

J- N^o 77.

McDuffie, Daniel, et al,

vs

Chickasaw Nation.

N^o 4.

Deakins Dist. Court.

N^o

Daves Commission.

1896
1897
1898
1899

Witnesses -

For Claimants.

(Dead)

W.M. Simpson	Headland, J.T.
Nancy McCauley --	Ryan, J.T.
Amanda Jarvis ---	Headland, J.T.
J.S. Wolfe -	
Mrs. M.J. Crawford -	
J.M. Crawford -	
Daniel McDuffie -	
J.W. Folsom -	Ardenmore - J.T.
E.C. McLaughlin -	
Walker Martin --	Purwood, J.T.

~~P.J.~~

For Stationers -

B.F. Kemp - - - -	Lishanings.
Jonas Wolfe - - -	"
H.F. Murray - - -	Colbest

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 476.

THE CHICKASAW NATION, APPELLANT,

vs.

DANIEL McDUFFIE ET AL.

APPEAL FROM THE UNITED STATES COURT IN THE INDIAN
TERRITORY.

FILED OCTOBER 28, 1898.

(17,061.)

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

In re Cases of Citizenship Appeal.

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

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

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

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

5 and determining such cases, and either party to said action may introduce such other evidence as they may have in support of their cause of action or defense, regardless of whether the same was presented to the commission or not.

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

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

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

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

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

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

7 And thereafterwards, on the 3rd day of February, 1897, was filed with the clerk of this court an application for enrollment in said cause; which said application is in words and figures as follows, to wit:

DANIEL McDUFFIE ET AL., Plaintiffs, } 4. Application for Enrollment as Citizen.
vs.
CHICKASAW NATION, Defendant. }

To the honorable Dawes commission—Hon. Henry L. Dawes, chairman:

Comes now Daniel McDuffie, one of the plaintiffs in the above action, together with his wife, Elizabeth McDuffie, and their children, R. H., Callie H., Mattie Lee, and Casey E. McDuffie; J. M. Crawford and his wife, Mrs. M. J. Crawford, formerly M. J. McDuffie; Mrs. Amanda Jarvas, formerly McDuffie, and her husband, George Jarvis, and their children, Sarah Ann, Mary Jane, and Nancy Jarvas; W. M. McCarley and his wife, Nancy, formerly Nancy McDuffie, and their children, James, Eli, Sidney, Macon, Sarah, Walter, Effie, Mary, Ernest, and Nancy McCarley, and respectfully shows to the court that on the — day of —, 189—, the above plaintiffs filed with the court of claims of the Chickasaw nation, Indian Territory, their petition setting up the fact of their citizenship as Chickasaw Indians; that at the February term *the* said court, 1895, said case came on for a hearing upon the petition of plaintiffs, and, after the introduction of testimony by plaintiffs, said case was finally disposed of as to said plaintiffs, and the following certificate was issued:

Certificate of Citizenship.

DANIEL McDUFFIE }
vs. } Suit for Citizenship.
CHICKASAW NATION. }

8

OFFICE COURT OF CLAIMS, CHICKASAW NATION,
TISHOMINGO, I. T., February 14th, 1895.

This day this cause came on for hearing. After examining the evidence produced by the plaintiffs the court was of the opinion that the following parties to the suit are Chickasaws and are entitled to the rights of Chickasaw citizens, to wit: Daniel McDuffie and his wife, Elizabeth McDuffie, and their children, R. H., Callie H., Mattie Lee, and Casey E. McDuffie; J. M. Crawford and his wife, M. J. Crawford; Mrs. Amanda Jarvas and her children, Sarah Ann, Mary Jane, and Nancy Jarvas; William McCarley and his wife, Nancy

McCarley, and their children, Sarah Ann, Eli, Sidney, Macon, Walter, Effie, Mary, Ernest, and Nancy McCarley.

Given under our hands this day and date above written.

(Signed)

C. A. BURRIS, *Chairman*,
W. H. BOURLAND,
J. BROWN, *Committee*.

Attest: R. H. NOCHOLS, *Clerk*.

That since the issuance of said certificate said plaintiffs have enjoyed all the rights and privileges of Chickasaw Indians by blood, and that at this time said plaintiffs still enjoy all of the rights, privileges, and immunities as if they were full-blood Chickasaw Indians; that plaintiffs, together with their families, are now residents of the Chickasaw nation, Indian Territory, and had been long prior to the filing of this suit; that they and each of them have complied with all of the laws of the Chickasaw nation since the issuance of said certificate by said court of claims. Plaintiffs further state that at the time said certificate was issued, or shortly thereafter, said case was sent to the legislature by said court of claims for its approval; that when said case came before the legislature, upon the motion of the attorney general, this case, together

9 with several others, was passed upon adversely by said legislature without their ever having reviewed the testimony in the case or being advised as to the facts in the case. Plaintiffs Daniel McDuffie, Mrs. M. J. Crawford, Mrs. Amanda Jarvis, and Mrs. Nancy McCarley respectfully state that they are Chickasaw Indians by blood, and that they are direct descendants of Nancy Frazier, a Chickasaw Indian who resided in the State of Mississippi prior to the removal of the Chickasaw tribe of Indians to the now Indian Territory.

Wherefore plaintiffs submit their application in this case, together with the testimony taken before the court of claims of the Chickasaw nation, and ask that they be enrolled as Indians in the Chickasaw tribe.

ARTHUR WALCOTT,
Attorney for Plaintiffs.

I, J. M. Crawford, one of the plaintiffs in the above cause, first being duly sworn, on oath say that I believe the facts and allegations contained in the foregoing application are true.

J. M. CRAWFORD.

Subscribed and sworn to before me on this the 20 day of August, A. D. 1896.

T. C. BRIDGMAN,
[SEAL.] *Notary Public, Southern District, Indian Territory*.

Indorsed: "No. 4. Before the honorable Dawes commission—Hon. Henry L. Dawes, chairman. Daniel McDuffie *et al.* vs. Chickasaw Nation. Application for enrollment as citizens. Filed Sept. 9, 1896. A. S. McKennon, com'r. Filed February 3rd, 1897. Joseph W. Phillips, clerk."

10 Before the Honorable Commission to the Five Civilized Tribes.

In the Matter of the Application for Enrollment in the Chickasaw Nation of DANIEL MCDUFFEE *et al.*

Exception- to Application Filed before Dawes Commission.

Now comes the Chickasaw Nation, by its attorneys, and respectfully shows to this honorable commission that the application herein is insufficient in law.

Wherefore it prays that said application be dismissed.

Second. For further special exception the Chickasaw Nation respectfully shows to this commission that the evidence produced by the applicant- is insufficient to show any claim of citizenship in the Chickasaw tribe of Indians.

Wherefore it prays that said application be dismissed.

Third. For further special exceptions the Chickasaw Nation shows that said application is insufficient, in that it shows that said applicant- *has* not complied with the laws of said nation, and therefore *is* not entitled to any of the rights, privileges, and immunities as such citizen-.

Wherefore it prays that said application be dismissed.

THE CHICKASAW NATION,
By Its Attorneys.

11 And thereafterwards, on the 3rd day of February, 1897, was filed with the clerk of this court the answer in said cause; which said answer is in words and figures as follows, to wit:

Before the Honorable Commission to the Five Civilized Tribes.

In the Matter of the Application of DANIEL MCDUFFIE *et al.* for Enrollment in the Chickasaw Nation.

Now comes the Chickasaw Nation, by its attorneys, and without waiving any exception heretofore taken to the application filed herein and without consenting to, but denying, the jurisdiction of this honorable commission to pass upon a question of citizenship in the Chickasaw tribe of Indians, presents this its answer to said application and respectfully represents:

First. The Chickasaw Nation alleges that none of the applicants herein are citizens of the Chickasaw nation, either by blood or intermarriage, and avers the fact to be that all of the applicants are now and always have been citizens of the United States and not entitled to recognition as members of the Chickasaw tribe or nation of Indians. In support of allegations herein contained, the Chickasaw Nation respectfully refers this honorable commission to the exhibits hereto attached.

Wherefore it prays that the application herein be dismissed and all of the applicants be rejected, and will ever pray, etc.

W. B. JOHNSON,
Att'y for C. N.

Indorsed: "No. 4. Before the honorable commission to the five civilized tribes. In the matter of the application of Daniel McDuffie *et al.* for enrollment in the Chickasaw nation. Answer. Filed October 28th, 1896. H. N. Jacoway, sec'y. Filed February 3rd, 1897. Jos. W. Phillips, clerk."

12 And thereafterwards, on the 3rd day of February, 1897, was filed with the clerk of this court the amended answer in said cause; which said amended answer is in words and figures as follows, to wit:

Before the Honorable Commission to the Five Civilized Tribes.

In the Matter of the Application for Enrollment in the Chickasaw Nation of DANIEL MCDUFFIE *et al.*

Now comes the Chickasaw Nation, by its attorneys, and without waiving any exception heretofore taken to the application filed herein and without consenting to, but denying, the jurisdiction of this honorable commission to pass upon a question of citizenship in the Chickasaw tribe of Indians, presents this its answer to said application and respectfully represents:

First. The Chickasaw Nation alleges that the Nancy Frazier referred to by the applicants only had two children, one of whose names was Winchester Colbert and the other's name was Leader; that none of these applicants are descendants of her; that she was the only Chickasaw by that name; that her son Leader is yet living in the Chickasaw nation, and all the applicants herein are United States citizens; that the committee appointed by the Chickasaw legislature to pass upon claims to citizenship were not authorized to issue certificates, but only to hear evidence; that these applicants were rejected by the legislature because, as it appeared, the committee had only taken the evidence of the applicants themselves, supported by the testimony of a few persons whose reputations for truth and veracity were known to be bad and who could be induced to swear to anything through friendship or a small sum of money. The Chickasaw Nation hereto attaches exhibits in support of the allegations herein contained, which it makes a part of its answer.

13 Wherefore it prays that the application be dismissed, and will ever pray, etc.

THE CHICKASAW NATION,
By Its Attorneys.

Indorsed: "No. 4. Before the honorable commission to the five civilized tribes. In the matter of the application of Daniel McDuffie *et al.* for enrollment in the Chickasaw nation. Amended answer. Filed Oct. 31, 1896. H. M. Jacoway, sec'y. Filed February 3rd, 1897. Jos. W. Phillips, clerk."

14 And thereafterwards, to wit, on the 13 day of Feb'y, 1897, was filed in the office of the clerk of the United States court,

southern district of Indian territory, at Ardmore, the following judgment from the Dawes commission:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, INDIAN TERRITORY, Nov. 10, 1896.

DANIEL MCDUFFEE ET AL. } 106. Filed Sept. 9th, 1896. Answer
vs. } Filed. Application Denied. A.
CHICKASAW NATION. } Walcott, Ardmore, I. T.

I, H. M. Jacoway, Jr., secretary, do hereby certify that the above and foregoing is a true and correct copy of Chickasaw Record C, page 19, of the commission to the five civilized tribes.

Given under my hand and official signature this 29 day of Jan'y, 1897.

H. M. JACOWAY, JR., *Secretary,*
By HENRY STROUP.

The above and foregoing judgment is indorsed in words and figures as follows, to wit: Daniel McDuffee *et al.* *vs.* Chickasaw Nation. Filed Feb. 3rd, 1897. Jos. W. Phillips, clerk.

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

DANIEL MCDUFFEE ET AL., Plaintiff, } Petition for Appeal to the
vs. } U. S. Dist. Court for the
CHICKASAW NATION, Defendant. } Southern Dist., Ind. Ter.

To the Honorable C. B. Kilgore, judge:

Comes now the applicants herein, — feeling themselves aggrieved by the decision of the Dawes commission in the above cause, hereby prays an appeal from said decision to this honorable court.

ARTHUR WALCOTT,
Attorney for Applicants.

The foregoing appeal is allowed this 12 day of Dec., 1896.

C. B. KILGORE, *Judge.*

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

DANIEL MCDUFFEE ET AL. }
vs. } Notice of Appeal.
CHICKASAW NATION. }

To the Hon. Henry L. Dawes, chairman of the commission of the United States to the five civilized tribes of Indians.

SIR: You are hereby notified that an appeal has been granted in the matter of the application of Daniel McDuffee *et al.* to be enrolled as members of the Chickasaw tribe of Indians from your commission to the United States court for the southern district in the Indian

Territory, at Ardmore. You are therefore notified and ordered to immediately forward to the clerk of this court all of the original papers filed, used, and considered in said cause by your commission, together with a duly certified copy of all orders, judgments, and entries made and entered by you in the trial and consideration of said cause.

Witness the Hon. C. B. Kilgore, judge of said court, and the seal thereof, at Ardmore, Indian Territory, this 12 day of Dec., 1896.

[SEAL.]

JOS. W. PHILLIP-, *Clerk.*

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

DANIEL McDUFFEE ET AL., Plaintiff, }
vs. } No. 4. Plea to Jurisdiction.
 CHICKASAW NATION, Defendant. }

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

II.

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

III.

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

IV.

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

V.

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

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

Attorney for Chickasaw Nation.

The above and foregoing is indorsed in words and figures as follows, to wit: "Daniel McDuffee *et al.*, plaintiff, *vs.* Chickasaw Nation, defendant. Plea to jurisdiction. Filed in open court M'ch 14th, 1898. C. M. Campbell, clerk."

18 And thereafterwards, on the 23rd day of July, 1897, was filed with the clerk of this court the report of the master in chancery in said cause; which said report is in words and figures as follows, to wit:

United States Court, Southern District, at Ardmore, Indian Territory.

DANIEL McDUFFIE ET AL. }
vs. } Master's Report.
 CHICKASAW NATION. }

The applicants in this case allege that they are the lineal descendants of one Nancy Frazier, who was a Chickasaw Indian and resided in the State of Mississippi prior to the removal of the Chickasaw tribe to the Indian Territory; that Nancy Frazier married one McDuffie, and of this union there were born one son named Norman McDuffie, who married a white woman named Dorothy Gillis, and of this union there was born Nancy McCauly, Daniel McDuffie, Mrs. Amanda Jarvis; they and their descendants constitute the applicants in this case. The applicants in this case, on the — day of —, 189—, filed an application for citizenship in the Chickasaw nation before the court of claims at Tishomingo. Said court was established by an act of the Chickasaw legislature in December, 1894. It appears that the said court entered up a judgment and issued certificates of citizenship, declaring the applicants to be Indians by blood. The Chickasaw Nation filed an answer before the Dawes commission, denying the Indian citizenship as well as the Indian blood of the applicants, and offered testimony in support of their answer. There are two propositions insisted on by the applicants in this case: First, that there is a valid judgment, final in its nature, by a court of competent jurisdiction, declaring the applicants in this case to be citizens and members of the Chickasaw nation; second, that the evidence in this case shows that the applicants are Indians by blood and are entitled to enrollment. If both or either of these propositions are correct the applicants are entitled to enrollment.

We will now examine the first proposition. In December, 1894, the Chickasaw legislature created a tribunal called the court of claims. The first section of the act provided that the court shall consist of three judges, appointed by the governor, and that said judges shall not be under the age — forty; also provides that said court shall try the citizenship of all persons claiming Indian rights whose rights are disputed. The second section provides for the term of holding the court. The third provides for the organization of the court and for the compensation of the judges and officers. The fourth also provides for the organization of the court. The fifth provides for the manner in which testimony shall be produced. The seventh provides that the chairman of the court shall make a complete transcript of the proceedings of said court in all cases to be submitted to the legislature for their approval or rejection. It also provides that the acts of the legislature on the report shall be final. The eighth and ninth sections provide for the cost of the proceedings, and also prescribe the duty of the district attorney. It is insisted by argument of counsel that the court of claims herein provided for is a court of final jurisdiction, and that their judgment is final. We do not think that this can be maintained, for the reason that the act creating the court provided that the chairman of the court shall make a complete transcript of the proceedings in all cases which come before that tribunal to be submitted to the legislature for the approval or rejection by that body of the judgment of the court of claims, and that the rejection or approval of the legislature shall be final. It is evident from the seventh section of the act that the Chickasaw legislature did not intend to create a tribunal of final jurisdiction to try causes of Chickasaw citizenship, for the reason that they reserve to themselves the jurisdiction in all cases to approve or disapprove of the acts of the court, and before the acts of the court could be pleaded as *res adjudicata* in a case it is necessary to show that the legislature either rejected or approved the report in the particular case. It does not appear either from the evidence or the allegations that the report of the court of claims was ever approved in this case by the legislature, and I find the law to be that before the applicants can rely upon the judgment of the court of claims it is necessary for them to show the court that the report or judgment relied upon by applicants was approved by the Chickasaw legislature. This is not shown by the testimony. It does not appear that the testimony or answer or application that the Chickasaw legislature ever did take final action, such as was anticipated by the act, in the case of the applicant. It does not appear, however, at a subsequent date that the Chickasaw legislature passed an omnibus act repealing all the certificates of citizenship issued by said court of claims. This act of the legislature of the Chickasaw nation was not in conformity to the act providing for the approval or rejection of the report. I therefore find that there was no valid judgment by court of competent jurisdiction adjudicating the rights of the applicants; that neither the applicants nor Chickasaw Nation can rely upon the proceedings before the court of claims and the legislature as an adjudication of the rights

of the applicants in this case. Had there *have* been a report either in favor of or against the applicants by the court of claims to the legislature and had said body *had* either approved or rejected the report, it then could have been relied upon as a final adjudication of the matter; but it does not even appear that the court of claims ever made any report to the legislature, much less a rejection or approval, as provided for in the act. The action of the court of claims was incorrect, but the applicants, if admitted, must rely upon their Indian blood. The Chickasaw Nation has offered proof to show that the applicants are not Indians by blood. This proof, like the proof of applicants, is of a very unsatisfactory character. The proof of the applicants amount- to little more, if any, than a mere family tradition of Indian blood. The proof of both parties is of such an unsatisfactory and irresponsible character that it is not necessary to examine it in detail, and inasmuch as the burden of proof is upon the applicants to show by succinct testimony their Chickasaw blood, and this is not done, I therefore recommend that the application be denied.

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

Indorsed: "No. 4. Daniel McDuffie *et al.* vs. Chickasaw Nation. Master's report. Filed July 23rd, 1897. Joseph W. Phillips, clerk."

22 And thereafterwards, on the 19th day of November, 1897, to wit, the 5th day of said term, present and presiding aforesaid, there was filed with the clerk of this court a motion: to refer to master in this cause; which said motion is in words and figures as follows, to wit:

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

DANIEL McDUFFIE ET AL. }
vs. } No. 4. Motion.
THE CHICKASAW NATION. }

Comes now the plaintiffs, by their attorneys, and asks that this cause be re-referred to the master in chancery for his finding on the facts upon the evidence introduced herein, and alleges in support hereof that the former master, the Hon. W. H. L. Campbell, was unduly prejudiced against these plaintiffs, and that — a former term of this honorable court, at Ryan, and prior to the time this cause was referred to the said Campbell, he prosecuted voluntarily one of the plaintiffs herein for an alleged offense pending in the said Ryan court, which fact was unknown to the attorneys herein until the said master had passed on and reported in this cause, and later, upon being interrogated by one of the attorneys herein, confessed in terms his prejudice against these plaintiffs. Wherefore plaintiffs

ask that this cause be re-referred to the Hon. John Hinkle, master in chancery, for his report and findings herein.

ARTHUR WALCOTT,
CRUCE, CRUCE & CRUCE,
Att'ys for Pl't's.

Motion sustained and ordered referred to master in chancery, John Hinkle.

HOSEA TOWNSEND, *Judge.*

Indorsed: "No. 4. Daniel McDuffie *et al.* vs. Chickasaw Nation. Filed in open court November 19th, 1897. C. M. Campbell, clerk."

23 Be it remembered that at a regular term of the United States court in the Indian Territory, southern district, at Ardmore, begun and holden on Monday, the 15th day of November, 1897, and on the 5th day of said term, to wit, on Friday, November 19th, 1897—present and presiding, the Hon. Hosea Townsend, judge—the following, among other, proceedings were had, to wit:

DANIEL MCDUFFY ET AL. }
vs. } No. 4.
THE CHICKASAW NATION. }

Comes now the plaintiffs herein and move the court to re-refer this cause to the master in chancery. The court, being fully advised in the premises, doth grant said motion.

It is therefore ordered that this cause be, and the same is hereby, re-referred to the master in chancery. It is further ordered that this cause is referred to John Hinkle, master (vol. A, Citizenship Record, page 105).

* * * * *

And on the 61st day of said term, to wit, on the 12th day of March, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

DANIEL MCDUFFY ET AL. }
vs. } No. 4.
THE CHICKASAW NATION. }

Master's report filed.
(Vol. "A," Citizenship Record, page 305.)

24 And thereafterwards, to wit, on the 12th day of March, 1898, there was filed with the clerk of this court the report of the master in chancery in this cause; which said report is in words and figures as follows, to wit:

DANIEL MCDUFFIE ET AL., Plaintiff, }
vs. } Master's Report.
THE CHICKASAW NATION, Def. }

To the Honorable Hosea Townsend, judge:

The plaintiff Daniel McDuffie and his wife, Elizabeth McDuffie, and their children, R. H., Callie H., Mollie Lee, and Casey E. McDuffie; J. M. Crawford and his wife, M. J. Crawford; George Jarvis and his wife, Amanda Jarvis, and their children, Sarah Ann, Mary Jane, and Nancy Jarvis; W. M. McCarley and his wife, Nancy McCarley, and their children, James, Eli, Sidney, Macon, Sarah, Walter, Effie, Mary, Ernest, and Nancy McCarley, all claim to be Chickasaw Indians and lineal descendants of Nancy Frazier, a full-blood Chickasaw Indian, and pray to be enrolled as such.

The defendant denies that plaintiffs are Chickasaw Indians or entitled to enrollment, and alleges that said Nancy Frazier, under whom plaintiffs claim their right, only had two children, one of whose names is Winchester Colbert and the other is name- Leader; that none of these applicants are descendants of the said Nancy Frazier, and that she is the only Chickasaw Indian by that name it ever knew. *He* further alleges that the court created by the Chickasaw legislature *who* issued the certificates of citizenship to the plaintiffs herein had no right to issue the same; that the Chickasaw legislature was the only legal tribunal authorized to enroll Chickasaw Indians.

25 It appears that the material part of plaintiffs' testimony was taken upon an application for enrollment before a court created by the Chickasaw legislature, and that said testimony was used before the Dawes commission upon the application of plaintiffs for enrollment.

It appears that plaintiffs' attorneys rely upon the certificates of citizenship given plaintiffs by the said Indian court, as well as the testimony taken before said court and since. The six first sections of the act creating said court provides for the court and its organization. The seventh section provides that the chairman of said court shall make a complete transcript of their proceedings, to be submitted to the legislature for their approval or rejection, and that their decision shall be final. The legislature to pass on said applications should have met the first Monday in September, 1895, but did not meet until October of that year. They then rejected all the applicants that had obtained certificates from said court.

I don't attach much importance to the issuance of said certificates by said court. In my opinion it only shows that they were satisfied that the applicants were citizens. Their acts were extrajudicial and therefore do not bind the Chickasaw nation, nor entitle the applicants to enrollment.

I have directed my search for light to the confused mass of testimony taken before said Indian court, together *to* testimony taken before me since then. A large part of the testimony taken since is impeaching testimony. The plaintiffs offer in support of their application the testimony of William Simpson, who says he is a Chick.

asaw Indian by blood and seventy-two years of age; that he knew Nancy Frazier in the State of Miss., and knew her to be a Chickasaw Indian by blood; that she married and had five children, one of whom married Archie McDuffie; that they had several children born unto them, one of whom was named Norman McDuffie; that Norman McDuffie married and had several children born unto him. James Frazier, a witness for plaintiffs, says that the above testimony of William Simpson is true in every detail. J. S. Wolfe, a

26 witness for the plaintiff, says that he knew Nancy Frazier in Miss.; that she was a full-blood Chickasaw Indian; that she had a daughter who married Archie McDuffie. Nancy McCarley says that she is a daughter of Dorothy McDuffie and a lineal descendant of the said Nancy Frazier. Amanda Jarvis says she is a daughter of Norman McDuffie and a lineal descendant of the said Nancy Frazier, who was a full-blood Chickasaw Indian. Mrs. J. M. Crawford, who is about 46 years of age, says that her grandmother's name was Nancy Frazier, and witness connects all applicants herein as descendants of said Nancy Frazier. The applicants fully establish the fact that they are legal descendants of Norman McDuffie by testimony that is not contradicted. Now, the only question for me to decide by the testimony is whether or not this Norman McDuffie is a descendant of the said Nancy Frazier. The defendants contend that said Norman McDuffie is not a legal descendant of said Nancy Frazier, and offer as proof the testimony of one Ben Kemp, who says that he is a Chickasaw Indian and knew Nancy Frazier and knows that the applicants herein are not descendants of hers. This witness makes an impeaching affidavit, in which he impeaches the testimony of J. S. Wolfe and William Simpson, who testify in this case, and Fred Humphrey, Wm. Fisher, John Kemp, and Patsy Hall, who did not testify in this case, were also impeached by said Ben Kemp. In my opinion, he has weakened his own testimony; he knows too many persons whose reputation for truth and veracity is bad. The reputation of the witness Simpson is fully sustained by other witnesses, who testify to his good reputation for truth and veracity.

I am of the opinion from the testimony of Simpson and Wolfe and from the testimony of the family tradition that all the applicants herein are the legal descendants of the said Nancy Frazier, who was a Chickasaw Indian, except the said Elizabeth McDuffie, J. M. Crawford, George Jarvis, Wm. M. McCarley, who are intermarried citizens, and that they are each and all of them entitled to enrollment as such.

27 I therefore recommend that a decree be entered directing that they be enrolled upon the rolls of the Dawes commission as members of the Chickasaw tribe of Indians.

JOHN HINKLE,
Master in Chancery.

Indorsed: "No. 4. Daniel McDuffie vs. Chickasaw Nation. Master's report. Filed March 12th, 1898. C. M. Campbell, clerk."

28 Be it remembered that at a regular term of the United States court in the Indian Territory, southern district, at Ardmore, begun and holden on Monday, the 15th day of November, 1897, and on the 32nd day of said term, to wit, Tuesday, December 21st, 1897—present and presiding, the Hon. Hosea Townsend, judge—the following, among other, proceedings were had, to wit:

Order.

In re Order of Court Allowing Substitution of Papers in Citizenship Cases—DANIEL MCDUFFEE *et al.*

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

29 *Opinion by the Court.*

In the Southern District, Indian Territory.

TOWNSEND, J.

In re INDIAN CITIZENSHIP CASES.

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

thence due south to Red river," in consideration for which the Government undertook to remove certain settlers, citizens of
 30 the United States, from the west to the east side of said line and to pay certain money consideration for a series of years and certain other provisions not material for consideration in this connection.

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

It is provided that in consideration that the United States "shall cause to be conveyed to the Choctaw nation a tract of country west of the Mississippi river, in fee-simple to them and their descendants, to inure to them while they shall exist as a nation and live on it," they "cede to the United States the entire country they own and possess east of the Mississippi river, and they agree to remove beyond the Mississippi river."

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

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

On the 28th of April, 1866, another treaty was entered into between the Choctaws, Chickasaws, and the United States. This treaty seems to have been necessitated by the changed condition of affairs that resulted from the war of the rebellion and attempts to arrange civil government for the Choctaws and Chickasaws and an allotment of their lands in severalty. It provides for the survey and platting of the lands, and that when completed the maps, plats, etc., shall be returned to a land office that was to be established at Boggy Depot for the inspection by all parties interested, and that a notice shall be given for a period of ninety days of such return by the legislative authorities of said nations, or, upon their failure, by the register of the land office; and in article 13 it is provided that the

notice shall be given not only in the Choctaw and Chickasaw nations, "but by publication in newspapers printed in the States of Mississippi and Tennessee, Louisiana, Texas, Arkansas, and Alabama, to the end that such Choctaws and Chickasaws as yet remain outside of the Choctaw and Chickasaw nations may be informed and have opportunity to exercise the rights hereby given to resident Choctaws and Chickasaws: Provided, that before any such absent Choctaw or Chickasaw shall be permitted to select for him or herself or others, as hereinafter provided, he or she shall satisfy the register of the land office of his or her intention, or the intention of the party for whom the selection is to be made, to become *bona fide* residents in the said nation within five years from the time
 32 of the selection; and should the said absentee fail to remove into said nation and occupy and commence an improvement on the land selected within the time aforesaid, the said selection shall be cancelled and the land thereafter shall be discharged from all claims on account thereof."

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

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

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

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

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

On January 17, 1837, a convention and agreement was entered

into between the Chickasaws and the Choctaws, subject to the approval of the President of the United States, by the terms of which the Chickasaws agree to pay the Choctaws the sum of \$530,000.00 for the territory that they now occupy. Excepting a treaty between the Chickasaws and the United States, adopted June 22nd, 1852, in regard to the disposition of their lands east of the Mississippi river, we are brought down in the history of the treaties of the Chickasaws to the treaty of 1855, heretofore mentioned, between the Choctaws, Chickasaws, and the United States.

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

When it was supposed that the lands would be allotted in severalty under the treaty of 1866, it was expressly provided that notice should be published in the papers of several States that absent Choctaws and Chickasaws might come in and obtain the benefits of the allotment, and absentees were to be allowed five years to occupy and commence improvements, and all that was necessary was to satisfy the register of the land office that that was their intention.

The allotment did not take place, but if they had not come in they were only to lose their allotment of land. It did not make them any the less Choctaws or Chickasaws or members of the Choctaw and Chickasaw tribes.

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

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

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

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

Article 38 of the treaty of 1866 is as follows:

"Every white person, who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw nations, or who has been adopted by the legislative authorities, is to be deemed a mem-

ber of said nation, and shall be subject to the laws of the Choctaw and Chickasaw nations, according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects, as though he was a native Choctaw or Chickasaw."

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

Article 26.

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

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

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

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

On October 19th, 1876, the legislature of the Chickasaws passed an act in relation to marriage between citizens of the United States and a member of the Chickasaw tribe or nation of Indians. The second section, among other things, provides: "Hereafter no marriage between a citizen of the United States and a member of the

Chickasaw nation shall confer any right of citizenship, or any right to improve or select lands within the Chickasaw nation, unless such marriage shall have been solemnized in accordance with the laws of the Chickasaw nation."

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

Amongst all civilized nations it is conceded to be a right that each nation, and in the United States that each State, can exercise and determine by their laws the requirements to be observed in solemnizing marriages; but marriage among civilized nations does not confer citizenship. Under the Choctaw and Chickasaw law it does; besides, it is supposed to carry with it certain property rights. The general rule among civilized nations is that a marriage good where solemnized is good everywhere, but in some States, where marriage is prohibited between certain races of people, they have

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

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

HOSEA TOWNSEND, Judge.

37 And on the 62nd day of said term, to wit, the 14th day of March, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

DANIEL MCDUFFY ET AL. }
 vs. } No. 4. Judgment.
 THE CHICKASAW NATION. }

This day this cause coming on to be heard upon the pleadings, exhibits, proof, master's report, and exceptions filed thereto by the Chickasaw Nation, and the court, upon the hearing of said case, is of the opinion, and therefore adjudges, that the report of the master in chancery filed herein be, and the same is hereby, confirmed in all respects, and the court, being sufficiently advised upon the whole case, doth order, adjudge, and decree that the plaintiffs and applicants Daniel McDuffy, Mattie Lee McDuffy, Amanda Jarvis, Nancy Jarvis, Eli McCorley, Sarah McCorley, Mary McCorley, R. A. McDuffy, Cassie E. McDuffy, Sarah Ann Jarvis, Nancy McCorley, Sidney McCorley, Walter McCorley, Earnest McCorley, Callie H. McDuffy, Mrs. M. J. Crawford, Mary Jane Jarvis, James McCorley, Macon McCorley, Effie McCorley, Nancy McCorley, each and all be admitted as members of the Chickasaw tribe of Indians by blood, and that they have all the rights, privileges, and immunities as such. It is further ordered, adjudged, and decreed that the applicants Elizabeth McDuffy, wife of Daniel McDuffy; J. M. Crawford, husband of M. J. Crawford; M. L. McCorley, husband of Nancy McCorley; George Jarvis, husband of Amanda Jarvis, each and all be admitted as members of the Chickasaw tribe of Indians by intermarriage, and that they each have all the rights, privileges, and immunities as such.

The clerk of this court is hereby ordered to transmit a certified copy of this judgment to the commission to the five civilized tribes of Indians, which said commission is hereby directed to place the names of each and all of the above-named parties upon the rolls of citizenship made out by it for the Chickasaw nation as members of said Chickasaw tribe of Indians in the way and manner herein indicated. To this judgment the Chickasaw Nation excepts (vol. "A," Citizenship Record, page 311).

39 And thereafterwards, to wit, on March 14th, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

DANIEL MCDUFFEE, Plaintiff, }
 vs. } No. 4. Motion for a New Trial.
 CHICKASAW NATION, Defendant. }

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

First. Because the judgment was contrary to law.

Second. Because the same was contrary to the evidence.

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

CHICKASAW NATION.

The above and foregoing is indorsed in words and figures as follows, to wit: "Daniel McDuffee *et al.* vs. Chickasaw Nation." "Motion for a new trial." "Filed in open court M'ch 14th, 1898." "C. M. Campbell, clerk."

40 And thereafterwards, to wit, on March 14th, 1898, present and presiding aforesaid, the following further proceedings in said cause were had, to wit:

DANIEL MCDUFFEE ET AL., Plaintiff, }
 vs. } No. —. Order Overruling
 CHICKASAW NATION, Defendant. } Plea to the Jurisdiction and
 Motion for a New Trial.

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

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

DANIEL McDUFFEE ET AL. }
vs. } No. 4. Order of Substitution.
 CHICKASAW NATION. }

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

(Signed) HOSEA TOWNSEND, *Judge.*

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

DANIEL McDUFFEE ET AL. }
vs. } No. 4. Application for Appeal.
 CHICKASAW NATION. }

Thereupon the said defendant in said cause, the said Chickasaw Nation, deeming itself aggrieved by the said decree made and entered of record on the 14 day of March, 1898, appeals from said order and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors filed herewith, and it prays that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

(Signed) W. B. JOHNSON,
Solicitor for Defendant.

This 11th day of July, 1898.

42 And thereafterwards, on the 50th day of said term, to wit, on the 11th day of July, 1898, was filed with the clerk of this court the assignment of errors in this cause; which assignment of errors is in words and figures as follows, to wit:

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

DANIEL McDUFFEE ET AL., Plaintiffs, }
vs. } Assignment of Errors.
 CHICKASAW NATION, Defendant. }

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

First. The court erred in holding that the act of Congress creating a commission to pass upon the citizenship of applicants in the Chickasaw nation and the right to appeal to said court was constitutional.

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

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

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

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

Sixth. The court erred in making a general order requiring the substitution of all the papers in the Indian citizenship cases 43 during the same term of court at which said papers had been destroyed by fire.

Seventh. The court erred in making a general order requiring the substitution of papers in all citizenship cases by the plaintiffs and defendant within sixty days after the destruction of the same.

Eighth. The court erred in permitting the substitution of papers in this cause in the next term of the court after the destruction of the same without thirty days' previous notice of the applicant- to the defendant.

Ninth. The court erred in holding that hearsay testimony to prove nationality was admissible as pedigree testimony, which testimony was introduced and in substance tended to show the Indian citizenship of the plaintiff.

Tenth. The court erred in holding that the hearsay testimony of a witness was admissible as pedigree when the party whom the witness had heard speak was still alive, which said testimony was introduced as tending to show the Indian citizenship of the plaintiffs.

Eleventh. The court erred in admitting as pedigree testimony the hearsay evidence of persons not intimately acquainted, by either relationship or association, with the persons whom the said witness claim- to have heard speak, which evidence was introduced as tending to show the Indian citizenship of the plaintiffs.

Twelfth. The court erred in holding as pedigree testimony hearsay evidence of a witness who was not related or intimately associated with the speaker, who was himself not shown to be so connected with the parties whom he had heard speak of their Indian ancestry, which evidence was introduced as tending to show the Indian citizenship of the applicant-.

Thirteenth. The court erred in making the general rule that new evidence could be introduced upon appeal from the Dawes commission, which character of evidence was introduced and in substance tended to show the Indian citizenship of the plaintiff.

Fourteenth. The court erred in granting a decree upon insufficient evidence.

44 Fifteenth. The court erred in holding that all the inter-married applicants herein are entitled to Indian citizenship by virtue of marriage with the applicants herein who claim by blood.

Sixteenth. The court erred in referring this case to a master in chancery.

Seventeenth. The court erred in overruling the defendant's exceptions to the master's report.

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

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

Twentieth. The court erred in overruling the defendant's motion for a new trial.

Twenty-first. The court erred in holding that these plaintiffs, if they ever had any right as citizens of the Chickasaw nation, could reside in one of the State of the United States, intermarry with United States citizens, exercise the right of suffrage as a citizen of the United States, claim all privileges due such citizens, and not thus utterly expatriate themselves from citizenship in the Chickasaw nation.

Twenty-second. The court erred in admitting these applicants who have never resided in the Indian Territory and who were not so residing at the time of their application to the Dawes commission.

Twenty-third. The court erred in entering a decree for the plaintiff in this case.

WM. B. JOHNSON,
Attorney for Chickasaw Nation.

Indorsed: "No. 4. Daniel McDuffie vs. Chickasaw Nation. Assignment of errors. Filed in open court July 11th, 1898. C. M. Campbell, clerk."

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

DANIEL MCDUFFEE ET AL., Plaintiff, }
vs. } No. 4. Bond on Appeal.
CHICKASAW NATION, Defendant. }

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

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

Whereas lately, at a court of the United States for the southern

district of the Indian Territory, in a suit pending in said court between Daniel McDuffie *et al.*, plaintiff, and The Chickasaw Nation, defendant, a decree was rendered against the said Chickasaw Nation, and the said Chickasaw Nation having obtained an appeal and filed a copy thereof in the clerk's office of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said Daniel McDuffie *et al.*, citing and admonishing — to be and appear at a session of the Supreme Court of the United States, to be holden at the city of Washington, in the month of October next:

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

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

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

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

The above and foregoing bond is endorsed in words and figures as follows, to wit: "Daniel McDuffie *et al.* vs. Chickasaw Nation. Defendant's bond. Filed in open court July 11th, 1898. C. M. Campbell, clerk."

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

This 11th day of July, 1898.
(Court Journal, vol. 11, pp. 114, 115, and 116.)

DANIEL MCDUFFEE ET AL. }
vs. } No. 4. Order.
CHICKASAW NATION. }

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

(Signed) HOSEA TOWNSEND, Judge.

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

DANIEL McDUFFEE ET AL. }
 vs. } No. 4. Order Granting Extension of
 CHICKASAW NATION. } Time for Return Day.

Thereupon comes William B. Johnson and moves the court that the return day of the citation in this cause be extended sixty days, and it appearing to the court that owing to the great number of cases to be appealed by the Chickasaw Nation it would be impossible to immediately perfect the appeal by said nation in all of said cases, it is ordered that the return day of said citation be extended sixty days.

(Signed) HOSEA TOWNSEND, *Judge.*

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

To Daniel McDuffie *et al.*, Greeting :

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

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

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

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

Original.

I hereby, this 20 day of July, 1898, accept due personal service of this citation on behalf of Daniel McDuffie *et al.*, appellees.

ARTHUR WALCOTT,
Solicitor for Appellees.

[Endorsed:] 4. Daniel McDuffie *et al.* v. Chickasaw Nation. Citation. Original. Filed in open court Jul-11, 1898. C. M. Campbell, clerk.

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

DANIEL McDUFFEE ET AL., Plaintiff, }
 vs. } Affidavit for Substitution of
 CHICKASAW NATION, Defendant. } Papers.

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

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

WM. B. JOHNSON.

Subscribed and sworn to before me this 9th day of July, 1898.
 [SEAL.] PHIL BARRETT,
Notary Public.

The above and foregoing affidavit is endorsed in words and figures as follows, to wit: "No. 4. Daniel McDuffie *et al.* vs. Chickasaw Nation. Affidavit for substitution of papers. Filed in open court July 11th, 1898. C. M. Campbell, clerk."

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

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

DANIEL McDUFFEE ET AL., Plaintiffs, }
 vs. } No. 4. Bill of Exceptions.
 CHICKASAW NATION, Defendant. }

Be it remembered that on the 9th day of September, 1896, Daniel McDuffie *et al.* filed with the Dawes commission, at Vinita, Indian Territory, their application for citizenship in the Chickasaw nation.

That thereafter, to wit, on the 28th day of October, 1896, the Chickasaw Nation filed with the said Dawes commission its answer to the application of the said Daniel McDuffie *et al.*, and thereafter, to wit, on the 31st day of October, 1896, filed its amended answer to said application, in both of which answers the Chickasaw Nation, after objecting to and denying the jurisdiction of said Dawes commission to pass upon a question of citizenship in the Chickasaw tribe of Indians, did answer in detail the allegations of the applicants.

50 That thereafter, to wit, on the 10th day of November, 1896, the said Dawes commission denied the application of the said Daniel McDuffie *et al.* for citizenship in the Chickasaw nation.

That thereafter, to wit, on the 15 day of Dec., 1896, the said applicants, Daniel McDuffie *et al.*, did appeal from the judgment of said Dawes commission to the United States court for the southern district of the Indian Territory, at Ardmore, said appeal being duly perfected upon notice to the Chickasaw Nation.

Be it further remembered that on the 8th day of Dec., 1896, an order was made referring said cause to a master in chancery; to which order of the court the defendant objected, and, said objection being overruled, the defendant then and there in open court duly excepted and still excepts.

Be it remembered that on the 7 day of July, 1897, this cause, having been referred, as aforesaid, to a master in chancery, was heard before said master, who found that the applicants were not entitled to citizenship in the Chickasaw tribe of Indians.

Be it further remembered that thereafter, to wit, on the 19th day of November, 1897, upon motion of plaintiffs, the above cause was again referred to another master in chancery; to which order of the court the defendant objected, and, said objection being overruled, the defendant then and there in open court duly excepted and still excepts.

That thereafter, to wit, on the 12th day of March, 1898, this cause came on to be heard before the master in chancery, he being the second one in this case, and upon hearing of the cause the said master found that all of the applicants were entitled to citizenship in the Chickasaw nation; to which finding the defendant then and there excepted, said exceptions being in words and figures as follows, to wit:

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

DANIEL McDUFFEE ET AL., Plaintiffs, }
 vs. } Exceptions to Master's
 CHICKASAW NATION, Defendant. } Report.

51 Comes now the Chickasaw Nation, by its attorney, and respectfully excepts to the report made by the master in this cause, because:

First. Same is not supported by the evidence.

Second. The decision is not in conformity with the law in force governing such cases in the Chickasaw nation, Indian Territory.

Wherefore it prays that said report be disapproved and the applicants rejected.

W. B. JOHNSON,
Attorney for Chickasaw Nation.

That thereafter, to wit, on the 14 day of March, 1898, when said exceptions came on to be heard by the court, the same were overruled; to which the defendant objected, and, said objection being overruled, the defendant in open court then and there duly excepted and still excepts.

Be it further remembered that on the 14 day of March, 1898, the defendant filed its plea to the jurisdiction of the Dawes commission to pass upon a question of citizenship in the Chickasaw tribe of Indians and of this court to pass upon this cause upon appeal from said Dawes commission for reasons stated in said plea; which plea

was overruled by the court; to which the defendant objected, and, said objection being overruled, the defendant then and there in open court duly excepted and still excepts.

Be it further remembered that on the 7 day of July, 1897, when said cause came up before said first-named master in chancery for hearing, and on the 12th day of March, 1898, when the same was heard before the second master in chancery, certain testimony was introduced which was not introduced before the Dawes commission, but was taken after appeal was perfected from the decision of said Dawes commission; to the introduction of which testimony, for the above reason, the defendant objected, and, said objection being overruled, the defendant excepted and still excepts.

52 Be it further remembered that on the 14th day of March, 1898, the above cause came on to be heard before the Honorable Hosea Townsend, judge of the above court; whereupon came the plaintiffs, by their attorneys, and the defendant, by its attorney, and the following, among other, proceedings were had, to wit:

The plaintiffs introduced the following testimony:

Court of Claims, Feb. Term, 1895.

To the Hon. Colbert A. Burris, chairman of the court of claims:

The petition of Daniel McDuffee and his wife, Elizabeth McDuffee, and their children, R. H., Callie H., Mattie Lee, and Casey E. McDuffee; Mr. J. M. Crawford and his wife, Mrs. M. J. Crawford, formerly M. J. McDuffee; Mrs. Amanda Jarvis, formerly McDuffee, and her children, Sarah Ann, Mary Jane, and Nancy Jarvis; Mr. W. M. McCarty and his wife, Nancy, formerly McDuffee, and their children, James, Eli, Sydney, Macon, Sarah, Walter, Effie, Mary Earnest, and Nancy McCarty, would respectfully represent unto your honor that they are the legal descendants of Nancy Frazier, a full-blood Chickasaw woman, who emigrated to this country from Mississippi, and who married Arclin McDuffee, and who had several children by McDuffee, one of whom was named Norman McDuffee, who was the father of Daniel McDuffee and his sisters, Mrs. Crawford, Mrs. Jarvis, and Mrs. McCarty, and therefore pray your honor to investigate the claim of citizenship in the Chickasaw nation agreeable to the laws of the Chickasaw nation, and if found from the evidence produced to be entitled to the rights of citizens that you award them the rights of citizens under the laws of the Chickasaw nation.

All of which is respectfully submitted.

Feb., 1895.

(Signed)

H. F. MURRAY,
Att'y for Applicants.

53

Deposition of W. M. Simpson.

My name is W. M. Simpson; I am 72 years old, and live near Goodland, I. T.

Ques. Did you know Nancy Frazier in Mississippi; and, if so, was she a Chickasaw Indian?

Ans. I knew Nancy Frazier in Mississippi, and I knew she was a Chickasaw Indian by blood.

Ques. Did Nancy Frazier leave any children; and, if so, what were their names and where did they live?

Ans. Nancy Frazier had five children (5); their names were Henry Frazier, Tom Frazier, Nancy Frazier, Polly Frazier, and Charles Frazier. They lived in Yellow, Bersby county, Miss.

Ques. Did you know Archie McDuffie; and, if so, who did he marry?

Ans. I knew Archie McDuffie. He married Nancy McDuffie, the daughter of Nancy Frazier aforesaid. They—Archie McDuffie and Nancy Frazier, his wife—had several children, one of whom was named Norman McDuffie. Said Norman McDuffie married and had children. I do not recollect the names of their children.

Ques. Did Nancy Frazier or any of her descendants emigrate to the Chickasaw nation? If so, when?

Ans. Yes. They emigrated to the Chickasaw nation about 1835 or 1837.

(Signed)

his
WILLIAM x SIMPSON.
mark.

THE INDIAN TERRITORY, }
2nd Division.

I, A. J. Walker, a notary public within and for the Indian Territory, do certify that the foregoing deposition of William Simpson was taken before me and was read to and subscribed by him in my presence at the time mentioned in the caption, the said William Simpson being first sworn by me that the evidence he should

54 give in the action should be the truth and nothing but the truth, and that his statements were reduced to writing by me in his presence, no other person being present at this examination.

Given under my hand and seal this 14 day of August, 1894.

(Signed)

A. J. WALKER,
Notary Public.

Caption of above deposition overlooked.

The deposition of W. M. Simpson, taken on the 14th day of August, 1894, between the hours of 8 o'clock a. m. and 6 o'clock p. m., at the office of A. J. Walker, in the town of Goodland, I. T., to be read as evidence in the case of Daniel McDuffie, Mary J. Crawford, Amanda Jarvis, and Nancy McCarty, in the council of the Chickasaw nation or the proper council thereof.

INDIAN TERRITORY, }
3rd Jud. Division.

This day personally appeared before me James Frazier, who on oath deposes and says:

I know that the above deposition is correct in every detail.

(Signed)

his
JAMES x FRAZIER.
mark.

Subscribed and sworn to before me this 13 day of Feb., 1895.
(Signed) GEORGE H. TRUAX,

Notary Public.

Affidavit of Nancy McCarley.

INDIAN TERRITORY, }
Chickasaw Nation, Pickens County, 3rd Judicial Div. }

On this the 29th day of August, A. D. 1894, before me, B. F. Redding, a notary public in and for the 3rd judicial division, came in person Mrs. Nancy McCarley, of Ryan, Chickasaw nation, county of Pickens, Ind. Ter., and upon oath made the following
55 statement, to wit: My name is Nancy McCarley. I live in Ryan, I. T., Chickasaw nation. My maiden name was McDuffie. My mother's name was Dorothy McDuffie. Her maiden name was Gillias. My mother died in Smith county, Texas, in Sept., 1877. My mother always told me that my grandmother on my father's side was a Chickasaw Indian, whose name was Nancy Frazier; consequently my father was of Indian blood. My grandfather's name was Archie McDuffie and married the said Nancy Frazier. My father's name was Norman McDuffie and married my mother, Dorothy Gillas.

(Signed)

NANCY MCCARLEY.

Subscribed and sworn before me, the undersigned, notary public in and for the 3rd jud. division, Indian Territory, at Ryan, Indian Territory, on this the 29th day of August, 1894.

In testimony whereof I have set my hand and affixed my seal on the day and date above written.

[SEAL.]

(Signed)

B. F. REDDING,
Notary Public.

Deposition of Amanda Jarvis.

3RD JUDICIAL DIVISION, }
Ind. Ter. }

On this day personally appeared before me, a notary public for the division and Territory aforesaid, Mrs. Amanda Jarvis, who, being sworn, says: My name is Amanda Jarvis; my age is 49; I reside near Healdton, Ind. Ter.; my maiden name was McDuffie; my mother's name was Dorothy McDuffie; my father's name was Norman McDuffie; my mother's maiden name was Gillas; my mother died in Smith county, Texas; my father died in Shelby county, Ala.; my grandmother's name was Nancy Frazier, and she was a full-blood Indian; she was a member of the Chickasaw tribe; my children's names are Sarah Ann Jarvis, Mary Janes Jarvis, and Nancy Jarvis.

(Signed)

AMANDA JARVIS.

Sworn to and subscribed before me this 2nd day of Feb., 1895.

(Signed)

W. F. MCKNIGHT,
Notary Public.

56 *Deposition of J. S. Wolfe.*

INDIAN TERRITORY, }
3rd Jud. Division, }^{ss.}

On this day personally appeared before me J. S. Wolfe, to me personally well known, and after being duly sworn by me on oath deposes and says: I knew Nancy Frazier in Miss.; this Nancy Frazier was a full-blooded Chickasaw Indian and had four children, as follows: Harry, Tom, Nancy, and Pollie. The last-named Nancy Frazier was the oldest daughter of the said Nancy Frazier in Miss. This Nancy Frazier, a daughter of the Nancy Frazier in Miss., married Archie McDuffee, and they belong to the Big House clan. After they married they had one child named Norman McDuffee.

(Signed) his
J. S. WOLFE.
mark.

Sworn to and subscribed before me this the 20th day of July, 1894.

(Signed) G. W. ADAMS, *Not. Pub.*

IND. TER., }
3rd Jud. Div. }

This day personally appeared before me James Frazier, who on oath deposes and says: I know the above deposition is true in every detail.

(Signed) his
JAMES x FRAZIER.
mark.

Subscribed and sworn before me this 13 day of Feb., 1895.
(Signed) GEORGE H. TRUAX, *Not. Pub.*

57 *Deposition of Mrs. J. M. Crawford.*

IND. TER., }
3rd Jud. Div. }

FEB'Y 9, 1895.

My grandmother was Nancy Frazier, who married Archie McDuffee; my father, Norman McDuffee, was the son of Archie McDuffee and Nancy Frazier; they had four children, as follows: Daniel McDuffee, Mary Jane Crawford, Amanda Jarvis, and Nancy McCarley.

Ques. Was your father, Norman McDuffee, an Indian?

Ans. He was.

Ques. What tribe of Indians was your father?

Ans. Chickasaw.

Ques. How old are you, Mrs. Crawford?

Ans. About 46 years old.

Ques. Where do you live?

Ans. Ardmore, Ind. Ter.

Ques. Mrs. Crawford, do you know this by your own knowledge?
Ans. To the best of my knowledge this is correct.

(Signed) her
MRS. M. J. x CRAWFORD.
mark.

58 *Certificate of Citizenship.*

OFFICE OF COURT OF CLAIMS, CHICKASAW NATION,
TISHOMINGO, I. T., Feb. 14th, 1895.

DANIEL MCDUFFEE }
vs. } Suit for Citizenship.
CHICKASAW NATION. }

This day this cause came on for hearing. After examining evidence produced by the plaintiffs, the court was of the opinion that the following parties to the suit are Chickasaws and are entitled to the rights of Chickasaw citizens, to wit:

Daniel McDuffee and his wife, Elizabeth McDuffee, and their children, R. H., Callie H., Mattie Lee, and Casey E. McDuffee; J. M. Crawford and his wife, M. J. Crawford; Mrs. Amanda Jarvis and her children, Sarah Ann, Mary Jane, and Nancy Jarvis; William McCarley and his wife, Nancy McCarley, and their children, Sarah Ann, Eli, Sideny, Macon, Walter, Effie, Mary Earnest, and Nancy McCarley.

Given under our hand- this day and date above written.

(Signed) C. A. BURRIS, *Chairman,*
W. H. BOURLAND,
J. BROWN, *Committee.*

Attest: R. H. NICHOLS, *Clerk.*

I hereby certify that the foregoing is a true and correct copy of the original evidence as now appears in this office.

Given under my hand and seal — office this the 3rd day of July, A. D. 1896.

(Signed) L. C. BURRIS,
National Secretary, Chickasaw Nation.
[SEAL.]

59 An act to establish a court of claims.

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

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

SEC. 3. Be it further enacted: That the judges of said court shall,

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

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

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

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

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

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

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

Approved Dec. 22nd, 1894.

P. S. MOSELY, *Gov. C. N.*

Recommended by—

I. O. LEWIS.

Attest: E. T. WAITE,
National Sec'y, C. N. [SEAL.]

61 The plaintiffs here offered in evidence the following testimony, which had been heretofore introduced before each of the aforesaid masters in chancery over the objection of the defendant; and now, at the time of offering said testimony before the court, the defendant objected for the reason that the same had not been used before the Dawes commission and was now introduced for the first time upon appeal; which objection the court overruled, and the defendant then and there excepted and still excepts.

Before Honorable W. H. L. Campbell, master in chancery for the United States court, southern district of the Indian Territory, at Ardmore.

DANIEL McDUFFEE ET AL., Plaintiffs, }
vs. }
CHICKASAW NATION, Defendant. } Testimony.

Direct examination.

By ARTHUR WALCOTT:

Plaintiffs' attorney reads application and all the affidavits in the above-styled cause.

The defendant's attorney reads answer.

Plaintiff objects to the affidavit of H. F. Murray because said affidavit is not signed by Murray himself, but said affidavit was signed by some unknown person.

COURT: Objection sustained.

J. M. CRAWFORD.

Q. How old are you?

A. I am about 65 years old.

Q. How long have you lived in this country?

A. About eight years.

Q. Who did you marry?

A. I married Mary J. McDuffee.

62 Q. Where did you marry?

A. In the State of Alabama.

Q. When?

A. In 1863.

Q. Where did you come from to this country?

A. Cooke county, State of Texas.

Q. How long ago?

A. Eight years.

Q. Do you know B. F. Kemp?

A. I do.

Q. Were you at Tishomingo when your case for citizenship came on for trial?

A. Yes, sir.

Q. Did you have a conversation with B. F. Kemp at that time?

A. I did.

Q. State what that was, please.

A. I asked him what he knew about the case, and—

Mr. JOHNSON: I object.

COURT: Sustained.

WALCOTT: I will ask you if you have not always been recognized and treated as a Chickasaw Indian and have enjoyed the privileges that any other Chickasaw Indians enjoy.

A. Yes, sir; I have always been recognized as a citizen of the Chickasaw nation and have got permits from the Chickasaw gov-

ernment, and have had orders to put men off my place from the Chickasaw nation on three different occasions, and at one time I brought one of the men in arms.

Q. Did you ever get any permits?

A. Yes, sir; I got permits five or six years ago.

Q. Have you any of them now?

A. No, sir; I have none with me at this time, but Charley

63 Carter has written me permits.

Q. Has any one ever held land under you?

A. Yes, sir.

Q. Who?

A. Old man Bracketts held land under me three years, and I was holding land by virtue of my being a citizen of the Chickasaw nation.

Cross-examination.

By W. B. JOHNSON:

Q. Mr. Crawford, you say you filed your application before the Chickasaw committee?

A. Yes, sir.

Q. You say that you have received permits from the Chickasaw nation?

A. Yes, sir.

Q. Have you ever drawn any annuity?

A. No, sir; I have never drawn my annuity.

Q. Did you not apply for annuity in 1892?

A. Yes, sir; I did.

Q. Did you draw any?

A. No, sir.

Q. Who was your partner in business here in this place?

A. Judge Carter.

Q. How long did you live in Gainesville, Texas?

A. Nine years.

Q. You then moved to the Chickasaw nation?

A. Yes, sir.

Q. Did you claim a right in the Chickasaw nation then?

A. No, sir; for the reason that I had not established it at that time.

Q. When were you before the Court of Claims?

A. In 1889.

Q. Who was your attorney?

A. Judge Carter.

64

DANIEL MCDUFFEE.

Direct examination.

ARTHUR WALCOTT:

Q. How old are you?

A. I suppose that I am 56 or 57 years of age.

Q. How long have you lived here in this country?

A. 14 years.

Q. Have you moved away since you have been here?

A. Yes, sir.

Q. Where to?

A. The State of Arkansas.

Q. For what purpose?

A. To educate my children.

Q. How long did you live in Arkansas?

A. For eight years.

Q. Where did you go from Arkansas?

A. I came back to the Chickasaw nation.

Q. Who was your father?

A. Norman McDuffee.

Q. Who was your mother?

A. Dorothy Gillas.

Q. Where do they live?

A. In the State of Georgia.

Q. Have you been recognized as an Indian?

A. Yes, sir; I have always been recognized as a Chickasaw Indian.

Q. Did you apply to the Court of Claims?

A. Yes, sir; a year or so ago; and I got judgment before said court.

Q. You have always been recognized as an Indian since that time?

A. Yes, sir; I have been recognized as a Chickasaw Indian ever since.

Q. Who did your grandmother marry?

A. A man by the name of Colbert.

65 Q. Did she ever marry a man by the name of Leader?

A. I do not know.

Q. You are the principal claimant in this suit for citizenship, are you?

A. Yes, sir.

Q. And you claim to be an Indian by blood?

A. Yes, sir. Nancy Frazier, my grandmother, was a one-half Chickasaw Indian, and that makes me a Chickasaw Indian by blood.

Q. How much Indian was your father?

A. He claimed to be an Indian, a Chickasaw Indian, and one-half blood.

Q. Where did they live, your father and mother?

A. They lived in the State of Alabama.

Q. Was your father recognized by the people who knew him to be a Chickasaw Indian?

A. Yes, sir. Every one who knew him recognized him as being a one-half-blood Indian.

Cross-examination.

By W. B. JOHNSON :

- Q. When did you move to this country?
 A. About 14 years ago.
 Q. State again how old you are.
 A. I am about 56 or seven years old. I do not exactly know.
 Q. Where did you live before you moved to the Chickasaw nation?
 A. Smith county, State of Texas.
 Q. How old were you when your father died?
 A. I was somewhere about ten years old, perhaps a little older.
 Q. You say that you heard him say he was a one-half Chickasaw Indian?
 A. Yes, sir; he told me that he was Indian.
 Q. How long did you live in Arkansas?
 A. Eight years.
 Q. When did you file your application for citizenship?
 A. Three years ago.
 Q. When was it rejected?
 66 A. I did not know that it was rejected by the nation.
 Q. Who did you say was your lawyer?
 A. H. F. Murray.
 Q. He was your lawyer before the Court of Claims?
 A. Yes, sir.
 Q. Did you ever make any effort to draw any annuity?
 A. No, sir; I never made any effort to draw annuity money.
 Q. Where do you live now?
 A. Near Healdton, Chickasaw nation, Indian Territory.
 Q. When did your father move to the State of Alabama?
 A. I cannot say positively when he moved to Alabama.
 Q. Well, how old were you when he moved there?
 A. I do not exactly know, but think was about 10 or 12 years old.
 Q. How old was your father when he died?
 A. I think that he was about 35 or six years old.
 Q. What did he do?
 A. He was a blacksmith.
 Q. When did you see your grandmother last?
 A. I saw her in Georgia; I do not know when, but some time—I just can't say the exact date.
 Q. When did you see your grandfather last?
 A. The same time that I saw my grandmother.
 Q. Where did you move to from Georgia?
 A. I moved from Georgia to Alabama.
 Q. Where did you live in Georgia?
 A. We lived near the South Carolina line.
 Q. How old were you when you moved down there?
 A. I was about twelve years old.
 Q. Were your grand father and mother Indians?
 A. Yes, sir; they were Indians by blood.

- Q. Did your father have any half brothers or sisters?
 67 A. No, sir; he did not.
 Q. Did he have any brothers and sisters?
 A. Yes, sir; he had one brother and sister.
 Q. How old are you now?
 A. I am somewhere about fifty seven or eight years old; I just have to guess at it, as I have no means of knowing positively.
 Q. Who was your neighbors in Alabama?
 A. There was a man by the name of Jess Smootherns; he lived near us and was a white man.
 Q. Who else?
 A. A man by the name of Allen Roubly; he lived near us and was a white man.
 Q. Were there any Indians at all lived near you?
 A. No, sir; not right close to us.
 Q. Who came west with you?
 A. My brother.
 Q. When did your mother die?
 A. In 1874 or '75.
 Q. Where did she die?
 A. In Smith county, State of Texas.
 Q. Did she come to Texas after you did?
 A. Yes, sir.
 Q. Did your father own land in Alabama?
 A. No, sir; he owned no land there.
 Q. How old were you when your mother died?
 A. I was of age when she died.
 Q. Have you voted in Texas?
 A. Yes, sir.
 Q. Have you voted in Arkansas?
 A. Yes, sir.

Master's fee, \$—; transcript fee, \$—.

68 DANIEL MCDUFFEE ET AL. }
 vs. }
 CHICKASAW NATION. }

Testimony of I. W. Folsom and E. C. McLaughlin, Taken before Me on the First Day of January, 1898.

I. W. FOLSUM, being duly sworn, says he is 46 years of age; that he knows the reputation of Sim Casey, or Chickasaw Sim, as he is sometimes called, for truth and veracity; that it is good; that he has held the position of clerk in a store for a number of years; that Casey is an Indian by blood.

Cross-examined :

He knew Casey in 1860; never lived very close to him; he lived about 50 or 60 miles from him.

E. C. McLAUGHLIN, being duly sworn, says he is 58 years of age; says — is an Indian by blood; that he knew the reputation of Sim

Casey, or Chickasaw Casey, as he is sometimes called; that his, Sim Casey's, reputation for truth and veracity is good; that he has been entrusted with the Choctaw funds to carry them from the Chickasaw to the Choctaw nation; that he has been dead two or three years.

Cross-examined:

Seventeen or 18 years ago he lived three or four miles from Sim Casey; don't know that he ever heard any one say his reputation was good; don't know in the last 20 years what nation Casey lived in; he saw him here not long ago.

Subscribed before me 1st day of Jan., 1898.

JOHN HINKLE,
Master in Chancery.

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

DANIEL MCDUFFEE ET AL. }
vs. } In Equity.
CHICKASAW NATION. }

Testimony taken before John Hinkle, master in chancery, at law office of Johnson & Johnson, in the town of Ardmore, I. T., on the 11th day of January, 1898, appearing A. C., Esq., for claimants; W. B. Johnson, Esq., for Chickasaw Nation.

WALKER MARTIN, being duly sworn, upon oath testifies as follows:

Direct examination.

By Mr. CRUCE:

Q. What's your name?

A. Walker Martin.

Q. What's your age, residence, and occupation?

A. My age is 72—in my 73d year.

Q. Where do you live?

A. I live in Durwood.

Q. What's your occupation?

A. Farmer by trade.

Q. Were acquainted with Simpson Casey in his lifetime?

A. Yes, sir.

Q. When did you first become acquainted with him?

A. In 1860.

Q. What acquaintance did you have with him?

A. I was in Doaksville a week in the fall of '60. Sim Casey was then at work in R. M. Jones' store in Doaksville. I was in the store every day while there. I saw him there the first time I saw him.

70 Q. What opportunities have you ever had since then of becoming acquainted with him or learning his standing as a man?

A. Well, I see Sim Casey during the war; he was in Gen'l Pulson's regiment, second Choctaw regiment.

Q. Who was, Casey?

A. Yes, sir.

Q. Did he have any command of the company?

A. He had a company in the same regiment.

Q. How long was he in the war?

A. I think he was in the war from start to finish.

Q. Did you have an opportunity of being with him or not often during the war?

A. I saw him frequently; was with the Choctaws a good deal of the time; I was dispatched for General Pike when he was in command, and for General Cooper; I saw him often.

Q. When is the last time you have seen Sim Casey?

A. I saw Sim Casey—it was about two years ago.

Q. Do you know whether he is now dead or alive?

A. He is dead, as I understand.

Q. Do you know where he was living when he died?

A. About two and a half miles from Goodland, Choctaw nation, north.

Q. Were you with him any during the net proceeds payment?

A. Was with him about a month every day.

Q. How long since was that?

A. That net proceeds was paid out six years ago, I believe; it was when they were paying out at Atoka.

Q. From what acquaintance you had with him, do you think you are able to state what his general reputation was for truth and veracity in the neighborhood where he lived?

A. It was good as far as I know.

Q. Do you think you knew what it was?

A. I think it was good.

Q. Did you ever hear it questioned?

71 A. Not until this citizenship business came up. This citizenship was the first time.

Q. Who did you hear question his reputation?

A. Ben Kemp.

Q. What were the moral habits of this man when you knew him?

A. Just as good as any one's.

Mr. JOHNSON: I don't see what this has got to do with it. It is not admissible.

Mr. CRUCE: You can save your exceptions.

Mr. JOHNSON: What good would that do? That has been the practice all the way through. There has never been any testimony introduced that would be admitted in any other court.

A. As far as I know. I have known Ben Kemp over 40 years, and my knowledge of Ben Kemp and Sim Casey is no parallel at all. Sim Casey was the best—head and shoulders over him.

Q. Well, do you know how far this town of Goodland is from where Ben Kemp lives, at Tishomingo?

A. I guess it is 50 miles; maybe over that.

Recross-examination.

By Mr. JOHNSON :

Q. You do not know whether he is regarded by the Chickasaws as a negro or not ?

A. No, sir ; I do not ; he is evidently a Chickasaw.

Excused.

Stenographer's fees for taking and transcribing above and foregoing testimony of Walker Martin, \$4.00.

I, John Hinkle, master in chancery for the southern district of Ind. Ter., do certify that the testimony of Walker Martin was taken before me in the above cause on the 11th day of January, 1898.

(Signed)

JOHN HINKLE,

Master in Chancery.

Plaintiffs here closed their testimony and rested their case ; whereupon the defendant introduced the following testimony, to wit :

75 Whereas, during the February and August sessions of the late citizenship committee of the Chickasaw nation in 1895 ; said committee did, without any authority of law, issue and give out certificates of citizenship to Mary Ann Byrd and family, Evans Hill and family, U. S. Joines and family, Mattie Chapman and family, J. H. Lee and family, W. M. McCarty and family, Daniel McDuffee and family, and Mrs. Amanda Jarvis and family ; and,

Whereas, said committee was not authorized or empowered by any law of the Chickasaw nation to issue and give out such certificates to any person or persons whatsoever ; but the law creating said committee and giving it power to hear the evidence adduced in such citizenship causes required that said committee, at the adjournment of the August session, should send up to the legislature of the Chickasaw nation, which was to convene on the first Monday in Sept., 1895, a complete report of the proceedings of said committee, which should be subject to the approval or rejection of the legislature, before the same should have any legal course ; and,

Whereas, the said legislature did reject all claimants allowed by said committee ; and, therefore, the certificates now held by the above-named parties and their families are worthless from the beginning and is of no legal effect :

Therefore, be it enacted by the legislature of the Chickasaw nation, that the certificates of citizenship now held by the above-named persons and their families,—they being United States citizens—be, and the same is hereby declared null and void, and of no legal effect as against the Chickasaw nation, they having been issued unlawfully ; and said parties for whose benefit the same was issued, are hereby declared to be non-citizens of this nation, and are not entitled to any rights in the Chickasaw nation as citizens thereof ; and said certificates are hereby declared not entitled to any credit or legal

76 force in this nation, and this act — take effect from and after its passage.

Amended in the senate by inserting the names of J. M. Crawford and his wife, Mrs. M. J. Crawford.

Approved Oct. 28, 1895.

P. S. MOSELY, *Governor.*

Recommended by—

M. V. CHEADLE.

Attest : L. C. BURRIS, *Nat'l Sec'y.*

I, L. C. Burris, national secretary of the Chickasaw nation, do hereby certify that by virtue of my office I am custodian of the laws and records of the Chickasaw nation ; that I have examined the above and foregoing, and know that the same is a true and correct copy and transcript of an act of the legislature of the Chickasaw nation, as is shown by the records in this office.

Witness my hand and seal of office on this the 15th day of October, A. D. 1896.

(Signed)

[SEAL.]

L. C. BURRIS,

National Secretary, Chickasaw Nation.

77 In the Matter of the Application for Enrollment in the Chickasaw Nation of DANIEL MCDUFFEE *et al.*

Affidavit of B. F. Kemp.

INDIAN TERRITORY, }
Chickasaw Nation, } ss :

Before me, the undersigned authority, on this day personally appeared B. F. Kemp, who, being duly sworn, on oath deposes and says : My name is B. F. Kemp ; I am a Chickasaw Indian by blood, and am 63 years of age ; I came to this country from the State of Alabama in the year 1837 ; I have been district —, county judge, senator, legislator, and have held other important offices under the Chickasaw government. I am familiar with the Chickasaw by blood and intermarriage. I am well acquainted with Nancy Frazier during her lifetime ; she is a grand-aunt of mine ; she had only two children—one named Winchester Colbert and the other Edward Leader ; Colbert is dead, but Leader is still living. I have never heard of the claimants being Chickasaws by blood or claiming to be until they presented their claim before the citizenship committee, and they were afterward rejected by the legislature on account of the insufficiency of the testimony. The said J. S. Wolfe, who testifies for the applicant, is a negro, whose reputation for truth and veracity is bad and not entitled to credence by any one.

(Signed)

B. F. KEMP.

Subscribed and sworn to before me on this the 26th day of October, A. D. 1896.

[SEAL.]

(Signed)

W. M. LUCAS,

Notary Public.

78 *Affidavit of Jonas Wolfe.*INDIAN TERRITORY, }
Chickasaw Nation, } ss:

Before me, the undersigned authority, on this day personally appeared Jonas Wolfe, who, being first duly sworn, deposes and says:

My name is Jonas Wolfe. I am a Chickasaw Indian by blood, and am 65 years of age. I came to this country from Mississippi with the Chickasaw Indians. I have been governor of the Chickasaw nation, and have held other important positions under the Chickasaw government. I am well acquainted with Isaac Williams and a negro known as Isaac Wolfe. I have known them for about 30 years. I am also well acquainted with Sam Perry. I am informed that each of these men have made a great many affidavits in support of claims to citizenship in the Chickasaw nation, and I state upon my oath that each of these men are unworthy of belief, and would, in my opinion, for a small sum of money make any kind of an affidavit that was written out for them. They are unreliable in every respect, and their general reputation for truth and veracity is notoriously bad.

(Signed)

JAMES WOLFE.

Subscribed and sworn to before me on this the 22nd day of October, A. D. 1896.

G. W. ADAMS,
Notary Public. [SEAL.]79 *Affidavit of H. F. Murray.*INDIAN TERRITORY, }
Chickasaw Nation, } ss:

Before me, the undersigned authority, on this day personally appeared H. F. Murray, who, being first duly sworn, on oath deposes and says: My name is H. F. Murray; I am 77 years of age, and have resided in the Indian Territory ever since 1854, and have been in the Chickasaw nation since 1870. I am a practicing lawyer in the Chickasaw courts. I am well acquainted with Isaac Williams and another negro known as Squire Wolfe, or J. S. Wolfe, and have known them for ten or twelve years. I am informed that each of these men have made a great many affidavits in support of citizenship claims in the Chickasaw nation, and I state upon my oath that each of these men are unworthy of belief, and would, in my opinion, for a small sum of money make any kind of an affidavit that was written out for them; they are unreliable in every respect, and their general reputation for truth and veracity is very bad.

(Signed)

H. F. MURRAY,
Per McM.

Subscribed and sworn to before me on this the 22nd day of October, 1896.

[SEAL.]

(Signed)

G. W. ADAMS,
Notary Public.80 In the Matter of the Application for Enrollment in the Chickasaw Nation of DANIEL MCDUFFEE *et al.**Affidavit of B. F. Kemp.*INDIAN TERRITORY, }
Chickasaw Nation, } ss:

Before me, the undersigned authority, on this day personally appeared B. F. Kemp, who, being first sworn, deposes and says: My name is B. F. Kemp. I am a Chickasaw Indian by blood, and am 63 years of age. I came to this country with the Chickasaw Indians in the year 1837 from the State of Alabama. I have been county judge, district judge, member of the legislature, and have held other important offices in the Chickasaw government. I knew Nancy Frazier 40 years ago, and she was the only Chickasaw that I ever knew by that name; she had two children, one by her first husband, name- Winchester Colbert, and the other by her second husband, whose name was Leader, but I have forgotten his given name. I have never heard of or known of a Chickasaw by the name of McDuffee, neither have I heard of a Chickasaw by the name of any of the other applicants herein. I am well acquainted with Nancy Frazier, and I am satisfied that if any of these applicants had been descendants of her or even related to her I would have known it.

(Signed)

B. F. KEMP.

Subscribed and sworn to before me on this the 27th day of October, A. D. 1896.

(Signed)

W. M. LUCAS,
Notary Public.

81 In the Matter of the Application for Enrollment in the Chickasaw Nation of ———.

Affidavit of B. F. Kemp.

Before me, the undersigned authority, on this day personally appeared B. F. Kemp, who, being duly sworn, on oath deposes and says:

My name is B. F. Kemp; I am a Chickasaw Indian by blood, and am 63 years —; I came to this country from the State of Alabama in the year 1837, and I have been district judge, county judge, senator, legislator, and have held other important offices under the Chickasaw government. I am familiar with the Chickasaws by blood and intermarriage; I was raised in Panola county, Chickasaw nation, about six or seven miles from Island Bayou, and lived there from the year 1849 up to about ten years ago; I am a son of Jack-

File 1, Daniel M. Guffy Case
C I T I Z E N S H I P R E V O K E D.

BY ACT OF LEGISLATURE, SEVERAL FAMILIES WHO
THOUGHT THEY WERE CHICKASAWS, ARE
BARRED.

Whereas, During the February and August sessions of the late citizenship committee of the Chickasaw Nation of 1895, said committee did, without any authority of law, issue and give out certificates of citizenship to Mary Ann Byrd and family, Evans Hill and family, U. S. Joins and family, Mattie Chapman and family, J. H. Lee and family, Wm. McCarty and family, Daniel McGuffy and family, and Mrs. Amanda Jarvis and family; and,

Whereas, As said committee was not authorized or empowered by any law of the Chickasaw Nation to issue and give out such certificates to any person or persons whatsoever, but the law creating said committee and giving it power to hear the evidence adduced in such citizenship causes, required the said committee at the adjournment of the August session should send up to the legislature of the Chickasaw Nation, which was to convene on the first Monday in September, 1895, a complete report of the proceedings of said committee, which should be subject to the approval or rejection of the legislature before the same should have any legal force; and,

Whereas, The said legislature did reject all claimants allowed by said committee, and, therefore, the certificates now held by the above named parties and their families are worthless from the beginning, and are of no legal effect.

Therefore, Be it enacted by the legislature of the Chickasaw Nation that the certificates of citizenship

now held by the above named persons and their families, they being United States citizens, be and the same is hereby held and declared null and void, and of no legal effect against the Chickasaw Nation, they having been issued unlawfully and said parties, for whose benefit the same was issued, are hereby declared to be non-citizens of this nation, and are not entitled to any rights in the Chickasaw Nation as citizens thereof, and said certificate s are hereby declared not entitled to any credit or legal force in this nation, and this act to take effect from and after its passage.

Approved October 28, 1895.

P. S. Mosely, Governor.

Attest: L. C. Burris, Nat. Sec.

I hereby certify that the above is a true and correct copy of the original act now on file in this office.

Given under my hand and official seal this, 11th day of March, A. D. 1894

(Seal) L. C. Burris,
National Secretary Chickasaw Nation.

J. M. [unclear]
W. H. [unclear]
L. C. Burris

Act of Legislature
Respecting Claims

National Secretary Chickasaw Nation.
(Seal)

Fifth day of March, A. D. 1894
J. C. Burris,

Given under my hand and official seal this,
office.

Correct copy of the original not now on file in this

I hereby certify that the above is a true and

Attest: J. C. Burris, Not. Sec.

P. S. Howell, Governor.

Approved October 29, 1893.

after its passage.

in this nation, and this act to take effect from and
declared not entitled to any credit or legal force
citizens thereof, and said certificate is hereby
not entitled to any rights in the Chickasaw Nation
declared to be non-citizens of this nation, and are
for whose benefit the same was issued, are hereby
they having been issued unlawfully and said Burris,
and of no legal effect against the Chickasaw Nation,
same is hereby held and declared null and void,
res, they being United States citizens, be and the
now held by the above named persons and their family-

William Simpson of Goodland also gave testimony in the case of Daniel McGuffey, et al vs. Chickasaw Nation, in which he stated that he is 72 years old and lives at Goodland; that he knew Nancy Frazier in the State of Mississippi, and knew her to be a Choctaw Indian by blood; that she had five children, by name, Henry Frazier, Tom Frazier, Nancy Frazier, Polly Frazier, and Charles Frazier; that they lived in Yellow Bushe County. Witness says that he knew Archie McDuffey, and that Archie married Nancy McDuffey, the daughter of Nancy Frazier aforesaid; that Archie had several children, one of whom was Norman McDuffey; that Nancy Frazier and her descendants emigrated to the Chickasaw Nation in about 1835. We do not think this testimony is true, and you are directed to investigate it carefully, and incorporate your findings in an affidavit sworn and subscribed to by William Simpson.

Read

...the case of Daniel McDuffey, et al.,
...the Chickasaw Nation, in which he stated that he is
...the case of Daniel McDuffey, et al.,

South McAlester, Indian Territory, June 1, 1903.

Daniel McDuffey, et al.,

vs

The Chickasaw Nation.

Report

To Mansfield, McMurray & Cornish.

I was instructed to see William Simpson, at
Goodland, Indian Territory. I went to Goodland to
see him, and found that he is dead.

Respectfully submitted.

D. A. Richardson
"

Daniel McDuffie, et al.,

vs. No. 4, Judgment, Southern District, March 14, 1898.

Chickasaw Nation.

This day this cause coming on to be heard upon the pleadings, exhibits, proof, Master's report and exceptions filed thereto by the Chickasaw Nation, and the court upon the hearing of said case is of the opinion, and therefore adjudges that the report of the Master filed herein be and the same is hereby confirmed in all respects.

And the court, being sufficiently advised upon the whole case:

Doth order, adjudge and decree that the plaintiffs and applicants Daniel McDuffey, R. H. McDuffie, Callie H. McDuffie, Matie Lee McDuffie, Cassie E. McDuffie, Mrs. M. J. Crawford, Amanda Jarvis, Sarah Ann Jarvis, Mary Jane Jarvis, Nancy Jarvis, Nancy McCarley, James McCarley, Eli McCarley, Sindey McCarley, Macon McCarley,

Sarah McCarley, Walter McCarley, Effie McCarley, Mary McCarley, Earnest McCarley, and Nancy McCarley, each and all be admitted as members of the Chickasaw Tribe of ~~Inkixx~~ Indians By blood, and that they have all the rights, privileges and immunities as such.

It is further ordered, adjudged and decreed that the applicants Elizabeth McDuffie, wife of Daniel McDuffie, J. M. Crawford, husband of M. J. Crawford, M. W. McCarley, husband of Nancy McCarley and George Jarvis, Husband of Amanda Jarvis, each and all be admitted as members of the Chickasaw Tribe of Indians by intermarriage, and that they each have all the rights, privileges and immunities as such.

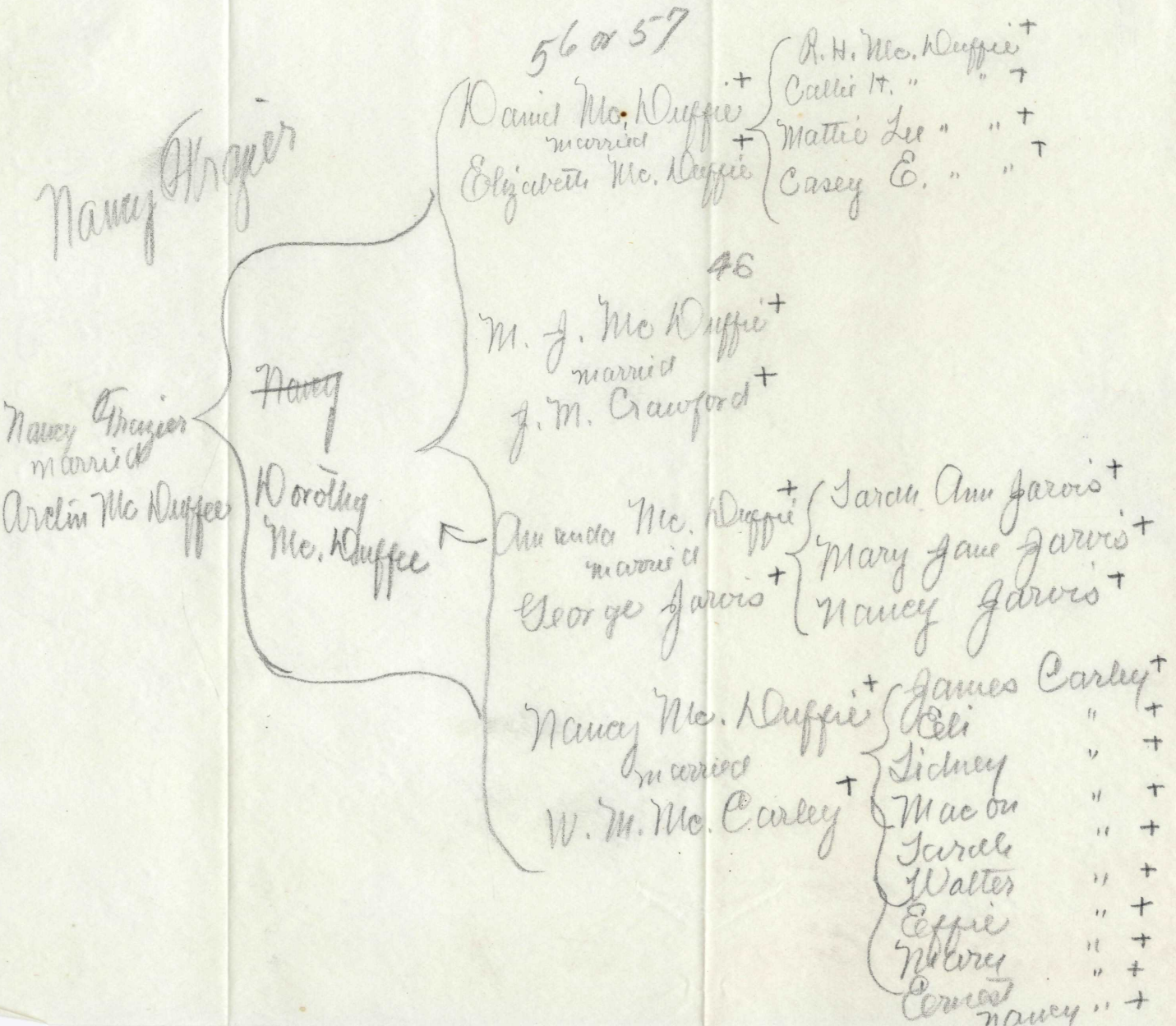
The clerk of this court is hereby ordered to transmit a certified copy of this judgment to the Commission to the Five Civilized Tribes ~~of~~ Indians, which said Commission, is hereby directed to place the names of each and all of the above ~~named~~ named parties upon the rolls of citizenship made out by it for the Chickasaw Nation, as members of said Chickasaw Tribe of Indians in the way and manner as here in indicated.

So this judgment the Chickasaw Nation excepts.

Wm. Simpson
Nancy McCarley

Judgment Court of Charles
Gibby, A, 1895.

Admitted by Daw. Com. 11/10-'96.
Admitted U.S. Court, March, 14, 1898



(Copy)

INDIAN TERRITORY,
CENTRAL DISTRICT:

My name is R. F. Hamilton. My P.O. is South McAlester
I. T.

I knew Squire Wolf. I was acquainted with his reputation
for truth and veracity in and around Ardmore, and in fact in
the Southern District of the Ind. Ter. That reputation was
bad.

He was a standing witness in citizenship matters; he
would swear to any statement, and he took money for so swear-
ing. He made giving testimony in citizenship cases his busi-
ness. I would not believe him on oath.

(Signed) R. F. Hamilton.

Subscribed and sworn to before me on this 27th day of
July, 1903.

SEAL

(Signed) D. A. Richardson,
Notary Public.

SUMMONS.

United States of America,

Indian Territory,

ss

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

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

GREETING:

You are hereby Commanded to Summons P. S. Moseley, Governor of the Chickasaw Nation, to answer on behalf of said nation, 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 nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at Tishomingo, by Daniel McDuffie, et al,

and warn him that upon his failure as said Governor to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of Daniel McDuffie, et al, File No. 4 in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this 24th day of March A. D., 1903.



Jas B Bassada Clerk. Ed Bertha Deputy.

MARSHAL'S RETURN

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

By *James B. Parker* Deputy,
Clerk.

I received this summons this 24th of March A. D. 1903,
at 10 o'clock am. and served same by copy, as follows:

Personally on P. S. Moseley, at South McAlester,
Indian Territory,

This 24th day of March, 1903, am.

WITNESS the Honorable Specter B. Adams, Chief Judge,
District of the

By James B. Parker Deputy.

the certificate of the clerk of said court for said South District, Indian Territory,
Indian Territory, has been transferred to the Choctaw and Chickasaw Chickenship Court, and that
file No. 1 in the District Court for the South District of the
that the papers filed and proceedings in the case of Daniel McNeill et al,
And you are further commanded to notify said P. S. Moseley, Governor of the Territory,
complaint will be taken, confessed, and you will make return of the summons instantant.

Copy

No. 77-5

SUMMONS
IN EQUITY.

Daniel McNeill et al

vs.

Choctaw and Chickasaw Nations.

Summons issued 24 day of
March, 1903. Returnable instantant.

Marshal's Fees.

Service	-	-	\$
Miles	-	-	\$
Expenses	-	-	\$
TOTAL			\$

Bruce & Bruce
Attorneys for Plaintiff.

Adams
ds

Choctaw and Chickasaw Chickenship Court.

Indian Territory,

United States of America,

SUMMONS.

Daniel M^cDuffie et al No. 77.

- ✓ Daniel M^cDuffie
- ✓ Walter Lee M^cDuffie
- ✓ Amanda Jarvis
- ✓ Nancy Jarvis, or Nancy Jarvis
- ✓ Eli M^cCarley
- ✓ Sarah M^cCarley
- ✓ Mary M^cCarley
- ✓ R. H. M^cDuffie
- ✓ Cassie E M^cDuffie
- ✓ Sarah Ann Jarvis
- ~~Henry M^c~~
- ✓ Nancy M^cCarley, or Nancy M^cCarley
- ✓ Sidney M^cCarley
- ✓ Walter M^cCarley
- ✓ Earnest M^cCarley
- ✓ Callie H. M^cDuffie
- ✓ M. J. Crawford
- ✓ Mary Jane Jarvis

Cuckshaw Rejert

✓ James McCarley

✓ Macon McCarley

✓ Effie McCarley

✓ Nancy McCarley, or Nancy McCarley

✓ Elizabeth McCarley

✓ J. M. Crawford

✓ M. W. McCarley

✓ George Jarvis

South McAlester, Indian Territory, June 26, 1903.

Daniel McDuffie, et al,

vs. T. No. 77. Southern District No. 4.

Chickasaw Nation.

LETTER OF INSTRUCTIONS.

TO _____.

The office files of the papers in the above entitled cause are herewith delivered, and you are directed to make an investigation thereof along the lines indicated, returning the same, together with your report and exhibits attached thereto at the earliest practicable date.

The applicants in this case seem to rely upon the certificate of the so called "Court of Claims of the Chickasaw Nation", of February 14, 1895, in which the opinion is expressed by the Court that the applicants are entitled to the rights of Chickasaw citizens. The action of this Court was in accordance with an Act of the National Legislature of the Chickasaw Nation, approved December 22, 1894 and required "That the chairman of said Court shall make a complete transcript copy of the proceedings of said Court in all cases, to be sub-

mitted to the Legislature, for their approval or rejection, and their decision shall be final."

By an Act of the National Legislature of the Chickasaw Nation, approved October 28, 1895, this application of these claimants for citizenship in the Chickasaw Nation was rejected.

The claimants then applied to the Dawes Commission under the Act of Congress of June 10, 1896, and were by judgment of November 10, 1896, denied. From this judgment, appeal was taken to the United States Court for the Southern District of the Indian Territory, which Court by judgment of March 14, 1898 reversed the decision of the Commission and admitted the applicants as Chickasaw citizens.

The petition for writ of error to the Choctaw and Chickasaw Citizenship Court includes all the persons mentioned in the judgment.

CLAIM OF APPLICANTS.

The applicants claim their right to admission and enrollment as citizens of the Chickasaw Nation by reason of the fact that they are direct lineal descendants of an alleged full blood Chickasaw woman of the name of Nancy Frazier, who had a daughter named Nancy Frazier, who married a white man named Archie McDuffie; that they had a child

named Norman McDuffie, who was the father of the principal applicant in this case.

The record will further show that these applicants, or at least the older members of the family came from the Eastern part of Georgia to Alabama when children, and moved from Alabama to Texas about the year 1874 or 1875, where they resided until their removal to the Chickasaw Nation, Indian Territory, which was apparently only a short time before the applicants ^{submitted} ~~made~~ their petition to the tribal authorities of the Chickasaw Nation.

Our theory of this case is that the applicants are not the descendants of any person by the name of Nancy Frazier; are not possessed of any Chickasaw blood, but if they did have a strain of Indian blood, it is probably Creek as the section of the country from which they originated was very near the center of the old Creek Nation in Georgia and South Carolina.

It is our further opinion that they have only assumed Nancy Frazier as their ancestor since removing to the Indian territory, and that by implication endeavored to obtain recognition as members of the Chickasaw tribe, as co-relatives of the Frazier family of Chickasaws.

EVIDENCE.

The exhibits attached to the petition to the Dawes Commission were the exparte affidavits and depositions presented to the Chickasaw tribal authorities at the time of the submission of their petition to the so called Chickasaw Court of Claims and consists of the depositions of Wm. Simpson, Nancy McCarley, Amanda Jarvis, J. S. Wolfe, and Mrs. M. J. Crawford, all of whom with the exception of Simpson and Wolfe were parties applicant to the petition to the tribal authorities, and are also claimants in this case.

Wm. Simpson, in his deposition of August 14, 1894 testifies that he is seventy-two years of age and lives at Goodland, Indian Territory; knew Nancy Frazier in Mississippi, who was a Chickasaw Indian by blood; she had five children, and gives their names, including one girl named Nancy. Testifies that Nancy married Archie McDuffee, and they had several children, one of whom was named Norman McDuffee, and that Norman McDuffee married and had children, but does not recall their names.

This deposition is entirely ex-parte. The questions propounded to the witness are leading, and A. J. Walker who took the deposition states that no

other person was present at the examination.

Our Mr. Richardson has heretofore been directed to obtain an affidavit from this witness, and on June 1, 1903 reports that he is dead.

Nancy McCarley and Amanda Jarvis in their ex-parte affidavits make practically the same allegations; that their mothers name was Dorothy McDuffie, and that her maiden name was Gillas; that their fathers name was Norman McDuffie, who died in Shelby County, Alabama; grand mother name was Nancy Frazier; and that she was a full blood Indian and a member of the Chickasaw tribe. These affidavits are but a reiteration by the applicants themselves of the allegations contained in the petition.

No investigation thereof is necessary.

J. S. Wolfe, in his exparte affidavit of July 20, 1894 alleges that he knew Nancy Frazier in Mississippi; she was a full blood Chickasaw Indian and had four children, one of whom was named Nancy, who married Archie McDuffee, and that they had a child named Norman McDuffee.

Our theory of this affidavit is that it is entirely fraudulent; that the affiant had absolutely no knowledge of the facts alleged to have been

testified to by him, and that if he ever did execute such an affidavit, it was without any knowledge of the contents thereof.

We believe this affiant is the negro Squire Wolfe, referred to by James Wolf, H. F. Murray and B. F. Kemp "whose reputation for truth and varacity is bad, and not entitled to credance by anyone".

You will endeavor to secure from this affiant, if he is living a statement or counter affidavit relative to his knowledge of the descendants of Nancy Frazier, leading him through each generation, and having him fully testify to all the descendants of Nancy Frazier whom he knew. If he is unable to so testify, interrogate him ~~him~~ as to his personal knowledge and acquaintance with these McDuffie applicants, and have him trace their ancestry back to their great grand mother.

Mrs. M. J. Crowson, also one of the applicants testifies that her grand mother was Nancy Frazier, who married Archie McDuffie, father of Norman McDuffie, and that they had four children. This statement is but a re-iteration of the allegations in the original petition, and no further investigation thereof is necessary.

The depositions before the Master in Chancery at the trial of the cause on appeal before the United States Court for the Southern District of the Indian Territory consists of the testimony of M. J. Crowson, ~~Daniel McDuffie~~ and Daniel McDuffie, both of whom are parties applicant, and is merely to their remaining undist~~x~~urbed while holding tracts of land in the Chickasaw Nation.

In the cross examination of Daniel McDuffie by the attorney for the Chickasaw Nation, he states that his father died when about thirty-five or thirty six years of age; that he was a black smith in the State of Alabama; that he, the witness last saw his grand mother in Georgia, and that when he, the witness lived in Georgia, it was near the South Carolina line.

There also appears in the record the testimony of several witnesses relative to the truth and veracity of one Sim Casey, or Chickasaw Sim, and it is impracticable to understand the purpose of this discussion, as there has been no evidence introduced by any witness of this name.

There are also included in the record the affidavits of B. F. Kemp, Jonas Wolf and H. F. Murray

relative to the unreliability to be placed in the testimony of Isaac Williams, Squire Wolf, (or J. S. Wolfe), and Sam Perry.

B. F. Kemp also testifies that he knew a Chickasaw Indian named Nancy Frazier some forty years ago who had two children, one by her first husband, Winchester Colbert, and one by her second husband, whose name was Leader; never heard of or ~~known~~ ^{knew} a Chickasaw by the name of McDuffie, neither has he heard of a Chickasaw by the name of any of the applicants in this case; was well acquainted with Nancy Frazier, and is satisfied that if any of these applicants had been her descendants, or related to her he would have known it.

It is probable that these applicants are now living in the Chickasaw Nation near Ardmore, and you may be able to obtain some information relative to their ancestry from citizens of the Chickasaw Nation residing in that vicinity.

It is somewhat difficult to definitely instruct you as to the procedure in cases of this character. We feel reasonably sure that this claim is absolutely fraudulent, and without the least vestage

of truth.

The principal witness now being dead, it would be impracticable to rebut his testimony except on the general proposition of his entire unreliability.

You will proceed in the obtaining of such information as in your opinion may be of material benefit to the Nation at the trial of this cause, bearing in mind the necessity for thoroughness, and of giving as little ^{publicity} possibility ^{to} the character of your mission.

Yours very truly,

aforesaid, Daniel McDuffie et al., vs. Chickasaw Nation, and said court therein determined, and adjudged these petitioners, each and all, to be citizens and members of the Chickasaw Nation or Tribe of Indians, and ordered and directed the said Commission to the Five Civilized Tribes to place the names of petitioners upon the roll of citizenship of the Chickasaw Nation or Tribe of Indians, as members thereof; which said judgment was rendered by and entered of record in said court on the 14th day of March, 1898.

Petitioners further show that by its judgment rendered on the 17th day of December, 1902, in a cause styled The Choctaw and Chickasaw Nations, or Tribes of Indians, plaintiffs, vs. J. T. Riddle et al., defendants, this court adjudged and decreed all the judgments and decisions of the United States Court in the Indian Territory, admitting to citizenship and enrollment as citizens of the Choctaw and Chickasaw Nations upon appeal from the Commission to the Five Civilized Tribes, the ten defendants named in said cause in this court, as well as those who had come in and made themselves parties to said cause, and all judgments rendered in favor of all persons similarly situated, null and void.

These petitioners state that they were not parties to said suit or cause of The Choctaw and Chickasaw Nations, or Tribes of Indians, plaintiffs, vs. J. T. Riddle, et al., defendants.

That this court did not have the power or jurisdiction under the pleadings and evidence in said cause, to set aside or vacate the judgment theretofore rendered in the United States court for the Southern District of the Indian Territory, adjudging and establishing the citizenship and membership of these petit-

the Southern District of the Indian Territory, at Ardmore, declaring and adjudging these petitioners to be citizens and members of said Chickasaw Nation or Tribe of Indians, was not in any way affected, set aside or avoided by said judgment of this court.

These petitioners, state however, that inasmuch as this court has entered its judgment and decree setting aside all the judgments of said United States Court for the Southern District of the Indian Territory, where the parties thereto are similarly situated to the ten defendants named in said cause of The Choctaw and Chickasaw Nations, or tribes of Indians, plaintiffs, vs. J. T. Riddle et al., defendants, the Commission to the Five Civilized tribes are denying and will deny to these petitioners all the rights and privileges as such members of said Chickasaw Tribe of Indians; and petitioners will be denied and deprived of all the rights and privileges of members of said Chickasaw Tribe or Nation of Indians, unless the files, papers, and proceedings in said cause Co. 4, styled Daniel McDuffie et al., plaintiff, vs. Chickasaw Nation, in the said United States Court for the Southern District of the Indian, at Ardmore, be certified and sent to this court for further proceedings therein;

Wherefore, these petitioners, still insisting upon their rights as members and citizens of the said Chickasaw Nation or Tribe of Indians, and without waiving any of the rights adjudged and decreed to belong to them under and by virtue of said judgment of said United States Court for the Southern District of the Indian Territory, at Ardmore, in said cause No. 4, styled Daniel McDuffie vs. Chickasaw Nation, most respectfully pray

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the Indian Territory, to certify and transfer to this honorable court all the files, papers and proceedings in said cause No.4, styled Daniel McDuffie et al., vs. Chickasaw Nation, in said court; that the Principal Chief of the Choctaw Nation and the Governor of the Chickasaw Nation be cited, and served with process herein, to the end that these petitioners be established in, and not deprived of their rights as members and citizens of said Chickasaw Nation or Tribe of Indians, and for all other just and proper relief in the premises.

Supp of writs

to, if not to

Rice + Rice
Attorneys for petitioners.

IN THE CHICKASAW AND CHOCTAW CITIZENSHIP COURT, SITTING AT
TISHOMINCO.

Daniel McDuffie et al, Plaintiffs)

vs.

Chickasaw and Choctaw Nations,

Defendants.)

come now the plaintiffs and without entering their appearance to this cause, except for the purposes of this motion, and without waiving any rights that they have under the law, but still insisting upon same, and without submitting this case upon the record, but especially protesting against the submission of same, upon the record, and move the court to dismiss this cause. ~~Plaintiffs show to the court that the Choctaw Nation has not been served with process, and plaintiffs do not desire that said Choctaw Nation should be so served. Plaintiffs protest against the service of said Nation, or the entering by said Nation of its appearance herein, and state that this court has no jurisdiction over this cause except for the purpose of dismissing same.~~

Daniel McDuffie et al
By *C. C. C. + C. C. C.*
Atty

In the Choctaw and Chickasaw Citizenship Court, sitting at
Tishomingo, in the Southern District of the Indian Territory.

Daniel McDuffie, et al.,

vs.

No. 77.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this day of , 1904, this cause coming
on for final decision, the same having heretofore been submitted
upon the law and the evidence, and the Court being well and
sufficiently advised in the premises, doth find that the
plaintiffs, Daniel McDuffie, Mattie Lee McDuffie, Amanda Jarvis,
Nancy Jarvis or Nancey Jarvis, Eli McCarley, Sarah McCarley,
Mary McCarley, R. H. McDuffie, Cassie E. McDuffie, Sarah Ann
Jarvis, Nancey McCarley or Nancy McCarley, Sidney McCarley,
Walter McCarley, Earnest McCarley, Callie H. McDuffie, M. J.
Crawford, Mary Jane Jarvis, James McCarley, Macon McCarley,
Effie McCarley, Nancey McCarley or Nancy McCarley, Elizabeth
McDuffie, J. M. Crawford, M. W. McCarley, and George Jarvis,
are not entitled to be deemed or declared citizens of the
Chickasaw Nation, or to enrollment as such, or to any rights
whatever flowing therefrom.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the
petition of the plaintiffs, Daniel McDuffie, Mattie Lee McDuffie,
Amanda Jarvis, Nancy Jarvis or Nancey Jarvis, Eli McCarley,
Sarah McCarley, Mary McCarley, R. H. McDuffie, Cassie E. McDuffie,

M. J. Crawford, Mary Jane Jarvis, James McCarley, Macon McCarley, Effie McCarley, Nancey McCarley or Nancy McCarley, Elizabeth McDuffie, J. M. Crawford, M. W. McCarley, and George Jarvis, be denied, and that they be declared not citizens of the Chickasaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

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In the case of Daniel McDuffey, et al,

T. number 77, I. W. Folsom of Ardmore testified

as to the reputation of Sin Casey, or Chickasaw Sin

as he is sometimes called for truth and veracity.

The affidavit is not of importance.

appended.

See him

attended to

5 I knew Sin Casey or Chickasaw Sin he was
 6 sometimes called. I never had anything to do with
 7 him, and knew but little about him personally.
 8 I have heard some things of him that were very
 9 shady; and the general opinion was that his character,
 10 so far as truth and veracity are concerned, was not
 11 good.

I. W. Folsom

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The affidavit is not of importance.

as he is sometimes called for truth and veracity.

as to the reputation of Jim Casey, or Chicasaw Jim

J. number 11, I. W. Folsom of Ardmore testified

In the case of Daniel McDuffey, et al., I was directed to see Dr. I.W. Folsom, of Ardmore. I saw the Doctor and took from him the statement hereto appended.

I knew Jim Casey or Chicasaw Jim as he was sometimes called. I never had anything to do with him, and knew but little about him personally. I have heard some things of him that were very shady; and the general opinion was that his character, so far as truth and veracity are concerned, was not good.

I. W. Folsom

abberdeg.
and the doctor and took from him the statement hereof
was directed to see Dr. I. W. Johnson of Aldmore. I
in the case of District No. 1 of St. I

1 Indian Territory
2 Southern District)

3 My name is I. W. Johnson, I live
4 at Aldmore.

5 I knew Jim Casey or Chickasaw Jim as he was
6 some times called. I never had anything to do with
7 him, and knew but little about him personally.
8 I have heard some things of him that were very
9 shady; and the general opinion was that his character,
10 so far as truth and veracity are concerned, was not
11 good.

12 I. W. Johnson

INDIAN TERRITORY,
CENTRAL DISTRICT.

Before me, the undersigned authority, personally appeared
Ex. Gov. R. M. Harris, personally known to me, and who after first
by me being duly sworn, deposes and says:

"My name is R. M. Harris, 51 years of age, and a member
of the Chickasaw Tribe of Indians by blood, and have lived among
the Tribe all my life; have been governor of the Chickasaw Nation,
and filled many of the minor offices under the Chickasaw Government;
was one of the Commissioners who made the "Atoka Agreement",
through my long, continued services for my people, I have become
acquainted, and familiar with nearly all citizens, and with the
so-called Chickasaw Freedmen; I am a merchant farmer, and stock
raiser at and near Tishomingo; I have known Peter and "Squire"
Wolf since my childhood, and know that they were looked upon as
"Standing Witnesses" in Citizenship cases and other causes; I have
known them to testify in behalf of, and for people, and that I
was fully aware they could not know anything about, and that I
know that they could be handled and caused to swear to suit the
person, handling them, for a money consideration, and having known
them as I have, I would not believe them, or either of them, on
oath, where either expected or had an opportunity to receive re-
numeration therefor."

R. M. Harris.

Subscribed and sworn to before me this 9th day of July A.D. 1901.

Wm H. Murray,
Notary Public.

INDIAN TERRITORY,
Southern Judicial District.

Before me the undersigned authority, personally appeared M. V. Cheadle, personally known to me, and who after first by me being duly sworn, deposes and says: I am forty-five years of age, a member of the Chickasaw Tribe of Indians by blood, and have held many important positions under the Government of the Chickasaw Nation, to-wit: have represented the Nation as Counsel, and represented the Nation as Commissioner in making the "Atoka Agreement" ; been a member for a number of years of the Senate and House of Representatives of the Chickasaw legislature, and am a lawyer by profession, and in performance of these duties have met and become acquainted with nearly all the citizens of the Chickasaw Nation., and also the Chickasaw Freedmen. I well knew "Squire" Wolf and Peter Wolfe, two old Chickasaw Freedmen, and have known them well since childhood, and have lived within two miles of the home of "Squire" Wolfe for some 35 or 40 years: I know each of their general reputations in the Communities in which they live, for truth and veracity, and that they are known as "Standing Witnesses", and that they can easily be procured to testify falsely in any case for a money consideration: I know that in the year '89 when the incompetent payment was made, both "Squire" Wolfe and Peter Wolfe came to me and proposed to me to furnish their testimony, or evidence, to support a claim for my wife, but having no confidence in their evidence, I refused them, and it afterwards happened that another applicant secured the claim and thus made this latter applicant a descendant of the same person whom they were willing to swear was the ancestor of my wife, and by the testimony and their proposition to me, made my wife and the applicant brother and sister, which everybody knew to be false. In short I would not believe "Squire" Wolfe or Peter Wolfe on oath wherein they had an interest or expected to have. And I have talked to both of them where they have been witnesses in citizenship and incompetent cases and asked them how they were paid for their services,

and they told me that the contract invariably was that they were to have a cash fee in advance, and in the event the applicant for citizenship, or incompetent fund should establish their claim they were to have an additional fee, consequently from what I know of them I have no confidence in the truth of the testimony, they have given in such cases.

M. V. Cheadle,

Subscribed and sworn to before me this the 9th day of July, A.D. 1901.

Wm. H. Murray,
Notary Public.

INDIAN TERRITORY,
Southern Judicial District.

Before me, the undersigned authority, personally appeared Jack Alexander, personally known to me, and who after first by me being duly sworn, deposes and says: "My name is Jack Alexander, I am thirty-seven (37) years old; I am a Chickasaw Freedman, and live at Wiley, I.T.; I am a merchant and farmer; I am pretty well acquainted with all the Chickasaw Citizens and Chickasaw Freedmen, I know "Squire" Wolfe and Peter Wolfe. I was raised by "Squire" Wolfe from childhood to manhood. I was brought up right in his house, and under his control. I also knew Peter Wolfe, nearly as well as I know "Squire" Wolfe, because he lived with us the most of the time during my raising. I knew that Peter and Squire Wolfe were sought after by claimants to Chickasaw citizenship and other like causes, as standing witnesses. I have heard Peter Wolfe remark time and again that he was swearing for the money there was in it, and as to old man Squire Wolfe, whom I called "Grand Pa", I have time and again become alarmed for his sake, at the rate he was swearing for white people for fear he would get into trouble; but such claimants kept coming to him and paying him a little money, and he kept on making affidavits to suit their wishes, and kept it up until his death, and even when he (Squire Wolfe) was on his death bed and after he had become both speechless and unconscious these claimants kept coming with their affidavits, already written out and would set on the bedside and forcibly take his hand with their hand and forcibly have him touch the pen, then they would sign his name, and make his mark, and would leave a little money there for his family, knowing as they did that Squire Wolfe was then dying; at the same time this was going on with Squire Wolfe, old man Sam Perry, another old Chickasaw Freedman, had an office established in an out house belonging to Squire Wolfe, where he was constantly making such affidavits and receiving money for it,

and in this way both Sam Perry, Peter Wolfe, and Squire Wolfe made good money off such claimants to citizenship, and incompetent claims. I further state that during the last ten years of Squire Wolfe's life his mind had become badly impaired, he was childish, and very feeble, and allowed himself to be handled in any way for money. He has been dead now for some 4 or 5 years, and even since his death, I have received money from some of these claimants in payment for the affidavits he had made for them, I had charge of his estate (after his death) to some extent. While he was on his death bed and in a dying condition, these claimants kept bothering him so, until I, mad one day, ran them off the place and broke up Sam Perry's officem I also knew that old man Peter Wolfe was handled in the same way for the money in it for him. I have been paid fees myself for some such claimants to go and procure affidavits from old lady Cunish-ma-tubby, and when I went to her, and made my business known to her she said she would not swear for the parties for no less than fifty dollars, and \$25.00 in advance; but if the parties would pay that then she would swear for them. So I returned and made my report. I was to receive \$10.00 for my trouble, but as I did not get the affidavits, I only got five dollars, consequently I as good as know that all these affidavits were false and were only given or made for the money paid for them to the witnesses, and I would not believe either or any of them. I know and believe there is no truth in any of them. It was simply alarming to me to see how Squire Wolfe was swearing for a little money which they would pay him. I can furnish a few names who crawled upon ~~his~~^{the} death bed of Squire Wolfe when he was dying--and touched the pen to his hand and then signed his name, and made his mark, and went away contented with his affidavits--if the same was necessary--and I well know that Squire Wolfe, Sam Perry, Peter Wolfe, and the old woman, Cernish-ma-tubby and Ike Williams were the witnesses saugh for when the testimony desired was to be purchased, and where money was used I

would have no faith or confidence in the truth of their affidavits because I do not believe there is any truth in them, and I am satisfied the claimants knew it too; but the affidavits served their purpose true or untrue, and that was all they wanted and since Squire Wolfe's death and since the claimants have used his affidavits to their purposes, they have returned to me a little money for the family "with thanks" to Squire for the affidavits. Some of this money I was instructed to apply to the benefits of Squire Wolfe's family, and some I was to pay over to Sam Perry, and having seen this business carried on I have knowing at the time it was all bogus and fraudulent I have no hesitance in making this my affidavit, and there could be much more said relating to the way and manner some of these affidavits were procured.

Jack Alexander.

Subscribed and sworn to before me this the 13 day of July A.D.
1901.

H. Schneider,
Notary Public,
Southern Judicial District
Indian Territory.

McDuffie

DANIEL McDUFFIE says he is 56 years old and has lived here 14 years; moved away once to the State of Arkansas to educate his children, lived in Arkansas eight years, then came back to the Chickasaw nation; is a son of Norman McDuffie and Dorothy Gillas who now lives in the State of Georgia; affiant has been recognized as a Chickasaw Indian; applied to the Court of Claims a year or two ago and got judgment before said court; his grandmother married a man by the name of Colbert; affiant's grandmother, Nancy Frazier was a one half blood Chickasaw Indian; they lived in the State of Alabama; affiant moved from Georgia to Alabama; was about 12 years old at that time; there were no Indians living near them in Alabama; affiant voted when he lived in ~~Texas~~ Arkansas.

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B. F. KEMP says he is a Chickasaw by blood, 63 years old; came to this country from the State of Alabama in 1836. Names the various offices he has held. Knew Nancy Frazier, she was a great aunt of affiant's; she had only two children, one named Winchester Colbert and another Edward Leader; Colbert is dead, but Leader is still living; affiant never heard of the present applicants being Chickasaws or claiming to be, until they presented their claim before the committee and were afterwards rejected by the legislature; J. S. Wolfe who testified in their behalf is a negro whose reputation for truth and veracity is very bad; affiant never heard of any Chickasaws by the name of McDuffie; is sure if these applicants were descendants of Nancy Frazier affiant would have known it.

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CONCLUSIONS.

There is no testimony to support the contention of claimants that they are descendants of Nancy Frazier. The testimony of those Chickasaws who did know Nancy Frazier show conclusively that applicants were not and could not have been her descendants.

ren, whose names were Henry, Tom, Nancy, Polly and Charles Frazier. Affiant knew Archie McDuffie, who married Nancy McDuffie the daughter of Nancy Frazier; Archie had several children by his wife, one of whom was Norman McDuffie. Nancy Frazier and her descendants emigrated to the Chicksaw nation about 1835 or 1837.

NANCY McCARLEY says she lives at Ryan, I. T., her maiden name was McDuffie; she was the daughter of Dorothy McDuffie; her mother died in Smith county, Texas in September 1877; her mother always told her that affiant's grandmother on her father's side was a Chickasaw Indian whose name was Nancy Frazier; her grandfather's name was Archie McDuffie; affiant's father's name was Norman McDuffie.

AMANDA JARVIS, same as above.

J. S. WOLFE says he knew Nancy Frazier in Mississippi; that she was a full blood Chickasaw, and had four children, to-wit: Henry, Tom, Nancy and Polly; Nancy married Archie McDuffie; they had one child named Norman McDuffie.

J. M. CRAWFORD says he is 65 years old; has lived in this country eight years; that he married Mary J. McDuffie in Alabama in 1863; he came here from Cook county, Texas; has always been recognized and treated as a Chickasaw Indian; has had permits from the Chickasaw government and held land under same; once filed an application for citizenship before the Chickasaw Committee; has never drawn annuity money, applied but was refused; Judge Carter was his partner in business; affiant lived in Gainesville, Texas, nine years; Judge Carter was affiant's attorney before the Court of Claims.

DANIEL McDUFFIE, ET AL.

The application of Daniel McDuffie, his wife, children and grandchildren, state that they filed with the Court of Claims of the Chickasaw nation a petition setting up the fact of their citizenship, and that at the February, 1895, term of said court, after hearing the testimony the court issued them a certificate of citizenship, which is given in words and form; that since the issuance of said certificate the applicants have enjoyed all the rights and privileges of citizenship; that they are residents of the Chickasaw nation; that shortly after they were admitted by the court their case with others was sent to the legislature of the Chickasaw nation and was passed upon adversely by said legislature, without reviewing the testimony or being advised of the facts. Applicants state that they are Chickasaw Indians by blood, being direct descendants of Nancy Frazier a Chickasaw Indian woman, who lived in the State of Mississippi prior to the removal of the Chickasaw tribe of Indians to the present Chickasaw nation Indian Territory. Asks enrollment.

Application denied by the Dawes Commission; appealed to the United States Court for the Southern District; referred to W. H. L. Cambell, Master in Chancery, who having heard the testimony, recommended that the application be denied. The case was afterwards referred to John Hinkle, Master in Chancery, who found that all the applicants were Chickasaw Indians and entitled to enrollment. Applicants were all admitted by the Court.

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AFFIDAVITS BEFORE THE DAWES COMMISSION.

W. M. SIMPSON says that he is 72 years old, and lives near Good land, Indian Territory; he knew Nancy Frazier in Mississippi, and knew her to be a Chickasaw Indian by blood; she had five child-