authorities?

A. Yes sir.

Q. What was the license fee that you paid?

A. \$100.00

Q. Paid that to the Choctaw tribal authorities?

A. Yes sir/ Clerk McClure.

Q. Did you then get the license from the Choctaw authorities?

A. Yes sir.

Q. Where is that license and marriage certificate that you got at

that time?

A. I suppose it is with the Dawes Commission.

Q. What did you do with it?

A. I presented it to the Dawes Commission here at South McAlester, and they taken it up.

Q. Now in the possession of the Dawes Commission, or some other officer of the Interior Department?

A. Yes sir.

Q. Now living with you wife?

A. Yes sir.

Q. Same woman to whom you were married both times?

A. Yes sir.

Q. Have you any children?

A. Yes sir.

Q. What are their names?

A. Edith May and Fielding Lewis.

Q. Where do you live now Mr. Kyle?

A. Live in the Chickasaw Nation.

Q. What is your post office?

A. Center.

Q. How long have you lived in that community?

A. About four years.

CORNISH.

Q. Why didn't you get a Choctaw license when you married her the first time?

A. Well she was not enrolled.

Q. You married her in '98, why didn't you get a Choctaw marriage license then.

A. I don't know why I didn't.

Q. Did the matter of the issuance of this marriage certificate depend upon the rendering of a judgment in her favor by the United States Court for the Central District of the Indian Territory?

A. The judgment had been rendered before I married the first time.

Q. Afterwards were married a second time?

A. Yes sir. witness excused.

PRESTON EARLY, (recalled)

BY MR. HARLEY.

Q. Mr. Early, I will ask you if you went with Mrs. Zoray P. Lewis and any of the other applicants in this case before the Choctaw Council in this claim?

A. I went there, Zora P. Lewis and her daughter We taken the paper to Council, but could not get a vote. Said that they would not let us present them unless they had twenty-five dollars. And The asked ~~xxx~~ me twenty-five dollars just to present the paper before the Council. They were working against me, Mr. Lewis was, Simon Lewis. They came down to our camp and said people you will never get on, Mr. Lewis is working against you.

Q. Did you ever present your claim to the Council?

A. I presented by claim to the Principal Chief in old McAlester, he was about there on business of some kind and I presented by paper to him.

Q. That was not at the Council?

A. No sir.

Q. When you got to the Council did your paper ever go before the Council?

A. No sir.

Q. These matters came up and you were never before the Council were you?

A. Never was.

Q. You remember when it was that you went to the Council?

A. It was about 77, or seventeen years ago, right along about that time.

Q. Do you remember who was Principal Chief of the Choctaw Nation at that time?

A. Do not remember his name. Cannot call his name.

Q. Did you take with you on that occasion the affidavit of Edward M. Lewis and ~~Sxxxx~~ his wife, did you carry them with you when you went to Council.

A. We carried the old affidavit of this Lewis, Marcus Lewis, old papers, but did not present them.

CORNISH:

Q. How many times did you go to Council in this case?

A. One time.

Q. Who went on the other occasions when the claim was presented?

A. I don't know.

Q. Is it not a fact that this claim was presented to Council on several different occasions?

A. No sir.

Q. Don't you know as a fact that this claim was presented to Council at a different time than when you were there?

A. No sir.

Q. Then if the statement is contained in this record that it was then that statement is not true so far as your personal knowledge is concerned?

A. I don't know anything about it.

Q. You have knowledge of the presentation of this claim to Council several times?

A. No sir.

Q. Where were you living at the time this order came from the Indian Agent for these people to clear out of the Choctaw Nation?

A. South Canadian.

Q. How did that information reach you?

A. I heard they were going to put us off?

Q. How did you hear that, from the authorities in the County?

A. I heard from the authorities in the County there that the government of the United States and its representatives considered our family as intruders and that they would put us out.

Q. Did you get out?

A. Yes sir we got out. Edward Lewis went up to Muskogee and he found that we had to get out.

Q. That was after this claim was presented to the Council?

A. No sir before.

Q. When was it that you lived in Oklahoma, that you arrived in Oklahoma?

A. 1893, I think it was.

Q. How long after was that that you understood the Indian Agent was going to put you out of the country?

A. Somewheres about eight years.

Q. Then it is not a fact that when you went to Oklahoma in 1893 to escape the action of the United States Indian Agent in putting you out of the Choctaw Nation?

A. No we went across the River into the Cerokee and staid there a while.

Q. You were not pushed into Oklahoma by any fear that the Choctaw Nation was going to put you out of the Choctaw Nation?

A. No sir.

Q. It was not the imminent action of the Indian Agent that pushed you into Oklahoma?

A. No sir.

Q. What did you go into Oklahoma in 1892 for?

A. Went up there and found three forties that nobody had allotted, and I thought it was worth allotting, and I taken it up.

Q. Where was that land in Oklahoma?

A. About seven miles from Shawnee.

Q. Your wife claimed to be a Choctaw?

A. Yes sir.

Q. You took her claim ~~xx~~ along with the balance when you went didn't you?

A. Yes sir same thing.

Q. You homesteaded that land in 1892?

A. In 1893.

Q. How long did you live on that land?

A. About six years.

Q. You acquired title to the land didn't you?

A. No sir I did not get no title to it, I bought it out, I paid a dollar and a quarter an acre for it.

Q. When you left you sold whatever interest you had in the land didn't you?

A. Yes sir.

Q. You were living in Oklahoma in 1896?

A. Yes sir, I reckon about that time I moved to the Nation.

Q. When did you move to the Nation?

A. I reckon about '95 or '96.

Q. What year was it, you know better than any of the balance of us?

A. My recollection is that it was- Well I will say '96, may have been '97, I don't know.

Q. You said a moment ago that you homesteaded this land, that would bring it up to 1899?

A. I reckon I must have been there before that time.

Q. Is it true or not true that you lived on this land six years?

A. No sir I don't think I lived there that long. I owned it that long. We had to come to the Nation, it was about that long before I sold it. I rented it two years.

Q. Didn't you come to the Nation about the time T. P. Lewis came?

A. Yes sir.

Q. Then you came into then you came into the Nation about the time the other members of the Lewis family came?

Q. They were ordered in. They were ordered to come here.

Q. Who ordered you in, your attorneys ordered you in?

A. Yes sir.

Q. Who was your attorney at that time?

A. Mr. Lindly.

Q. He ordered you in?

A. Yes sir.

Q. Is it not a fact that you came in there in the fall of 1898 or winter?

A. Probably it was.

Q. Then it is a fact that on the 10th of September, 1896 you were living in Oklahoma on this homesteaded land, and your wife who is an applicant in this case was living on homesteaded land in Ok-

lahoma?

A. I don't know.

Q. You don't know anything about the blood of these people, do you?

A. No sir.

witness excused.

OLIVIA PRYOR, a witness on behalf of the plaintiffs being duly sworn took the stand.

BY MR. HARLEY:

Q. State your name?

A. Olivia Pryor.

Q. Where do you live Mrs. Pryor?

A. @ Stuart, Choctaw Nation, Indian Territory.

Q. What was the name of your father and mother Mrs. Pryor?

A. Samuel J. Pryor and _____

Q. How many times have you been married?

A. Three times.

Q. What was the name of your first husband?

A. James K. Douglas.

Q. Did he die?

A. Yes sir.

Q. Have any children by him?

A. Yes sir one.

Q. What is his name?

A. James K. Douglas.

Q. Is he living?

A. Yessir.

Q. Who did you next marry?

A. Henry Jourdan?

Q. Is he living?

A. No sir.

Q. Dead?

A. Yes sira.

Q. Have children by him?

A. Yes sir.

Q. Give their names?

A. Henry Jourdan, Mabel Jourdan, Zora Pearl Jourdan.

Q. Three children by that marriage?

A. Yes sir.

Q. Who did you next marry?

A. Sam V. Pryor.

Q. Is he living?

A. Yes sir.

Q. Have you any children by that marriage?

A. Yes sir.

Q. Give their names?

A. George M. Pryor, James E. Pryor, Mary E. Pryor, S. O. Pryor, Vernie Pryor and Earl Pryor.

Q. Related to Mr. Early in any way?

A. No sir.

Q. Related to Mrs. Early?

A. Yes sir she is my aunt.

CORNISH:

Ever live in Oklahoma Territory?

A. No sir.

Q. You never lived in the Territory of Oklahoma?

A. No sir.

witness excused.

HARLEY:

If the Court please that concludes the evidence that we have at this time in this case. We have one witness, a Mrs. Page who is a very old lady, and if the Court desires it we might put Mr. Edwards on to prove her condition. She lives near Jenson, Arkansas in the country near Pocola, Indian Territory, about three miles from Jenson, and under the circumstances I will have to ask one of the Judges to take her testimony.

CORNISH:

We have heard no testimony as to her physical condition at this time

As I understand she is the same person who came here on the 30th of June and gave testimony in the Mickle case.

HARLEY

If she is able we would rather bring her here than to ask the Court to go there, and in fact there are two or three other witnesses whose evidence we desire to take, and who are not related to these parties. We have just recently learned of these witnesses and their whereabouts, and we will ask the Court to permit us to bring these parties into the Court at some later date, at such time as the Court will indicate. If she will come here, that will be more agreeable than taking it at Jenson, but if she cannot come, we will be under the necessity of asking the Court to take the testimony for us.

JUDGE WEAVER:

Counsel is aware of the rule of Court to the effect that an affidavit will have to be filed in this case to the effect that the witness is not physically able to come.

CORNISH:

You see Judge as we understand the rules there is a time when the plaintiffs are required to take their testimony, and if there is good reasons why an extension is desired, then the motion will have to be filed, a copy served upon us, and then the Court can pass upon it.

JUDGE WEAVER:

The Counsel for the Nations has stated the rule.

JUDGE WEAVER:

In number 59, Ohpelia S. Edwards, et al, vs. Choctaw and Chickasaw Nations, the Court having heard certain evidence submitted by the applicants in case number 58, Zora P. Lewis, et al, vs. Choctaw and Chickasaw Nations, and it being suggested to the Court by Mess. Harley & Lewis, counsel for the claimants in each of said cases, that the testimony offered in said case number 58 is identical with that which would be offered in case number 59, that said evidence be considered by the Court as having been offered

to the Court in said case number 59, as well as in said case number 58. Mess. Mansfield, McMurray & Cornish, counsel for the Nations being present in open Court offered no objection to the suggestion of the counsel for the plaintiffs in each of said above entitled cases, and consented that said testimony, so far as the same may be applicable, and subject to all objections which may have been made by them in the hearing thereof in said case number 58 may be treated and considered by the Court as having been again offered in said case number 59.

Opheilia S. Edwards, a witness for the plaintiff being first duly sworn took the stand.

BY MR. HARLEY:

Q. State your name?

A. Ohpelia S. Edwards.

Q. Wife of James M. Edwards?

A. Yes sir.

Q. Related to Mrs. Early?

A. Yes sir.

Q. In what way?

A. Sister.

Q. Sister of yours?

A. Yes sir.

Q. Know Charles Edwards?

A. Yes sir, he is my son.

Q. Did you know Lula Edwards?

A. Yes sir.

Q. What is her name now?

A. Rightaway.

Q. Has she been married before she married Mr. Rightaway?

A. Yes sir.

Q. What was her first husbands name?

A. Hays.

Q. What is her husband named?

Eugene Rightaway.

Q. Know Martha J. Smith?

A. Yes sir.

Q. Who is she?

A. She is my daughter.

Q. What was her name before she was married?

A. Martha J. Edwards.

Q. What is her husbands name.

Oscar Smith, he signs his name O. G. Smith.

Q. Do you know David Smith?

A. Yes sir.

Q. Who is she?

A. My daughter.

Q. Married?

A. No sir name is Edwards.

Q. All of these children of yours whose names I have called are now living?

A. Yes sir.

Q. All live in the Choctaw Nation, Indian Territory?

A. Yes sir.

witness excused.

OPHELIA S. EDWARDS, a witness on behalf of defendants, being duly sworn took the stand.

BY MR. CORNISH:

Q. Where were you living in 1896?

A. I was living in the State of Arkansas.

Q. In what County,?

A. Franklin County.

Q. Near what post office?

A. Roseville.

Q. Husband own land there at that time?

A. Yes sir.

Q. How much land did your husband own?

A. I cannot remember exactly.

Q. About how much?

A. Nearly four hundred acres.

Q. In the river bottom?

A. Yes sir.

Q. At the time this application was made you and your family were living on land which your husband owned in Franklin County, Arkansas?

A. Yes sir.

Q. When did you move to the Choctaw Nation?

A. in 1898.

Q. Did you husband ever hold any office in the State of Arkansas?

A. Yes sir.

Q. What office?

A. Deputy sheriff.

Q. How long was he deputy sheriff?

A. I don't know.

Q. It is a fact that at the time this application was made in 1896, he was deputy sheriff.

A. He had been before that time?

Q. Was he after that time?

A. Yes sir.

Witness excused.

Zora P. Lewis, et al,

vs. No. 58.

The Choctaw and Chickasaw Nations,

February 4, 1904.

Mr. Harley:

In that case, representing the plaintiff, that case has been continued up to this time for some testimony that we wanted to offer, but our witnesses have just come in, and I have not had an opportunity to go over the matter, and if the Court or the gentlemen would desire up to put in our testimony, we are in the attitude that we will have to ask for a little time to confer with the witnesses, and we can close it in a hour and a half from the time we start.

JUDGE ADAMS:

The Court was under the impression that we had closed it.

Mr. Cornish:

I do not think the record will bear you out.

JUDGE ADAMS:

My understanding is that all of those cases are closed on the part of the applicants, and the cases are set for the defendants.

Mr. Harley

I think the Court is in error. In the Lewis case Mr. Lewis was sick when the case was last set and it was continued on that account. Mr. Edwards had some contests at Atoka, and they were continued for the same reasons and Mr. Edwards had the witnesses ready to bring them here before and the matter was continued for that reason.

JUDGE ADAMS:

You are not ready to offer it now.

Mr. Harley:

I don't think we would be ready to offer it now.

JUDGE ADAMS:

You gentlemen want to offer your testimony before he gets theirs.

Mr. Cornish:

No sir, I don't think we would.

Zora P. Lewis, et al,

vs. No. 58.

The Choctaw and Chickasaw Nations.

Harley & Lewis, Attorneys for Plaintiffs.
Mansfield, McMurray & Cornish, for Defendants .

Present and presiding the Honorables, Spencer B. Adams,
Chief Judge and Walter L. Weaver and Henry S. Foote,
Associate Judges.

FEBRUARY 4, 1904. This day this cause coming on to
be heard, both plaintiffs and defendants being represented
by Counsel, the following proceedings were had, to-wit:

Mr. Cornish:

Those are the cases that went over this morning. The
record has heretofore been made up in number fifty-eight,
and the Nations have present some ~~sessis~~ witnesses whose
testimony they wish to take, and we wish to offer it in case
number fifty-eight and extend in such manner as the court
may direct to the other cases.

Mr. Harley:

Applicants have some testimony.

JUDGE ADAMS:

This is a very unusual proceeding, but we want to get
at the facts, and if you bring out any new matter you gentle
men will have opportunity to rebut it.

PETER B. KREBS, being called as a wit-
ness on behalf of the plaintiffs, testified as follows:

DIRECT EXAMINATION.

Mr. Harley.

Q.--State your name? A.--Peter B. Krebs.

Q.--How old are you? A.--Born in forty-nine.

Mr. Cornish:

I understand these are the only witnesses whose testi-
mony you wish to take.

Mr. Harley:

Yes sir.

Mr. Harley:

Q.--State your citizenship with reference to being a Choctaw
or citizen of the United States. A.--Myself.

Q.--Yes sir, whether you are a Choctaw or citizen of the
United States? A.--Citizen of the Choctaw Nation, always
been considered.

- Q.--Are you enrolled as such by the Dawes Commission? A.-- Yes sir.
- Q.--Where were you raised Mr. Krebs? A.--Raised on Canadian River, what they call now Whitefield.
- Q.--Where were you born? A.--Born at Whitefield .
- Q.--In this Choctaw nation? A.--Yes sir.
- Q.--Mr. Krebs, I will ask you if you ever knew a man named Marcus Lewis? A.--Yes sir.
- Q.--Where did you know him? A.--Down on Poteau River, East of Spiro, used to be old Skullyville.
- Q.--About how old were you, about what sized man were you the first time you got acquainted with him? A.--I don't remember how old I was.
- Q.--Were you grown? A.--Pretty good sized boy. After my father died, mother moved to my grand fathers.
- Q.--What was your grand father's name? A.--Ward Folsom.
- Q.--You were at your grand father's when you first knew him? A.--Yes sir.
- Q.--You were not a grown man yet? A.--No sir.
- Q.--What was the citizenship of this man? ~~xxxxxxx~~ Marcus Lewis, if you know, what was he? A.--Always considered him to be a Choctaw.
- Q.--About how much Choctaw did he appear to be, with reference to being a full blood or otherwise? A.-- Reckon what you call a full blood.
- Q.--Did you know his Indian name or whether he had an Indian name? Choctaw name? A.--Yes sir.
- Q.--Did your mother in speaking to you and talking around the place speak Choctaw or English? A.--English in talking to the children, talked English altogether.
- Q.--The language that was spoken around your home was English and not Choctaw? A.--Yes sir. When neighbors came in she talked Choctaw, but in the x family she always talked English, her and her father both.
- Q.--Do you know whether or not this man Marcus Lewis had a Choctaw name? A.--No sir/
- Q.--You simply knew him by Marcus Lewis, his English name? A.--Yes sir.
- Q.--If he had a Choctaw name, you say you never knew about it? A.--No sir.
- Q.--What kind of a looking man was Marcus Lewis? A.--Not very large man. Tolerable spare built man, weight about one hundred and forty pounds, maybe more or not quite so mu h.
- Q.--Did you just see him once or twice or off and on? A.--Saw him off and on for about two or three years. I staid there two or three years, lived with my grand father, and of course he wasen't there every day, go across the River and come back.
- Q.--Did you see him off and on for several years? A.--Not more than two years, f that long .

Mr. Mansfield:

Mr. Harley's examination is leading with this witness, he should ask him how long he knew this man.

Mr. Harley:

~~xxxx~~ Trying to get before the Court the mans knowledge.

JUDGE ADAMS:

I wasen't paying any attention to the questions I was listening to the answers.

Mr. Harley:

Q.--Describe this man Marcus Lewis as nearly as you can, with reference to his having beard, etc, give a discription of his face, whether he had beard or mustach or whether he didn't.

JUDGE FOOTE:

Can't he answer the que stion of what his appearaces were.

Mr. Harley:

Yes sir.

Q.--I want to know his facial appearance. A.--He didn't have any beard on his face far as I knowed him.

JUDGE ADAMS:

Q.--Do you know whether he had beard or not? AA.--No sir, I don't think he had any beard. Great many of them full bloods don't have any beard, fe w sticking around. I don't remember whether he had any or not.

Mr. Harley:

Q.--How long has it been to the best of your recollection since you saw Marcus Lewis? A.--It has been twenty-four or five years, something like that.

Q.--Do you know what became of him? A.--He disappeared and never heard anything more from him.

Q.--You don't know what became of him? A.--No sir.

Q.--Q.--Do you know where he lived, where his home was? A.--No more than I said a few moments ago. Go backwards and forwards for where I live d coming back on this side of the River.

Q.--Did he have any permanent home that you know of? A.--Not that I know of.

Q.--Do you know Judge Ward this other witness? A.--Yes sir.

Q.--About how many miles were you living from him? A.--When I lived near Whitefield over there we lived about seven or eight miles apart. He lived on one side of the River and I lived on the other.

Q.--How far did you live from him when you knew this man Marcus Lewis? A.--Seven or eight miles

Q.--Poteau River? A.--Yes sir.

Q.--What do you k now, if anything about full blood Choctaws having an Indian name and an English name. ~~xxxx~~Where the Choctaw name was hard to pronouonce they sometimes took and English name. A.--No answer.

Q.--Do you know whe ther it was frequently the case or not? A.--I don't know . Know them always go by one name and then chage off and go by another , but I don 't know whether they make a practice of it or not.

Q.--What name do you go by now? A.--Peter Krebs.

Q.--What other name did you go by? A.--My first name and middle name was pronounced one, went by that until I went to rambling around and gave by name as Peter B. Krebs, go by that name a while and now Peter Krebs.

Q.--About how old a man do you think Marcus Lewis was when you last saw him, how old a man would you take him to be from your recollection? A.--I suppose something like forty years old.

Q.--That is your best recollection of it? A.--Yes sir.

Q.--You are not related to any of these applicants that you know of in this case? A.--Not hardly.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--Did this man Marcus Lewis that you talk about have a family? A.--Not that I know of.

Q.--No wife? A.--No sir.

Q.--Any children? A.--No sir.

Q.--Don't know where he lived? A.--No sir.

Q.--Just went about from place to place in the country? A.--Yes sir.

Q.--Just a roaming man? A.--Yes sir.

Q.--Never knew what his father and mother were? A.--No sir.

Q.--Disappeared? A.--Yes sir.

Q.--You have never seen him since? A.--No sir.

Witness excused.

JOSEPH WARD, being called as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

Mr. Harley:

Q.--State your name? A.--Ward, Joseph Ward.

Q.--How old are you? A.--I was born in 1855.

Q.--Where do you live? A.--Skullyville County, Oak Lodge were I get my mail.

Q.--Choctaw Nation? A.--Yes sir.

Q.--~~What~~ What is your citizenship with reference to be a Choctaw or citizen of the United States? A.--Choctaw.

Q.--Do you now hold any official position in the Choctaw Nation? A.--No sir.

Q.--Have you heretofore held any? A.--Yes sir.

Q.--What positions? A.--Been deputy sheriff, Ranger and County Judge.

Q.--Where did you live when you were County Judge? A.--Skullyville, County.

Q.--Where did you hold Court? A.--Choctaw Nation, Buck Creek.

Q.--You know Peter Krebs, the witness who has just testified? A.--Yes sir.

Q.--State about how far from him you lived, when you were a boy? A.--Grewed up with Peter Krebs, at the time lived seven or eight miles of me, and then other times he lived closer, and other times he lived off. He was orphan boy, lived with his mother. When she lived he lived with her ~~and when she died he drifted~~ ~~around.~~ and when she died he drifted around.

Q.--Who did he live with when he lived in about eight miles of you? A.--I don't know whether it was his uncle or aunt, I believe his name was Ward Folsom.

Q.--Some relative of his? A.--Yes sir.

Q.--Did you know him then, ~~xxxxx~~ A.--Peter.

Q.--Yes sir? A.--No sir, didn't know him at that time.

I made inquiries, I didn't know who he was. He was a full blood, and I asked him whose boy he was, and he said Lewis Eyouhonatubbee, and said the Boys called him Sidney Lewis.

Q.--did you x mother and father when you were a boy about the place about the size of this boy speak Choctaw or English? A.--Spoke Choctaw.

Q.--If this man Eyouhonatubbe had an English name you didn't know it at that time? A.--No sir.

Q.--If he had an English name would she call him English name or Choctaw? A.--Called him Ch ctaw, she couldn't speak English.

Q.--And if she had known to have an English name and a Choctaw name she would have called him the Choctaw name? A.--Yes sir.

Q.--Do you know what the customs were in those days for full blood Choctaws who had names that were hard to spell to ~~take~~ take English names or not, tell the court what you know about them taking different names? A.-- Of course they didn't make a practice of that, but then in writing some people would spell it different, and that makes that difference.

Mr. Cornish:

I have been listening for some time for something to show what Mr. Harley is seeking to get out. As the matter stands now there is no possible relevancy of this testimony.

JUDGE ADAMS:

I suppose he is trying to show that this man's English name was Lewis.

Mr. Harley:

My purpose in introducing this witness is that the description of the man Eyouhonatubbee is the same as the description of Peter Krebs of a man called Lewis, and he says that this man was called Lewis Eyouhonatubbee and my purpose is to get that before the Court so that they can determine whether he is the same man described as Marcus Lewis, that both disappeared at about the same time, showing that he had an Indian name and an English name.

Mr. Cornish:

To show that the man who signed that paper had a real existence?

Mr. Harley:

Yes sir.

Mr. Cornish:

That would not be in order until that was controverted. I don't think that the charge has been made that that man had no existence. Until that is made that testimony would not be in order.

Mr. Harley.

That Dan Lewis was also the husband of the applicant in this case.

JUDGE ADAMS:

You have got an affidavit signed by Marcus Lewis, and you are now trying to show that he had ~~an~~ Choctaw name.

Mr. Harley:

Yes sir. For the information of the Court I will ask if Choctaws having hard names sometimes take English names? Answer that? A.--Well Choctaw names are hard to spell. I can't tell whether he spells it right or not so they give them English names in spelling these names.

JUDGE FOOTE:

Is that the general custom or just occasionally? A.--We will say some neighbor come to me and want me to write a letter, and I would write the letter in English and come to the name I couldn't spell it, and I say I can't spell that name, and I put it down and tell them that in the letter I tell them how to back it, and then you can get the mail in that name.

Mr. Harley:

Q.--Can you give the name of any person who changed his name for the purpose of getting it so it could be spelled? A.--I guess I could.
Q.--Know a man named Jim Darnell? A.--Yes sir.
Q.--He a Choctaw? A.--Yes sir.
Q.--Has he any other name that you know of? A.--Not now, but before the war broke out Jim Darnell used to go by the name of Jim Twan, and since the war he goes by the name of Jim Darnell.
Q.--How that happen? A.--I was ~~at~~ at home three years ago, and we were sitting there talking old aunt came down to see me, and we got to talking about Jim Darnell, and I said he was getting pretty old, and then my aunt spoke up and said who is this Jim Darnell and some lady that knew said that is Jim Twan, that is the name he used to go by, and she said she never would have knowed him by that name.
Q.--Will you try to spell this name, try to spell it best you can? A.--Eyouhonatubbee.
Q.--You stated a while ago that you were informed that this man died in Mississippi, how do you get that information? A.--I got that information from mother. The Choctaws were emigrating from Mississippi, coming out here to get land in the Chickasaw Nation.

Mr. Cornish:

We have not objected where we might have, but the witnesses own statemnts is that his mother is living, and he seeks to reflect statements made by his own mother. I don't see how under any circums ances it could be competent.

Mr. Harley:

Q.--Did you have any direct information from Mississippi?

A.--Yes sir.

JUDGE ADAMS:

Q.--Tried to find out if this man was dead. A.--I heard he went back to Mississippi and died.

CROSS-EXAMINATION.

Mr. Cornish.

Q.--When did you first see this man Eyouhonatubbee? A.--

A.--It was about seventy-five or seventy-six.

Q.--That is when you first saw him, when did you last see him? A.--Long about then.

Q.--You mean to say you saw him only a short while? A.--Well you see Eyouhonatubbee came out here in thirty-three and emigrated with the Choctaws.

Q.--I want to know when you first saw him? A.--Seventy-five or seventy-six.

Q.--When did you last see him? A.--About the same year.

Q.--Then you saw him just in one year? A.--Yes sir.

Q.--How many times did you see him? A.--Twice.

Q.--In the year 1875 you first saw him and last saw him in the same year and saw him twice? A.--Yes sir.

Q.--You didn't know anything as to whether he had a family or not? A.--No sir.

Q.--Don't know whether he had children or not? A.--Not at that time.

Q.--Came into the country and went back? A.--Yes sir drifted in here and went back.

Q.--You don't know that this man you are speaking about is the same man that Mr. Krebs is talking about? A.--No sir.

Q.--Don't know that he ever went by any English name? A.--No sir.

Witness excused.

Mr. Harley:

The testimony of these three witnesses would properly belong in the case of Preston Early, et al, because there are where the questions of marriage come. This particular evidence is to show that they complied with the Choctaw laws, this particular evidence we think should be transcribed in that one case.

JOSEPH W. EDWARDS, being called as a witness on behalf of plaintiffs, testified as follows.

DIRECT EXAMINATION.

Mr. Harley:

Q.--State your name? A.--Joseph W. Edwards.

Q.--You a married man? A.--Yes sir.

Q.--State the name of your wife? A.--Ophelia S. Edwards.

Q.--What was her name before you married her Ophelia Lewis.

Q.--What relation if any was she to Zora P. Lewis? A.--Her daughter.

- Q.--Q.--Where were you and your wife married Mr. Edward's the first time? A.--Married in Arkansas.
- Q.--At that time you were not married in accordance with the Choctaw laws? A.-- No sir.
- Q.--Were you and your wife subsequently married? A.--Yes sir.
- Q.--You remember when that was? A.--1899, August 3rd.
- Q.--Where were you married that time? A.--Down at little town Kosoma, Cedar County.
- Q.--Did you get a certificate from the Choctaw authorities showing that you were married under the Choctaw laws? A.--Yes sir.
- Q.--Where is that certificate? A.--Dawes Commission.
- Q.--You afterwards filed your application to be admitted as an intermarried citizen? A.--Yes sir.
- Q.--And with that you filed your marriage certificate? A.--Yes sir.
- Q.--It is now in the custody of the Dawes Commission or Secretary? A.--Yes sir.
- Q.--You are still living with your wife, Ophelia S. Edwards? A.--Yes sir.
- Q.--In your second marriage you complied full with the Choctaw laws? A.--Yes sir.

CROSS-EXAMINATION.

Mr. Cornish:

- Q.--When were you married first? A.--Seventy-five.
- Q.--Then you lived with your wife from your first marriage in seventy-five up to ninety-nine and then you procured a Choctaw license? A.--Yes sir.
- Q.--That was after your wife had been admitted by the United States Court? A.--Yes sir.
- Q.--Where were you living when you made this application in ninety-six? A.--Arkansas.
- Q.--How much land did you own? A.--Eight or nine hundred acres.
- Q.--Where was that situated? A.--Franklin County, Arkansas.
- Q.--When did you sell out and move to the Territory? A.--Moved to the Territory in ninety-eight, I believe.
- Q.--Then at the time this application was filed you were a resident of the State of Arkansas and County of Franklin, and owned eight or nine hundred acres of land? A.--Yes sir.
- Q.--You voted there? A.--Yes sir.
- Q.--Held office there? A.--Yes sir.
- Q.--Children attended public schools? A.--Yes sir.
- Q.--Paid taxes? A.--Yes sir.
- Q.--You yourself an applicant.

Mr. Harley:

Applicant by intermarriage. He made his application in ninety-six and was denied by the United States Court on account of his failure to comply with the Choctaw laws, he subsequently went before the Choctaw authorities and procured a license and remarried.

JUDGE ADAMS:

His wife, admitted his wife as an Indian before and re-

jected him on the ground that he had not complied with the Choctaw laws.

Mr. Harley:

Yes sir.
Witness excused.

PRESEON EARLY, being called as a witness on behalf of the plaintiffs, testified as follows:

DIRECT EXAMINATION.

Mr. Harley:

Q.--State your name? A.--Preston Early.

Mr. Harley:

I think Mr. Early didn't take out a second license, so we will excuse him.

CROSS EXAMINATION.

r. Cornish:

Q.--You didn't procure a license under the Choctaw laws when you married your wife? A.--No sir.
Witness excused.

WILLIAM H. GUYER, being called as witness on behalf of the plaintiffs, took the stand.

DIRECT EXAMINATION.

Mr. Harley:

Q.--State your name? A.--William H. Guyer.

Q.--You are one of the applicants in this case? A.--Yes sir.

Q.--Married man? A.--Yes sir.

Q.--What is your wife's name? A.--Zora Guyer.

Q.--What was her name before you married her? A.--Zora A. Lewis.

Q.--Who was her mother? A.--Sarah Lewis.

Q.--Who was her father? A.--I can't give you his given name, his sir name was Adams.

Q.--Your wife's father? A.--His name was Edward M. Lewis.

Q.--You and your wife married twice? A.--Yes sir.

Q.--Where were you married first time? A.--Uniyed States Clerk's office here at South McAlester.

Q.--Didn't marry at that time according to the Choctaw laws? A.--No sir.

Q.--After ards marry her in accordance with the Choctaw laws? A.--Yes sir.

Q.--Do you remember about when that was Mr. Guyer? A.--About the last days of August, I believe.

Q.--What year? A.--Ninety-nine.

Q.--Get your license and comply with the other requirements of the Choctaw law with reference to marrying Choctaw women? A.--Yes sir.

Q.--Did you receive a certificate from the Choctaw authori-

- ties? A.--Yes sir.
- Q.--What did you do with your certificate? A.--Turned it over to the Dawes Commission.
- Q.--Now in the custody of the Commission or the Seceretary or some officer of the Interior Department? A.--Yes sir.
- Q.--You afterwards made application to the Dawes Commission as an intermarried citizen after you married the second time? A.--Yes sir.
- Q.--Your certificate is attached to those papers? A.--Yes sir.
- Q.--Living with your present wifr? A.--Yes sir.

CORSS-EXAMINATION.

Mr. Cornish:

- Q.--In what year were you first married? A.--First married in ninety-eight.
- Q.--Didn't get a Choctaw license then? A.--No sir.
- Q.--Why not, you knew your wife was a Choctaw? A.--Wife was not enrolled then.
- Q.--After her marriage under the United Syates law, her application was disposed of, her application was granted to enrollment, and in pursuance of that you applied to the Choctaw authorities for a license? A.--Yes sir.

Mr. Harley:

Were you an applicant in ninety-six? A.--No sir.

Mr. Cornish:

- Q.--Then your claim was not before the Dawes Commission in ninety-six? A.--No sir.
- Witne ss excused.

JESSE B. MATHIS, being called as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

Mr. Cornish:

- Q.--What is your full name? A.--Jesse B. Mathis .
- Q.--Where do you live? A.--Nine miles Northeast of Shawnee, Oklahoma Territory.
- Q.--How old are yo u? A.--Fifty-seven.
- Q.--What is your nationality, white man or Indian? A.--Supposed to be a white man.
- Q.--Not a citiz n of the Choctaw Nation? A.--No sir.
- Q.--Did you know a man by the name of James Madison Lewis? A.--Yes sir.
- Q.--Where did you first get acquainted with him? A.--In Arkansas.
- Q.--What County? A.--Sebastain County.
- Q.--In about what year? A.--Seventy- or seventy-one.
- Q.--How long did you continue to be acquainted with him, how long did you continue to know him? A.--Well about seven years.
- Q.--What became of him at the end of that time? A.--He died.
- Q.--You knew him about seven years? A.--Yes sir, perhaps a little longer, that is perhaps about the time. We was just on the line of Arkansas and the Territory.

- Q.--What younger members of the family besides James Madison Lewis? A.--Three boys.
- Q.--Name them? A.--Edward and Thomas, I don't know that I can give the middle names and Dave, then he had another they called his Wheat, I don't know whether that was his name or not.
- Q.--I will ask you if during all those years in which you knew James Madison Lewis and his family, from the time of your first acquaintance with them old man up to his death, did you ever hear any claim upon his part that he was a Choctaw Indian? A.))No sir .
- Q.--Just where did he live in Sebastain County all that time? A.--Nearly right due South of Fort Smith, about ten or eleven miles.
- Q.--Near what post office? A.--It was called Hackett City.
- Q.--What did he and his family do for a living? A.--Farmed.
- Q.--Did he own land? A.--Yes sir, I think so.
- Q.--It is your understanding that he lived on land which he owned? A.--Yes sir.
- Q.--Was he a citizen of the State of Arkansas, and did he otherwise exercise the rights and privileges of a citizen of the State of Arkansas? A.--I think he did.
- Q.--Did you have any differences with them? A.--No sir.
- Q.--I will ask you if you knew anything about this family further back than your acquaintance with the old man in the early seventies? A.--No sir.
- Q.--Don't kno who his mother was? A.--No sir.
- Q.--His father? A.--No sir.
- Q.--Know anything about his ancestors? A.--No sir.
- Q.--Know nothing about his having Choctaw blood or not having Choctaw blood? A.--No sir.
- Q.--There is with the papers an affidavits that purports to be an affidavit signed by you, in which is contained the statement: "The applicants, Edward M. Lewis and others are the Children of James M. Lewis, and a grand son of Sussanna King, who was a Choctaw Indian by blood ." Did you make that statement? A.--Never did.
- Q.--Did you know a woman named Susanna King? A.--No sir.
- Q.--Did you hear of a woman named Susanna King? A.--Not until recently.
- Q.--I understand you to say and from the information you have you could not have made that statement? A.-- Yes sir.
- Q.--I will ask you if you were brought by these people and their representatives and requested to mk a statement on their behalf? A.--I made an affidavit as to their identify.
- Q.--State to the Court what they requested you to do? A.-- Wanted to know if I could make an affidavit as to whether they were James M. Lewis's children.
- Q.--What reply did you make to that request? A.--I told them that I could identify them as being his childr n.
- Q.--Then I understand you to say that you told them that you knew them to be the sons of the old man Lewis you had known? A.--Knew the m to be around the family, and he recognized them as his children, you might consider that I knew them back in Mississippi, but I knew them after they came here.
- Q.--Where did this conversation take place? A.--Shawnee, Oklahoma Territory.
- Q.--What was there representing these claimants in the capacity of attorney? A.--Feller named Arnold.

- Q.--Remember his first name? A.--I don't believe I could call it.
- Q.--I will ask you if it was J. E. Arnold or James E. Arnold? A.--I couldn't call him by that name.
- Q.--What was his appearance as to race, what kind of a man was he? A.--He looked to me like he might have considerable American blood, he claimed to be a Choctaw.
- Q.--I will ask you who did the writing? A.--As I understand that Notary go and you tell them what you could.
- Q.--State now who prepared the affidavit? A.--This man Arnold.
- Q.--Who read it? I I think he read it. Perhaps I read it myself, I would not be positive, I was sitting by him when he was making it out.
- Q.--Was the statement written out entirely or was some of it in typewriting? A.--Part of it was in typewriting, ~~in~~ the form, I think that he wrote some of it himself.
- Q.--I will ask you if the statement which you signed contained the statement that you knew Susan King and that she was a Choctaw Indian? A.--No sir.
- Q.--It it had contained that statement would you have signed it? A.--No sir

JUDGE FOOTE:

- Q.--I understand you to say that that statement was not in there? A.--No sir, if it was he didn't read it to me.

Mr. Cornish:

As bearing on his testimony and for the purpose of identifying the statement and showing what the contention of the Nations is we wish to make reference to his affidavit as it appears in the record, the same, the same purporting to have been sworn to before W. W. Ives. The Court will observe that the form is made with a typewriter and that the positive statements are made with a pen, that the statements are made with a pen, wheread the balance is in typewriting.

Mr

CROSS-EXAMINATION.

Mr. Harley:

- Q.--You did make an affidavit in this case before W. W. Ives, a Notary Public, did you? A.--I cannot be positive who the Notary was, I don't remember his name.
- Q.--You made it in Shawnee? A.--Yes sir I made an affidavit Yes sir.
- Q.--And this is dated 18th day of August, ninety-six, do you remember that you made an affidavit about that time? A.--Yes sir.
- Q.--You can read? A.--I think I do.
- Q.--You can read? A.--Yes sir.
- Q.--Would not sign an affidavit without reading it over? A.--No sir.
- Q.--You remember that you read over the affidavit? I don't think I did.
- Q.--I understood you to say while ago that you read it over, did you read over what you signed? A.--Yes sir.
- Q.--Do you remember when you read over the affidavit that you signed, whether there was some typewriting in it

- like this, and whether the blanks were filled out? A.-- The forms were all written out on a typewriter and it had several blanks in here. Blanks not all filled out.
- Q.--It it had not been filled out at that time it would not have made sense would it. "Reads affidavit".
- Q.-- if you would leave out xxx that it would not make sense?
- A.--No sir.
- Q.--Do you think all of that was written with a pen or was part of written with a typewriter? A.--Part of it was written with a pen.
- Q.--Could you tell the Court how much of it? A.--I know I never knew Mrs. King.
- Q.--Take that and tell how much of it has been filled in? (Hands affidavit to witness)? A.--The affidavit that I made, there was nothing in regard to the grand son of Susan King in it at all.
- Q.--You are sure that when you signed it it didn't contain that statement that he was the grand son of Susan King? A.--Yes sir.
- Q.--Do you remember who was present when you signed this affidavit? A.--I remember Mr. Pres Early, Ed Lewis, George Mc Kibben and this feller Arnold and another.
- Q.--Wasen't it Wood Arnold? A.--Yes sir.
- Q.--Who was the one who saw you with reference to getting this affidavit? A.--Woodson, or something like that.
- Q.--Do you know whether this is the Notary's hand writing or not? A.--This man Woodson wrote it.
- Q.--Woodson Arnold? A.--Yes sir.
- Q.--The part that he wrote with a pen you seen? A.--Yes sir
- Q.--That all appears to be one hand writing dosen't it? A.-- I believe it is.
- Q.--And this "and the grand son of Susanna King", you are confident that that was not in the affidavit because you didn't have that knowledge at the time? A.--Yes sir.
- Q.--Can you tell you positive whether this writing was done by the Notary or Arnold? A.--He did some of the wrting, but I can't say who done, it because there is some that I didn't seen.
- Q.--I mean the part that you think was there when you signed it? A.--Woodson Arnold.
- Q.--That is your signature? A.--looks like my signature.

JUDGE WEAVER:

- Q.--Look at it carefully and state to the court if you believe it is your signature? A.--It is my signature.

Mr. Harley:

- Q.--Did you write that? A.--Yes sir, the way I spell my name.
- Q.--While ago I understand you to say that you knew old man Lewis for about seven years in Arkansas? A.--Yes sir.
- Q.--Do you remember when he came there? A.--I don't know.
- Q.--To refresh your memory, I will ask you if it wasent seventy-one? A.--Yes sir, I think it was.
- Q.--I will ask you if he didn't reach the country in seventy- or seventy-one? A.--I would not be positive.
- Q.--I will ask you if it isn't a fact that he died there in seventy five. I don't thin that it is. He died near the Canadian River.
- Q.--He died in seventy-five? A.--I don't think it was that soon.

Q.--Are you ~~k~~ able to say that he didn't die in seventy-five?

A.--No sir.

Q.--If he did die in seventy-five, you would not have known him seven years? A.--No sir. I don't thin he died in seventy-five.

Mr. Cornish:

Q.--I will ask you if you are able to state positively that that signature to the paper which has been exhibited to you is in fact your signature? A.--It looks very much like it.

Q.--Just sign your name there? (Witness signs name on piece of paper.)

Mr. Cornish:

I offer this paper as a part of the testimony of this witness, and ask that it be marked Exhibit _____. The same was signed in the presence of the Court.

Mr. Harley:

Q.--I will ask you ~~xxxxxxx~~ if you ever said to anybody, that you would be willing to give two or three hundred dollars to anybody to ~~k~~ get this case defeated? A.--No sir.

Q.--Never made that statement to anybody? A.--No sir, never did.

Witness excused.

JACOB S. BENDER, being called as a witness on behalf of the defendants, testified as follows

DIRECT EXAMINATION.

Mr. Cornish:

Q.--State your full name? A.--Jacob S. Bender.

Q.--What is your age? A.--Forty-six.

Q.--Where do you live? A.--Up near Shawnee, Oklahoma Territory.

Q.--How long have you lived in that country? A.--Eleven years.

Q.--Where did you live prior to your removal to Oklahoma? A.--Creek Nation.

Q.--Did you ever live in Arkansas, A.--Yes sir.

Q.--What County? A.--Sebastain County.

Q.--I will ask you if while living in Sebastain County Arkansas you became acquainted with a man named James Madison Lewis? A.--Yes sir.

Q.--What year? A.--Somewhere near 1870.

Q.--Did he have a family? A.--Yes sir.

Q.--Mention the members of his family as you remember it? A.--He had a wife.

Q.--What was her name? A.--Zora, I think.

Q.--Know the sons? A.--Ed Lewis, Tom Lewis, Dave Lewis, Wheat Lewis, I believe they called him Wheat, I don't know whether he had any other name besides that or not.

Q.--How long did this family of people continue to live in that County? A.--Three or four years, probably five.

Q.--About when did the old man die? A.--It was in, probably

seventy-six, somewhere about then.

- Q.--Where did you live with reference to them? A.--I lived also in Arkansas.
- Q.--How far from them? A.--Eighty or ninety miles.
- Q.--What county did you live in? A.--Sebastain County.
- Q.--And they lived in Sebastain County? A.--Wen he died.
- Q.--How far did you live from them when you both lived in Sebastain County? A.--Four or five miles.
- Q.--Did the old man own land? A.--I think he owned land over there his boys lived with him at that time, some of them did I don't know whether all of them did or not.
- Q.--From the time of your first acquaintance with the ~~xxxx~~ family up to the old mans death, did you ever heard any claim by them or on their behalf that they were Choctaw Indians. No sir, never did.
- Q.--Did you personally know the history of this family before they came to Arkansas? A.--No sir.
- Q.--Did you know his father and mother? A.--No sir.
- Q.--Do you know anything about him or his ancestay? A.--No sir.
- Q.--Did you know a woman in Mississippi or anywhere else named Susanna King? A.--No sir.
- Q.--Mr. Bender there is in this case, filed by the applicants what purports to be an affidavit signed and sworn to by you on the 18th day of August, 1896, in which is contained this statement: "Jacob S. Bender, being first duly sworn states that he is personally acquainted with Edward M. Lewis, and knows him to be the person he represents himself to be", Now then follows this statement: "that applicants are the sons of James M. Lewis and the grand son of Susanna King, who was a Choctaw Indian by blood" Did you make the statement he was the grand son of Susanna King? A.--No sir.
- Q.--Could you have made that statement and have made a true statement? A.--No sir.
- Q.--Did not have any information or knowledge of her at that time? A.--Never saw the woman.
- Q.--Will ask you if these applicants or their attorneys came and talked to you about giving some sort of a statement for them? A.--No answer.
- Q.--Did they ask you to sign an affidavit for them? A.--Yes I guess they did.
- Q.--Just relate to the Court what talk you had with them, with reference to what you knew about it? A.--Wanted me to identify this Edward M. Lewis as the son of James M. Lewis.
- Q.--What reply did you make? A.--I told him that he was the son of that man.
- Q.--You told them you could make a stateent that so far as you knew he was the son of the man you had known in Sebastain County, Arkansas? A.--Yes sir, James M. Lewis.
- Q.--Where was this affidavit made? Shawnee.
- Q.--Who was present? A.--Why there was a good many, all the applicants.
- Q.--Q.--Who seemed to be there as their lawyer or legal representative? A.--Think he called himself Arnold.
- Q.--remember his first name? A.--I think they called him Joe, I don't remember.
- Q.--What nationality was he, what kind of a man was he? A.--Dark complected man.
- Q.--Wat was he as to race, what race did he belong to? A.--

I heard he was a negro. I have heard it talked up there that he was.

Q.--The statement that he had there was that all written out or was part of it with a typewriter? A.--Part with a typewriter

Q.--Was that read to you or did you read it yourself, how was the contents of that placed before you?

A.--Arnold read it.

Q.--Did he or did he not read to you the statement that this man was the grand son of Susanna King, and that she was a Choctaw Indian by blood? A.--He did not.

Q.--If he had what would have been your action? A.--I could not have signed it.

CROSS-EXAMINATION.

Mr. Harley:

Q.--You can read? A.--Yes sir.

Q.--Is that your signature? (Hands paper to witness)?

A.--I think it is.

Q.--You know whether it is or not, don't you? A.--I think it is best of my knowledge.

Q.--Would you say it was yours? A.--Best of my knowledge.

Q.--Did you put your signature there without reading what was in there? A.--I told him to read it.

Q.--Would you sign an affidavit without reading it? A.--I have done it.

Q.--You state to the court that you have signed this affidavit without reading it? A.--Yes sir.

JUDGE FOOTE:

Q.--He read it to you? A.--Yes sir.

Mr. Harley:

Q.--Who did the writing? A.--Arnold.

Mr. Cornish:

Q.--I will ask you if you signed that in the belief that he had correctly read it to you?

Mr. Harley:

We object, that is a leading question.
Witness excused.

HETTIE MATILDA HICKS, being called as a witness on behalf of the defendants, took the stand.

DIRECT EXAMINATION.

Mr. Cornish:

Q.--What is your full name, Mrs. Hicks? A.--Hettie Matilda Hicks.

Q.--Where do you live? A.--twelve miles West of Checotah.

Q.--Husband living? A.--No sir, dead.

Q.--What is his name? A.--Thomas R. Hicks.

Q.--Were you living at Checotah, eight years ago? ~~XXXX~~ A.--No sir, I wasn't living where I now live.

Q.--Were you living in that neighborhood? A.--Yes sir.

- Q.--I will ask you if you knew in his life time a man named James Madison Lewis? A.--Yes sir.
- Q.--What was the name of his wife? A.--Zora P. Lewis.
- Q.--What was the name of his sons? A.--Ed Lewis, Tom Lewis and another one.
- Q.--When did you first get acquainted with this old man and his family? A.--Quite a while ago, must have been somwheres along about 1870.
- Q.--Where were you living at the time? A.--Sebastian County Arkansas.
- Q.--How long did you contue to know the old man? A.-- About four or five years. Somwheres along there.
- Q.--I will ask you if from the time of your first acquaint-
ance with this old ma and his family, up to the old
mans death, did you hear him claim that he was a Choctaw
Indian? A.--No sir. Never talked with them on their
blood. Never heard that they was until their case, I
seen it in the papers, when they entered their case.
- Q.--Was that before or after the old man eath? A?--After.
- Q.--Did you have any acquaintance with this man and his
family prior to 1870? A.--No sir.
- Q.--Did you have any knowledge about them prior to when
you met them in Sebastain County? A.--No sir.
- Q.--Know his father or mother? A.--No sir.
- Q.--Have no personal knowledge about their family history?
A.--No sir.
- Q.--Know a woman named Susanna King? A.--No sir.
- Q.--There is with the papers in this ase a paper which pur-
ports to be your affidavit, in which appears this state-
ment: "Hettie Hicks, being first duly sworn states that
she is personally acquginted with James Madison ~~Lxxxx~~
and Zora P. Lewis, and known them to be man and wife,
and also knew hñ to be the son of Susanna King, a full
blood Choctaw woman." Did you make that statement?
A.--No sir.
- Q.--Will ask you if these people came to you and talked to
you about their citizenship case? No sir.
- Q.--What talk did they have with you? A.--Present at
Shawnee when they was putting down their names, and
then they asked me if I would witness the papers as to
them being the sons of James M. Lewis, and I put my
name down there.
- Q.--They asked you to witness that they were the same per-
sons that you knew in Sebastain County, Arkansas? A.--
Yes sir.
- Q.--You intended to do that and nothing more? A.--No sir,
I did not intend my name to witness anything more than
that because I did not know that.
- Q.--Was that statement read over to you? A.--No sir.
I didn't pay ꝑ muc attention to it at the time,
big ꝑ crowd there and all talking, and had to prove
that they were same Lewis.
- Q.--Did you understand that you were taking an oath? A.--
Yes sir, ꝑ but I didn't hunderstand that I was a
witness to anything else.
- Q.--You understood that you were to witness that these people
were the same people you knew down there? A.--Yes sir.
- Q.--Do you know whether these people ever claimed to have
any Indian blood or not? A.--No sir, I do not know.
- Q.--Your husband, he is dead? A.--Yes sir.
- Q.--There is also a paper which purports to be signed by
your husband, was your husband present that day? A.--
No sir.

A.--I signed that paper in Checotah, I. T., and the time I signed in Shawnee, Oklahoma, I just put my name down as Hettie Hick. I didn't say whether I was Miss or not, and the papers were brought ack and Mr. Early brought them to our house, and my husband and I went before a Notary Public and signed them again.

Q.--Did your husband know any more about these people than you did so far as you kn w? A.--Never remember hearing him say whether they were Indians or not.

Q.--You were not married when you first knew them? A.-- No sir.

Q.--Where wa your husband raised? A.--Brought from Tennessee to Arkansas when he was a small boy.

Q.--Where did he first get acquainted with this family?

Mr. Harley:

That is hearsay.

Mr. Cornish:

I though in justice to the dea this statement ought to be made.

CROSS-EXAMINATION.

Mr. Harley:

Q.--How old are you? A.--Forty-one ~~xxxxx~~ years old.

Q.--How old were you when you first knew old man Lewis? A.-- I can't hardly tell you, I wasn't grown.

Q.--Wasen't grown? A.--No sir, I wasn't hardly grown.

Q.--were you over fifteen? A.--I don't know whether I was or not.

Q.--Don't remember whether you were over or under fifteen?

A.--No sir. ~~W~~ Quite a while ago.

Q.--How was it that you told the Court that it was seventy or seventy-one that--? I said seventy.

Q.--How can you remember that when you don't remember how old you were? A.--I can count it up.

Q.--Well how old were you? A.--Put me back quite a small girl wasn't quite fifteen years old.

Q.--I wish you would state to the court how old you were when you first knew these Lewis, you was just six or seven years old wasn't you? A.--Somewheres along there.

Q.--How can you remember that i t was in seventy, seventy-two or seventy-five that you first knew them, if you were only seven years old then? A.--I said that wa along about the time I knowed them, and I wasn't grown when they moved away.

Q.--You wasn't fifteen when they moved away from there?

A.--No sir.

Q.--How can you remember that you knew them first in 1870, when you was only six or seven years old, why didn't you fix the year 1871, how did you happen to fall on the year 1870, who suggested it to you? A.--Nobody.

Q.--You rember much else that happened along about 1870?

A.--No sir.

Q.--Anything particular to fix in your mind when you first k ew old man Lewis? A.--No sir

Q.--You ~~x~~ cannot tell why you fix the year 1870. Will

- it wasn't seventy-five? A.--Can't say that.
- Q.--Can't say at all? A.--No answer.
- Q.--You can read? A.)Yes sir.
- Q.--You sign affidavits and swear to papers without reading them and knowing what you are signing? A.--Well sir, I didn't realize th t I was signing the papers that they have got here.
- Q.--You knew that you were swearing and under oath when you signed that paper? A.--Yes sir.
- Q.--And yet you state to the Court that you signed it without reading it? A.--No sir.
- Q.--Have you done it often? A.--No sir, first case I was
- Q.--~~swore to~~ ~~as a witness~~ ~~in~~, how you swore to this without knowing what you were swearing to? How does it happen that you swore to this affidavit without know ing what it contained? A.--They wanted me to witness the papers that they were the same Lewis that I had known, and that is as far as I intended to witness the affidavit.
- Q.--If you signed this paper the Notary Public swore that the matters and things we e true? A.--Yes sir.
- Q.--You tell the Court that you signed that without reading it? A.--Yes sir.
- Q.--What excuse do you give, what explanation do you give? A.--Can't tell you.
- Q.--Any explanation to offer? A.--No sir.
- Q.--Who first talked to you about coming here as a witness for the Nations who first talked to you? A.--Can't remember his name, he told me his name.
- Q.--What did he tell you he wanted? A.--Wanted me asa witness there on behalf of the Nations.
- Q.--Did he have a copy of this affidavit? A.--No answer.
- Q.--Did you tell him what you had sworn to ? A.--Yes sir. He asked me if I had witnessed a paper stating that the Lewis's was the same Lewis', and afterwards if I had witnessed a paper when these King people were in there, and I said that if that was in there I don't remember it.
- Q.--That is all written with a pen? A.--Yes sir.
- Q.--Is that your signature? A.--Yes sir.
- Q.--That is your signature? A.--Yes sir.
- Q.--You swore to that before J. B. McFrow, Notary Public at Checotah? A.--yes sir.
- Q.--I will read this ofer and have you tell the court if you swore to this affidavit? "Reads affidavit. Did you sign that affidavit? A.-- I did and there ain't but one thing in that affidavit I don't know. That Susanna King I don't know, but the rest of that calling the names I knew that and I knew Mr. Lewis and also the old lady, and that is what they wanted me t witness, and there is something there, where it comes in about Susanna King, I don't remember that, of course after I read it over, as to telling you I didn't read it over, I read it over, but I don't remember witnessing that, I don't know them people, but the rest of them people I know.
- Q.--That is all right with the exception of Susanna King? A.--Yes sir.
- Q.--This one you swore to over at Checotah? A.--Yes sir.
- Q.--Swore to the other one over at Shawnee? A.--Yes sir.

Mr. Cornish:

If the Court please she has not said anything about

plaintiff affidavit in Shawnee.

JUDGE ADAMS:

Q He has examined her on that point.

JUDGE FOOTE:

These affidavits were offered by you as true affidavits are you trying to discredit them.

Mr. Harley:

No sir. Proving that they executed them.

JUDGE FOOTE:

You asked her if she executed these affidavit without knowing what it contained.

JUDGE WEAVER:

Q.--How far did you live from Shawnee at the time you made that affidavit in Shawnee? A.--I don't know just how far it is. I lived in two miles of where I live now.

Q.--About how far is it? A.--Straight across the country about eighty-five miles.

Q.--How did you happen to go up there? A.--Up there visiting my brother in law.

Q.--Didn't go on purpose to make an affidavit? A.--No sir.

Q.--Who is your brother in law? A.--Jacob Bender

Q.--While you were there you learned these affidavits were being taken and that is how your affidavit happened to be taken? A.--Yes sir.

Witness excused.

HIRAM H. EARLY, being called a witness on behalf of the defendants, took the stand.

DIRECT EXAMINATION.

Mr. Cornish:

Q.--State your full name? A.--Hiram H. Early.

Q.--How old are you Mr. Early? A.--About fifty-six or fifty-seven, somewhere along there.

Q.--Where do you live? A.--Cherokee Nation.

Q.--Are you a white man or Indian by blood? A.--White man.

Q.--I will ask you if you were acquainted with a man named James Madison Lewis in his life time? A.--Yes sir.

Q.--Where did you first know him? A.--Sebastian County, Arkansas.

Q.--In what year? A.--First got acquainted with him in seventy-one or seventy-one.

Q.--How long did you continue to know him? A.--Up to about the year seventy-five, I believe.

Q.--What relationship did you bear to the family? A.--Son in law of his.

Q.--You married one of the sisters of Edward M. Lewis?*

A.--Yes sir.

Q.--In what year did you marry her? A.--Seventy-two.

Q.--In what year did the old man die? A.--Summer of seventy-

five is my recollection.

Q.--Did he own land in Sebastian County, Arkansas? A.--
Yes sir, he had a place there.

Q.--Where was his place located? A.--On the line, Choctaw
tribe of Sebastian County.

Q.--What community or post office? A.--Enterprise, between
Enterprise and Hackett City.

Q.--From the time of your first acquaintance with the old
man up to his death, did you ever hear him claim to be
a Choctaw Indian by blood? A.--No sir.

Q.--Have you heard him make any statement with reference to
Choctaw citizenship? A.--I think I have.

Q.--Repeat to the court what statements you have heard him
make? A.--I talking in the family, I have heard him
make remark, the same as a good many more along at that
time, but that he would not claim citizenship when he was
not an Indian. I heard him say that.

Q.--The old man said that he was not an Indian and did not
have any Indian blood? A.--Yes sir.

Q.--You say the old man died in seventy-five or six? A.--
Yes sir.

Q.--How long after that time was it that the boys set up
a citizenship claim, in about what year, fix it as
near as you can? A.--I guess it was seventy-six or seventy-
seven, it might have been as late seventy-eight, I
do not recollect how long that was.

Q.--What sons did the old man have? A.--There is Ed, Tom,
Dave, three married sons.

Q.--What statements have you heard them make with reference
to their citizenship claim and with reference to the
manner in which they conceived it? A.--When I first
knew anything about the citizenship claim, I didn't know
anything of it until it was pretty well fixed up, but
they told me about it.

JUDGE ADAMS:

Q.--Who told you? A.--Rhoda Cowart.

Mr. Cornish:

Q.--How was she related to old man Lewis? A.--Daughter.

Q.--What did she tell you? A.--Said that they had witnesses
to swear that they were Indians.

Q.--Did she say what witnesses they had? A.--One feller,
I don't remember his name, his name was Lewis. I may have
seen him once. I heard him called different names.

Q.--Have you heard Ed Lewis make any statement? A.--No sir.

Q.--Hear any statement from Dave Lewis? A.--Yes sir.

Q.--What did Dave say.

Mr. Harley:

Dave Lewis is not an applicant in this case.

Mr. Cornish:

He is the son of old James Madison Lewis. He was a
party to the original proceeding.

Mr. Harley:

He was not a party to this suit, it would not be relevant
in this case and would not be competent.

Mr. Mansfield:

We expect to show that he was married into the family, and we expect to show the statements of various members of the family that there was a fraudulent citizenship claim put on foot by this family. Part of the family from whom he heard them are probably dead but some of them are living and applicants here and others whose statements he will make, proving the fraudulency of this claim, and we think it perfectly competent for him, a member of the family to state what these persons said to him when they first launched the claim.

Mr. Cornish:

The court will remember that in this particular case they are relying upon a ~~an~~ affidavit that was taken at that time which was taken in that proceeding, and which this man was a party to and the evidence taken in that proceeding.

Mr. Harley:

He not only married into the family, but he separated from the woman he did marry, and there is an ill feeling existing between him and the other members of the family, and he now seeks to testify about what a man said that is dead. We cannot bring him here to refute the statements. Any statement he may choose to state will be perfectly competent as to any of the other.

JUDGE FOOTE:

We can hear him subject to objections.

JUDGE ADAMS:

This witness have any conversation with any of these applicants.

Mr. Cornish:

Yes sir, Rhoda Cowart.

Mr. Harley:

She has been dead for twenty years.

Mr. Cornish:

Are not the descendants of this man Dave Lewis parties to this suit.

Mr. Harley:

Not that I know of. Here are a number of children of James Madison Lewis.

Mr. Cornish:

I wish the court to bear in mind that the main evidence which they rely upon at this time is the evidence of this man Lewis in a proceeding to which this man was a

part y. I think that any contradictory statement which he made to this man would be competent.

JUDGE FOOTE:

I do not think, strictly speaking that it is competent, but we have been allowing it all to go in subject to objections.

JUDGE ADAMS:

I don't think that it is competent. If you can show, you stated that you could show that there was a conspiracy on the part of all of these people to put through a fraudulent claim and that this witness would testify as to that understanding between the parties.

Mr. Mansfield:

He could only testify by what took place between them at that time. For instance he will testify ~~xxxxxx~~ ~~xxxxthisxxxx~~ what they were testifying about as to whether this man had an Indian name or not. He said that they could hire that fellow and get him to make an affidavit, and thereby get admitted; that he heard them consulting in the family about it.

Mr. Harley:

If any of these applicants, that would be competent.

Mr. Mansfield:

There is not a case that does not rest upon hearsay and in view of what is gone in and that affidavit is simply a reflection of the statements of ~~xxxxxxx~~ a dead man, I think this should be allowed to go in.

Mr. Harley:

If that be true certainly they can connect some of this mans brothers and sisters.

Mr. Cornish:

It will be developed that the descendants of this man Dave Lewis are parties to this suit.

JUDGE ADAMS:

See what he knows.

Mr. Cornish:

- Q.--Just state to the Court what talk you had with Dave Lewis about this matter and other members of the family about this case? A.--All the talk that I know of was to get up evidence to prove that they were Choctaws.
- Q.--Who talked to you about getting up evidence? A.--Dave Lewis Rhoda Cowart and others.
- Q.--What other? A.--Cannot remember, but the family I guess talked about it. I don't remember any of them.

- Q.--You were at that time the husband of one of the girls?
A.--Yes sir.
- Q.--What was their object in talking to you? A.--Putting in to pay these witnesses, getting evidence.
- Q.--In what year did that occur? A.--I think it was in seventy-six or seventy-seven, I think as well as I can recollect.
- Q.--With reference to their witnesses, what witness did they say they had? A.--Lewis and I heard afterwards someone else, I don't know his right name. They were to pay him so much cotton.
- Q.--How much cotton? A.--About three hundred dollars was what he wanted, he was paid about that much.
- Q.--What statement did you make to them with reference to that proposition did you go in with them? A.--No sir, I did not go in with them.
- Q.--What did you say to them? A.--said I was not going into a fraud.
- Q.--Do you know how many members of this family you had this talk with? A.--Can't say that.
- Q.--Over what period of time did this talk occur? A.--Year or two, had some talk one way or the other with all of the family, but then I don't recollect.
- Q.--You say that you have talked about this matter with nearly all of the members of the family? A.--Yes sir.
- Q.--I will ask you if you talked with Edward M. Lewis?
A.--Yes sir.
- Q.--Will ask you if you talked with James P. Lewis? A.--Yes sir, talked to the whole family, all the grown ones.
- Q.--With reference to the matter of the citizens ip claim?
A.--Yed sir. I can't recall anything tht was said about it but we talked. I don't recollect the talk that I had.
- Q.--where were the Lewis's living at that time? A.--Some of them were living down by me on the line of the Choctaw Nation in Arkansas, and some of them were living here.
- Q.--Those that were living in the Choctaw Nation, on whose place were they living? A.--I heard that they taken a lease from Wade McKinney(???)
- Q.--How far did you live from them? A.--Seventy-five or sixty miles.
- Q.--Where did you live? Arkansas.

Mr. Harley:

I don't think that is competent evidence.

JUDGE ADAMS:

I don't see that it amounts to anything one way or the other.

Mr. Cornish:

- Q.--Were was the old man living when he died? A.--Arkansas before he died, he died on the road between up here and the Nation and down there, on the Jim King Prairie in the Choctaw Nation. Died on the road.

CROSS-EXAMINATION.

Mr. Harley:

Q.--What is the name of the daughter of James Madison Lewis that you married? A.- Sarah J.
 Q.--Where you married to her? A.--Sebastian County, Arkansas.
 Q.--How long did you live with her her? A.--About seven years.
 Q.--Is she dead? A.--Yes sir.
 Q.--Dead when you quit living with her? A.--No sir.
 Q.--Seperated for her? A.--Yes sir.
 Q.--Where where you living when you seperated from her? A.--Cokorado.
 Q.--When did you go to Colorado with her? A.--c879.
 Q.--She go with you? A.--Yes sir.
 Q.--You seperated from her out there? A.--Yes sir.
 Q.--How long were you single when you married? A:--Three years.
 Q --Where did you marry? A.--Cherokee Nation.
 Q.--You married a Cherokee woman? A.--Yes sir.
 Q.--You are a brother of Press Early one of the applicants in this case? A.--Yes sir.
 Q.--Your first wife was a sister of Press Early's wife? A.--Yes sir.
 Q.--You two brothers married sisters? A.--Yes sir.
 Q.--You have not been on good terms with Press Early since you seperated from your wife have you? A.--No sir.
 Q.--Where were you living when this citizenship claim was started? A.--Arkansas.
 Q.--When did it starte? A.--About seventy-seven or seventy-six.
 Q.--How did they start it? A.--Got some witness, I don't know who they got, claimed to be Choc aws.
 Q.--Don't know when they started he proceedings? A.--First year of know of it was seventy-six.
 Q.--what was when they commenced to se ak about it? A.--Yes sir.
 Q.--Don't know when they started it? A.--No sir, don't know the date.
 Q.--Your Cherokee wife is now living? A.--Yes sir.

JUDGE ADAMS:

Q.--What year did you seperate from your wife? A.--1879.
 Q.--Was she living in ninety-six? A.--I think so.
 Q.--Is she a party ot this proceeding.

Mr. Harley:

Omitted from the original applicat on because she was living in Color ado.
 Witness excused.

SUSAN A. EARLY, being called as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION:

Q.--State your full name? A.--Susan A. Early.
 Q.--How old are you? A.-- Born in 1834, going on seventy-years old.
 Q.--Cherokee Indian.
 Q.--By blod? A.--Yes sir.

- Q.--Citizen of the Cherokee Nation? A.--Yes sir, one fourth Cherokee.
- Q.--Wife of Hiram H. Early? A.--Yes sir.
- Q.--You know the family of Lewis's? A.--Yes sir.
- Q.--Name the Lewis that you know, the older members of the family? A.--James P. Lewis, Tom Lewis, Ed Lewis, Dave Lewis, Ophelia Lewis, Sophia Lewis and Sarah Lewis.
- Q.--Where did you first get acquainted with this family? A.--I think seventy-seven, River between us.
- Q.--You lived on the Cherokee side? A.--Yes sir, and they lived on the Choctaw side.
- Q.--That was in seventy-seven? A.--I think so.
- Q.--What members of the family was it that lived across the River from you? A.--Dave Lewis was there, but I don't know how many of them had a farm put in there together. Took a lease.
- Q.--From whom did they take the lease? A.--John _____?
- Q.--Take a lease and live there a number of years? A.--Yes sir, four years the lease called for.
- Q.--You were well acquainted with Dave Lewis? A.--Yes sir Tom Lewis and the old lady, I knew all the girls well.
- Q.--I will ask you to relate to the Court what transpired when you were visiting at Dave Lewis, what occurred and what he said to you?

Mr. Harley:

We want to interpose the same objection as stated a while ago.

JUDGE ADAMS:

Proceed.

- A.--He was Mrs. Lewis's son. Had a the place under one fence and truning rows between each others crop, and didn't have to have so many rails, and there was a sight of timber down there it was in seventy-eight, that they had the log rolling, and asked my husband, named Jack Halley and they asked him to the log rolling, and they said come along too Aunt Sue, and I said I can't roll longs and said come along anyway.
- Q.--Which of these Lewis were present at that log rolling? A.--I can't tell.
- Q.--were there other members of the Lewis family there? A.--I don't know, and after dinner was sitting around talking about having so many logs to roll, and I said it is ahd work aint it, and he said you see those bales of cotton over there and I said yes, and he said those cotton bales and some more like them will prove me to be a Choctaw, and I said if you were a Choctaw why did you come down and lease land and he said for reasons best known to myself, and I said are you a Choctaw, I just thought he was joking, he was always joking, and he said I will prove it, and he laughed and there was no more said about it.
- Q.--How long after that was it that you understood that there was a claim on foot? A.--Wasen't very long.
- Q.--How long did you know them before that time. A.--That was at the log rolling, I think it was in seventy-seven, I knew them in seventy-~~seven~~ eight, and in seventy-nine or eight they left that part of the country.

Q.--Before this log rolling did you ever hear them claim to be Choctaw Indians? A.--No sir that is the reason that I though ~~xxxx~~ they were joking, and it was not long after that that I heard the suit was instituted.

CROSS-EXAMINATION.

Mr. Harley:

Q.--You are the wife of Hiram H. Early? ~~xxxx~~ A.--Yes sir.
Q.--How many times have you been married? A.--Five times.
Q.--He your fifth? A.--Yes sir.
Q.--How long have you been married? A.--Eighty.
Q.--You didn't fall in law with him while he was living with old man Lewis' daughter? A.--Wasen't over there. Knew the balance of them, but didn't know him.
Q.--When did you get acquainted with him? A.--Eighty-one.
Q.--Where? A.--At my house.
Q.--How did he happen to come to your house? A.--Hired him to work for me he was at his brothers.
Q.--You feel very kindly toward his first wife's people? A.--Nothing against them.
Q.--He and his first wife seperated? A.--Yes sir in Colorado.
Q.--You feel just as kindly toward the balance of the family? A.--No sir, got nothing in the worl against them.

JUDGE ADAMS:

Q.--You say this man gave, you thought he was joking? A.--Yes sir he was a great hand to joke, and it wasen't long until he instituted the suit.
Q.--Create the impression that he was jpkng? A.--No answer.
Q.--Was he a drinking man? A.--No sir perfectly sober.
Q.--Man that had good sense? A.--Yes sir.
Q.--Hardly that a man who had cotton piled up in the yard to but witnesses with if he was a man of any sense would tell you about it? A.--I didn't ask him to tell me.

Mr. Harley:

Q.--That was the first time you were at his house? A.--No sir.
Q.--You had been there before? A.--Yes sir visited, just the river between us.
Witness excused.

Mr. Cornish:

That is all we have to offer.

JUDGE ADAMS:

As far as that old ladies testimony is concerned, i don't know how my associates feel about it, but it made no impression upon my mind. It is no competent. It don't connect anybody she says herself. It isen't reasonable to suppose that a man who had a lot of cotton piled up in the yard for the purpose of bringing witness would be telling others that he had it for the purpose of bribing witnesses. I don't think you connect them. I should say that it ought to be stricken from the record.

Mr. Cornish:

I think that the record will show that the descendants of this man are parties x to this case.

JESSE B. MATHIS, re-called.

JUDGE WEAVER:

Q.--While you were on the stand while ago you were asked about this affidavit that was taken before Mr. Ives, a Notary Public, and you said that Mr. Arnold was present. The record shows that was taken on the 18th day of August, ninety-six, did you make any other affidavit in this case about that time? A.--No sir.

Q.--Did you make an affidavit as to the Marriage of George W. McKibben and Sarah Jane Lewis, did you make another affidavit about the time that you spoke of? A.--I would not be positive, seems like there was something that they wanted brought out.

Q.--Did you make that affidavit the same day or not? A.-- They were there two days working at this matter, I would not be positive that I made this affidavit, it was talked of they. They were married in my house in Colorado.

Q.--What was her name? A.--Sarah Jane. Early She had been divorced from H. H. Early.

JUDGE ADAMS:

Q.--She married again? A.--Yes sir.

JUDGE WEAVER:

Q.--I find in looking over the record here what purports to be your affidavit to the effect that you were present at the marriage of George W. McKibben and Sarah Jane Lewis, it has been written over? A.--Sarah Jane Early.

Q.--It looks like Lewis? A.--Her maiden name was Lewis. It is likely that I made the affidavit, because they was married at my house.

Q.--Is that your signature? (Hands affidavit to witness)?

A.--It is my hand writing.

Witness excused.

Mr. Cornish:

This testimony, particularly calling attention as to the facts as to the methods employed by these people and their representatives as these facts bear upon their credibility as witnesses in their own behalf, x as the case for the Nations.

Mr. Harley:

I would like to introduce one witness tomorrow that is a little sick today.

JUDGE ADAMS:

We will determine that when you make the application.

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