

✓ 10th.-- In the Joanna Horn case, witnesses' testimony is not especially important, but under date of October, 1895, he testifies that he is between 80 and 83 years of age; that he was raised in Pontotoc County, Miss., and that he knew a man in that country by the name of Davis Logan; that he was to the best of his information a Choctaw Indian; that when witness knew him he had three children.

N^o 83

Joanna Home, et al,

vs

b. & b. Nations

N^o 29.

Central District Court.

N^o

Jones Commission.

Copy of 22 Dec 1871
at Dec 27 1871

Edward J. Home, et al, was
the original style of the case -

Filed for Nations
Book 29 - 1871
also No 82 -
Jones Commission -

Witnesses.

For Claimants.

Thomas Greenwood	Irley, D.T.
S. P. Perry	Ada, " "
Mary Ann Metcalf	Cookville, Tex.
Nancy Home	Greenville, Tex.
Mattie E. Gregory	Upshur Co. Tex. <u>Gilmer</u>
M. M. Smith	Silo, D.T.
J. W. Davenport	" " "

For Nations.

Joe Rieder	Jolson
Old man Horn - apple father	Durant - Paes
Albert Home	
Pearl Clark	
J. H. Godfrey	Kiowa
E. V. Wilson	Leon, D.T.
E. Drabell	Pryor Creek, D.T.
Joe Rieder	Jolson, D.T.

1
2 My name is S. P. Perry & I knew a
3 an Indian in Tatooe County Mississippi
4 by the name of Davis Logan. Did not
5 know his father or mother. Afterward
6 knew him in Indian Territory in about
7 1845. He had one child a daughter
8 but I never got acquainted with
9 her until after she married. Her name
10 was Mary. She married a man named
11 Home. I did not know any of her
12 brothers or sisters. Home lived near
13 Durant when I last heard of him

James P. Brown

S. P. Perry

16 I hereby certify that I read the foregoing affidavit
17 to S. P. Perry and that he subscribed and sworn
18 to the same before me this 2nd day of April
19 1903.

Geo. P. Crawford

Notary Public



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Joanna Home
Case



Affidavit of D.P. Perry

[Faint, mostly illegible handwriting in the left margin, possibly containing names and dates.]

[Faint, mostly illegible handwriting in the right margin, possibly containing dates and names.]

I N D E X.

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Sept. 1st. 1896.

Received this day of Dunstan & Wilkins, in the claim for citizenship of Edward J. Horne et al. vs. Choctaw Nation, copies of the following papers:

Petition for citizenship, affidavit of Thomas Greenwood,
Affavit of S.P. Perry, report of committee on citizenship
Affavit of Mary Ann Metcalf, receipt from Green McCurtain,
National Tres. affidavit of Nancy W. Horne, affidavit of Mattie
E. Gregory, Act to establish citizenship of E.J. Horne et al.
Copy of record.

Stuart, Gordon & Hailey.

Attys for Choctaw Nation.

Edward J. Horne et al

TO Petition for citizenship

The Dawes Indian Commission

On this day comes Edward J. Horne and represents that he is a one fourth Choctaw Indian by blood derived from his mother Mary Horne formerly Mary Logan, who was a daughter of Davis Logan, a Choctaw Indian between three fourths and full blood, remaining part white.

That he is 42 years of age; that he was born in the Indian settlement in Mississippi; that he came to the Indian Territory, in 1892, and is now a bona fide resident of the Choctaw Nation, Indian Territory

That he was acquainted with, remembers and knew well, his grandfather, Davis Logan, and knew him to be a Choctaw Indian as aforesaid

That in the year 1892 he applied for citizenship before the Choctaw Council at Tuskahoma, I.T. deposited one hundred dollars with the National Treasurer as he was required by law to do, and was represented in his claim by A. Telle Esquire.

That his claim was properly referred to the citizenship committee which after hearing his testimony, recommended that he be admitted and he and his children enrolled as members of the Choctaw Tribe as is shown by certificate of records by J.B. Jackson, National Secretary, filed herewith, marked Exhibit "A" and made a part hereof, which application is yet pending before said Council.

That he was legally married to his wife Joan Horne, a white woman in the state of Texas, in July 1879, by whom he has had the following children living;-----

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Icy D.O. Horne, a daughter 16 years old. Victoria D. Horne a daughter 14 years old. James O. Horne, a son 12 years old, Chas. S. Horne, a son, 10 years old. Commie E. Horne a daughter 8 years

old. Mary E. Horne, a daughter 5 years old and Sarah E. Horne, a daughter 1 year old.

that he has never been convicted of any felony.

Therefore upon final hearing, petitioner prays that he be admitted to citizenship, that he, his wife and children aforesaid be duly enrolled as members of the Choctaw tribe of Indians, for which he will in duty bound ever pray &c.

E. J. Horne

Edward J. Horne being duly sworn says that the statements made in the foregoing petition are true and correct as he verily believes.

E. J. Horne.

Subscribed and sworn to before me this 11th day of August, 1896.

J. H. Wilkins

Notary Public.

United states of America.

Indian Territory,

Central District.

Thomas Greenwood being first be my duly sworn
according to law says:

I am 70 years of age, my postoffice is Wiley, I.T. I know
Edward J. Horne, he is about one quarter Choctaw Indian by blood
derived from his mother, Mary Horne nee Logan, who was a daughter
of Davis Logan a little more than three quarter Choctaw Indian,
whom I also knew very well.

These people were born and reared in Muckalushia old town,
Miss. My master's family and the Logans were intimately acquainted
with each other, and visited each other frequently while living
in Mississippi.

The other blood of the Logans as well as that of E.J. Horne,
other than Choctaw Indian is of the white man.

I am a Choctaw freedman, enjoy all the rights of other Choctaw
citizens, and have been used as a witness to testify in claims
of citizenship before the citizenship committee of the Choctaw
Nation at Tushkahoma, Indian Territory.

I am not related to Edward J. Horne, nor have I any interest in
his claim for citizenship.

his
Thomas X. Greenwood
mark

Subscribed and sworn to before me this 15 day of Aug. 1896.

R.F. French

(SEAL)

Notary public.

United States of America

Indian Territory

Central District

Sam Perry being first by me duly sworn according to law says:

I am a Choctaw citizen, I am 84 years of age, my postoffice is Wiley, Indian Territory.

I was born and raised in the old Choctaw Nation or reservation in Mississippi.

I know Edward J. Horne, he is about one fourth Choctaw Indian by blood derived from his mother, Mary Horn who was formerly Mary Logan, a daughter of Davis Logan, who was between a three quarter and full blood Choctaw Indian.

I was well acquainted with Davis Logan during his lifetime, he as well as his daughter, were born and reared in Muckalushia old town, Mississippi.

The blood of these Logans as well as that of E.J. Horne, other than Choctaw Indian, is of the white man.

I am not related to Edward J. Horne, nor have I any interest in his claim for citizenship.

I have testified as a witness in many cases of citizenship before the citizenship committee of the Choctaw Council of Muskogee, I.T.

his
S.P. X Perry
mark

Subscribed and sworn to before me this 15 day of August, 1896.

R.F. French

Notary Public.

(SEAL)

To all whom these presents shall come greeting

This is to certify that E.J. Horne et al. having had the case for citizenship before the committee on citizenship at Muskahoma Ind. Ter. at the October session A.D. 1892. And the Committee consist of L.H. Williams Chairman of the committee. D.A. Homer, Joseph Thompson, Noel James, C.H. Jones And after hearing the evidence allowed the same favorably.

Given under my hand this 16th day of Dec. A.D. 1892.

Henry Byington,

Clk. Committee on citizenship.

State of Texas

Hunt county

Before me the undersigned authority on this day personally appeared Mary Ann Metcalf who being by me duly sworn on oath says that she was present at the wedding dinner of E.G. Horne and Mary Logan daughter of ^uavis Logan a Choctaw Indian They were married in 1849 in Kemper County, Mississippi, The names of the four oldest children of the said E.G. Horne and Mary Horne were 1st W.T. Horne 2nd J.F. Horne who are all now living except W.T. Horne who left six children. My place of residence is Cooxville C, Titus Co. Tex.

Witness my hand this the 31 st day of Aug. 1892¹

her
Mary Ann X Metcalf
mark

Sworn to and subscribed before me this the 31 st day of Aug. 1892.

W.A. Frazier, justice of the peace
and ex-officio Notary public, Hunt

(SEAL)

Co., Tex.

R E C E I P T.

Tushkahoma I.T. 10/20, 1892.

Received from E.J. Horne, per A. Belle one hundred dollars---
Citizenship claim.

\$100.00

Green McGurtain--Nat. treas.

(SEAL)

W. Bond.

7

State of Texas

Hunt County

before me the undersigned authority on this day personally appeared Nancy W. Horne who being by me duly sworn on oath says that she was present at the wedding dinner of E.H. Horne and Mary Logan daughter of Davis Logan. They were married in 1849 in Kemper County, Mississippi. The names of the four oldest children of the said E.G. Horne were 1st. W.T. Horne, 2. J.T. Horne, 3. S.A. Smith, nee Horne, 4. E.J. Horne who are all now living except W.T. Horne MY place of business is ⁱⁿ greenville Hunt County Texas.

Witness my hand this 29th day of Aug. 1892.

her
Nancy X W. Horne
mark

sworn to and subscribed before me this the 29th day of Aug. 1892.

E.W. Harrison

Co. Clk. Hunt Co. Tex.

(SEAL)

8

The state of Texas

Upshur County

This day personally appeared before me G.C. Gregory a Notary Public of Upshur County and state of Texas Mattie E. Gregory and after being duly sworn deposes and sayeth that she was at the marriage of Edward G. Horne and Mary Logan in Oct or Nov. 1849 and further sayeth that Mary Logan was the daughter of pan Logan & wife. Was well acquainted with both Logan & wife. They moved to Kemper county, from Perry County, Ala. in 1846 or 7 said Edward G. Horne was married in Kemper Co. Miss. 2 miles east of DeKalb the county seat of said county of Kemper and State of Miss. & Thom Horne & Synthia Horne & E.J. Horne & Frank Horne is the children of said Edward Horne & wife, The said Mary Logan wife of E.G. Horne died sometime in 1859 or 60 I was very well acquainted with the Logan family. I lived about a mile or so from said Logan in 1848 & 1849.

Mattie E. Gregory (L.S.)

Sworn to and subscribed before me this 12 day of Sept. 1892.

G.C. Gregory

(Notary public
Upshur Co.
attached here.)

Notary Public of Upshur County.

(SEAL)

Evidence of Sam Perry.

My age is between 80 and 83 years. I was raised in the old Choctaw country and this country. That section of the country I came from was Pontotoc Co. I knew a man in that country by the name of Davis Logan. To the best of my information he was a Choctaw. When I knew him to the best of my recollection he had three children.

Sam Perry.

Sworn to and subscribed before me this Oct. 18-1895.

D. Robuck Clk. Citizenship Com.

An Act to establish the citizenship of E.J. Horne & others herein named.

Be it enacted by the ^uGeneral Council of the Choctaw Nation assembled.

That W.A. Moore & children, J.F. Horne & children S.A. Smith & children & E.J. Horne & children are hereby declared to be entitled to all the rights privileges and immunities of other Choctaws by blood & this act shall take effect & be in force from ^y & after its passage.

Proposed by L.H. Williams

Chairman Committee

on citizenship.

(N.B.)

The committee in 1892 offered to approve the claim of E.J. Horne et al. The above bill was drafted by A. ^elle at their request but it was held by the house that the names & ages of the children should be of record. Accordingly in 1895 a bill was drafted inserting the names of the children but council decided that all such unfinished cases had to be again passed upon by the committee & the committee of 1895 rejected the claim.

It is not my white wife & children that ⁺ want to make Choctaws I have lived in Texas since 1860. My wife died the 6th day of August 1860. I have taken of having their rights proven all of my life. I boast about my boys having Indian blood. I did not know the regulations of the Nation in a legal process of obtaining citizenship and I am not an applicant for citizenship.

E.G. Horne

Henry Byayton, Clk. Citizenship

Committee.

subscribed and sworn to before me this the 21st day of Oct. A.D. 1892.

Henry Byington

Clerk Citizenship Committee.

Tuskahoma City Oct. 22 1892.

Committee met Quorum present and the petition of E.J. Horne et al. was presented by their attorney A. Telle read the petition and it was interpreted by the Clerk. A. Telle presented a receipt for \$100.00 one hundred dollars A. Telle introduced some testimony and E.G. Horne was sworn in by the Clerk, testimony taken. After hearing the evidence they allowed them to be recognized and the petition was approved by the Chairman L.H. Williams. The applicants which are as follows. M.A. Moore and six children of W.T. Horne deceased S.A. Smith (nee Horne) and six children J.F. Horne & four children and E J. Horne and six children.

Attest Henry Byington

Clerk Citizenship Committee

Oct. 22. m 1892.

~~The~~ Extract from the minutes of committee on citizenship.

Oct. 22, 1892.

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This is to certify that the above & foregoing is a true & correct copy from the original record in the matter of the application of E. J. Horne et al. for citizenship in the Choctaw Nation.

Witness my hand & the great seal of the Choctaw Nation this the 23rd day of Oct. 1895.

J. B. Jackson

National Secy.

Choctaw Nation.

(SEAL)

13

COMMISSIONERS.

Henry L. Dawes,
Frank C. Armstrong,
Archibald S. McKennon,
Thomas B. Cabaniss,
Alexander B. Montgomery
H. M. Jacoway, Secretary.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Fort Smith, Arkansas, Dec 8 1896.

1410

I, H. M. Jacoway, Jr., Secretary, do hereby certify that the above and foregoing is a true and correct copy of Choctaw Record C page 435 of the Commission to the Five Civilized Tribes.

Given under my hand and official signature
this the 8 day of Feby. 1897.

(SIGNED)

Henry Stroup
Act. Secretary.

014

In the United States Court for
the Central Judicial District
of the Indian Territory.

E. J. Horne, -----Appellant.

vs.

Appeal.

Choctaw Nation, -----Appellee.

Now on this day comes E. J. Horne, appellant and says;--

-I-

That he is a one fourth Choctaw Indian by blood derived from his Mother Mary ¹Hogan, whose Father, Davis Logan was a three quarter Choctaw Indian, and that he is a resident, bona fide, of the Choctaw Nation.

-II-

That under the laws of the Choctaw Nation in 1892, he applied to the Council of said Nation, paid \$100. as required by said Council, and asked to be admitted as a citizen, he claim was referred to the proper committee, and upon proper proof was reported favorably, and his claim is still pending.

-III-

That under the Act of June 10th. 1896, by the Congress of the United States, he applied to the Dawes Indian Commission for admission to citizenship, submitting his proof in support of his claim, and on the 3rd day of December, 1896, said Commission, contrary to law, Denied appellant his rights.

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That said Commission in its decision, erred;

FIRST,- Because the evidence was sufficient to establish appellants rights.

SECOND,- In considering defendants answer, which was not filed within the time required by law, nor verified as the law and rules of the Commission required.

THIRD,- That the decision of said Commission was contrary to the law and the evidence.

WHEREFORE, appellant prays an appeal and that upon final hearing of the testimony in this case, his original petition be granted and a decree rendered by this court admitting the parties therein named as citizen and members of the Choctaw Tribe of Indians, for which he will in duty bound ever pray etc.

E. J. Horne

by his attorneys.

(SIGNED)

Dunstan & Wilkins,

IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF THE
INDIAN TERRITORY, AT SOUTH McALESTER.

-----o-----
E. J. Horne Plaintiff

vs.

A N S W E R .

The Choctaw Nation, Defendant.
-----o-----

Comes now the Choctaw Nation by its attorneys, and for answer to the petition for appeal filed by the plaintiff herein says,

That it is not true that the plaintiff, E. J. Horne, is a citizen by blood of the Choctaw Nation. And that plaintiff and his parents refused to come to the Indian Territory with the Choctaw Tribe when they left the State of Mississippi, but elected to remain in said State, and failed to comply with the law by which they might obtain a right in said Choctaw Nation by coming here to live.

That said plaintiff never made an claim to citizenship in said Nation until he came to this country in the year 1892.

That it is not true that the mother of plaintiff was a three-quarter Choctaw Indian by blood, or that she had any Indian blood.

Said Nation further says that ~~xxxxxx~~ plaintiff applied for citizenship to the Choctaw Council, and that his said application is still pending before said Council undetermined. That said Choctaw Council obtained jurisdiction of said case upon his application for citizenship, and still has the ~~xxxxxx~~ sole and exclusive jurisdiction of the same.

Further answering the Choctaw Nation says that it has heretofore filed ~~kk~~ its answer to the application of this plaintiff before the Dawes Commission, which said answer is hereby referred to and made a part hereof, and having fully answered, appellee prays that the judgment of the Dawes Commission herein in all things be affirmed.

(SIGNED) Wm. M. Cravens

(SIGNED) Stuart, Gordon & Hailey
Attorneys for Choctaw Nation.

17

IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF THE IND. TERR.

-----oOo-----

E. J. Horne, -----Plaintiff.

vs.

Motion.

Choctaw Nation, ----- Defendant.

Comes now E. J. Horne and moves the Court for an order to allow him to take additional testimony in support of his claim for citizenship.

He asks to take the testimony of D. B. Durant, of Durant, Indian Territory, a full blood Choctaw Indian citizen, by whom he expects to prove that the said D. D. Durant was well acquainted with Davis Logan, a full blood Choctaw Indian; and that he also knew his mother, Mary Logan, who married E. J. Horne, a white man, the Father of E. J. Horne, claimant, and that he is well acquainted with E. J. Horne and knows him to be at least a one eighth Choctaw Indian by blood, and a Grand son of the said Davis Logan.

James J. S.

That he did not know of this testimony when his claim was being investigated by the Dawes Commission, and now asks to have the same taken as newly discovered evidence to be used in his behalf.

(SIGNED) E. J. Horne.

Subscribed and sworn to before me on this 19 day of April, 1897.

(SIGNED) R. E. French,
Notary Public.

E. J. Horne

No. v89

Precedent

Choctaw Nation

On this the 24th day of August 1897, the same being one of the regular judicial days of the April 1897, term of court, this cause came on to be heard, - whereupon the plaintiffs and defendants announced ready for trial and the court having heard the testimony and argument of counsel and being well and sufficiently advised in the premises, doth find that the plaintiffs E. J. Horne, Joan Horne, Icy D. O. Horne, Victoria D. Horne, James O. Horne, Chas. S. Horne, Connie E. Horne, Mary E. Horne and Sarah E. Horne, are descendants of a member of Choctaw Nation by blood, and are entitled to be placed upon the roll as members by blood of the Choctaw tribe of Indians.

It is therefore, ordered, adjudged and decreed by the court that the plaintiffs E. J. Horne, Joan Horne, Icy D. O. Horne, Victoria D. Horne, James O. Horne, Chas. S. Horne, Connie E. Horne, Mary E. Horne and Sarah E. Horne, have and recover of and from the Choctaw Nation, and that they and each of them be granted all the rights, privileges immunities and benefits as enjoyed by members by blood of the Choctaw Nation, and that the Commission to the Five Civilized Tribes place the names of said Nation as members thereof, by blood and that the Choctaw Nation recognize the rights of these plaintiffs to their full extent. and that the Clerk of the court furnish the said Commission to the Five Civilized Tribes with a certified copy of this judgment and that the plaintiffs have and recover their costs herein expended, for all of which let execution issue.

Order of E. J. Horne et al

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E.J.Horn, et al,

vs. No. 29, judgment, Central District, August 24, 1897.

Choctaw Nation.

On this the 24th day of August, 1897, the same being one of the regular judicial days of the April, 1897, term of court, this cause came on to be heard, whereupon the plaintiffs and defendant~~XXXXXXXXXX~~ announced ready for trial and the court having heard the testimony and argument of counsel, and being well and sufficiently advised in the premises doth find that the plaintiffs, E. J.Horn, Joan Horn, Icy D.O.Horn, Victoria D.Horn, James O. Horn, Charles S.Horn, Commie E. Horn, MaryE.Horn, and Sarah E. Horn, are descendants of a member of the Choctaw Nation by blood and are entitled to be placed upon the rolls as members by blood of the Choctaw Nation Tribes of Indians. It is therefore ordered, adjudged and decreed by the court that the plaintiffs, E.J.Horn, Joan Horn, Icy D.O.Horn, Victoria D, Horn, James O.Horn, ~~XXXXXXXXXX~~ Charles S. Horn, Commie E.Horn, Mary E?Horn, and Sarah E.Horn have and recover of and from the Choctaw Nation, and that them~~XXX~~ and each of them be granted all the rights, privileges, immunities and benefits as enjoyed by members by blood of the Choctaw Nation, and that the Commission to the Five Civilized Tribes place the ~~XXXXX~~ names of the said plaintiffs upon the rolls of the Choctaw Nation as ~~XXXXX~~ members thereof by blood, and that the Choctaw Nation recognize the rights of these plaintiffs to their full extent, and that the clerk of this court furnish the said Commission to the Five Civilized Tribes with a certified copy of this judgment, and that the plaintiffs have and recover of the defendant all their costs herein expended, for all of which let execution issue.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, AT SOUTH Mc-
ALESTER, IN THE CENTRAL DISTRICT OF THE INDIAN TERRITORY.

Juanna Horne et al Plaintiffs,)
-vs-)
CHOCTAW AND CHICKASAW NATIONS,)
Defendants.)

Number

APPLICATION FOR TRANSFER OF CITIZENSHIP CASE.

Come now your petitioners *Juanna Horne, Edward J. Horne, James O Horne, Charles S. Horne, Cornie E Horne, Mary E. Horne, Sarah E. Horne, J. Ellen Horne, Jubel Horne, Jay D. C. Davis (nee Horne) J. P. Davis, Victoria D. Pyle (nee Horne), Cecil Smith Pyle, Thelma Horne Pyle*
and represent to this Honorable Court that they are bona fide residents of the *E. J. Horne* Nation of the Indian Territory, and that they were such residents at and prior to the 10th day of June, 1896, and have remained such residents ever since; and that they are members of the Choctaw Tribe of Indians and entitled to be enrolled as such.

Your petitioners further show that on the 7th day of September, 1896, they filed their joint application with the Commission to the Five Civilized Tribes, asking to be enrolled as members of the Choctaw Tribe of Indians, which application was made under the provision of an act of Congress approved June 10th., 1896.

And your petitioners show that the Choctaw Nation appeared and filed its answer to said petitioner; and thereafterwards, to-wit on the 2nd day of December, 1896, said Commission rendered a decision upon said application; and thereafterwards, to-wit: on the 20th

day of January, 1897, an appeal was taken from said decision, to the United States Court, at South McAlester for the Central District of the Indian Territory, and the Choctaw Nation was duly notified and appeared and answered; and thereafterwards, to-wit: on the 24th day of August, 1897, said cause, which was Number 29 came on to be heard insaid court, and upon a hearing, said court rendered a judgment, declaring your petitioners to be entitled to be enrolled as members of the Choctaw Tribe of Indians; that said judgment remained in full force and effect, and from said judgment no appeal was taken.

WHEREFORE, your petitioners pray that said cause be transferred from said United States Court to this Honorable Court, and that on a hearing in this court they be adjudged to be members of the Choctaw Tribe of Indians, and your petitioners will ever pray, as in duty bound.

J. H. Walker
J. H. Balls

Attorney for Applicants.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
CENTRAL DISTRICT.

_____ having been by me first duly sworn, according to law, states on _____ oath that _____ is one of the petitioners above named, and that the statements contained in said petition are true as affiant verily believes.

Subscribed and sworn to before me on this the _____ day of March, A. D., 1903.

Notary Public.

To Mansfield, McMurray & Cornish, Attorneys of Record
for the Choctaw and Chickasaw Nations:

YOU ARE HEREBY NOTIFIED: That at the expiration of two days
from this date I will file, in the office of the Clerk of the Choctaw
and Chickasaw Citizenship Court, at South McAlester, in the Central
District of the Indian Territory, an application in behalf of
Joanna Horn et al., to have transferred and certified to said
Citizenship Court, from the United States Court, at South McAlester,
in the Central District of the Indian Territory, a certain Citizenship
Case, wherein judgment was rendered in favor of said *Joanna Horn*
et al., a copy of which application is hereto attached.

J. H. Ralls
Attorney for Applicants.

copy of certificate

copy of certificate

Petition for appeal.

Joanna Horne, et al.

Attorney for Applicants.

W. H. Baker

is hereto attached.

of said *Joanna Horne* *et al.*, a copy of which application
a certain Citizenship Case, wherein judgment was rendered in favor
South McAlester, in the Central District of the Indian Territory,
filed to said Citizenship Court, from the United States Court, at
Joanna Horne et al., to have transferred and certified

first District of the Indian Territory, an application in behalf of
law and Chickasaw Citizenship Court, at South McAlester, in the Cen-
tral District of the Indian Territory, in the office of the Clerk of the Choos-

YOU ARE HEREBY NOTIFIED: That at the expiration of two days

for the Choctaw and Chickasaw Nations:

To Mansfield, McMurry & Cornish, Attorneys of Record

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT SOUTH McALESTER.
NOVEMBER TERM 1903.

=====

JOANNA HORNE, ET AL.,
VS
CHOCTAW AND CHICKASAW NATIONS.

MOTION TO MAKE MORE
DEFINITE AND CERTAIN.

COME now the Choctaw and Chickasaw Nations, by Mansfield, McMurray & Cornish, their attorneys, and move this Honorable Court to require the plaintiffs to make their application, or petition, more definite and certain, in this, to-wit, that they be required to state:

FIRST. Whether they, or any one, or all of their alleged ancestors, through whom they claim the right to be admitted and enrolled as citizens of the Choctaw Nation, complied with the XIV Article of the Treaty of 1830, between the United States and the Choctaw Nation; and if any one, or all so complied, by whom such compliance was made and how.

SECOND. Whether they, or any one, or all of their alleged ancestors, emigrated to the Choctaw Nation, Indian Territory with the Choctaw Indians residing in the old Choctaw Nation, in the State of Mississippi, in accordance with Article III of the Treaty of 1830, and if so the name or names of the person or persons so emigrating.

THE CHOCTAW NATION
THE CHICKASAW NATION.

By _____
Attorneys.

INDIAN TERRITORY, ss.
CENTRAL DISTRICT.

I, W. H. Moore, on my oath state that I this day mailed a copy of the foregoing motion to plaintiffs' attorney of record.

Sworn to and subscribed before me this _____ day of _____
1903.

Notary Public.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT SOUTH McALESTER.
NOVEMBER TERM 1903.
No. 83.

=====

JOANNA HORNE, ET AL.,
vs
CHOCTAW AND CHICKASAW NATIONS.

DEMURRER.

COME now the Choctaw and Chickasaw Nations, by Mansfield, McMurray & Cornish, their attorneys, and DEMUR to the application, or petition, filed herein by plaintiffs, for the reason that the same does not state facts sufficient, if true to warrant this Honorable Court in enrolling them as members of the Choctaw Nation.

THE CHOCTAW NATION
THE CHICKASAW NATION.

By _____
Attorneys.

INDIAN TERRITORY,
CENTRAL DISTRICT. ss.

I, W. H. Moore, on my oath state that I this day mailed a copy of the foregoing demurrer to plaintiffs' attorney of record.

Sworn to and subscribed before me this _____ day of _____
1903.

Notary Public.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, AT SOUTH McALESTER,
CHOCTAW NATION, INDIAN TERRITORY.

Joanna Horne, et al.

No. 83.

-vs-

Motion for continuance.

Choctaw and Chickasaw Nations.

Come now the applicants herein and move the Court here to postpone this cause until another day and for cause say, that the principal applicant, E. J. Horne, who has had charge of the management of this case and who is the husband of Joanna Horne and the father and grandfather of the other applicants, was at the time he was notified that this cause had been set for trial at Atoka, Indian Territory, which notice he received about the 20th day of October and on the 24th day of the same month, he was subpoenaed and forced to attend the United States Court as a witness in a murder case in Tishomingo; that he was kept there as such witness and not permitted to depart until the 26th day of October, when he was summoned to appear and testify as a witness in the United States Court at Durant, Indian Territory and was kept there as such witness until the 10th day of November. That on being released from said Court, he returned home near Nida for the purpose of preparing to secure the attendance of witnesses at the trial of this cause. That he was taken sick the same evening on returning home and was confined to his bed until Saturday evening the 14th day of this month and that he was not able, after that time to do anything, on account of his physical condition, towards preparing for trial. That he is still suffering from an affliction which is some bowel trouble and is not now actually able to be away from his home, but on account of the great interest in the cause and fearing that there might be some misunderstanding, he has come here in order that the proper motion may be presented for the postponement of the trial of this cause. He attaches hereto the certificate of R. P. Dicky, a doctor, showing the nature of his disease.

Applicants further state that the witnesses on behalf of the applicants are scattered in various parts of the State of Texas and the Indian Territory. Plaintiffs further state that it has been about six years since the evidence of these witnesses was taken in this cause and that it is probable that when these plaintiffs go to where they formerly resided, they will find that they have moved their residence and it will require some time and effort to serve subpoenas upon them.

Applicants further state that one of the applicants, to-wit, Della Pyle, ne Horne, is now in the State of California. That some of the witnesses on behalf of the plaintiffs reside in the northeastern portion of the State of Texas near Pittsburgh; one of whom is named Mrs. Mary Metcalf and one Mrs. Mattie Gregory and a Mrs Overstreet, and if present, said witnesses will testify that they knew the ancestors of the applicants in the State of Mississippi and that they were Choctaw Indians and so recognized by the Choctaws. That they will testify that Davis Logan, the grandfather of E. J. Horne, was a Choctaw Indian and resided in the old Choctaw District.

Applicants further state that another witness Mrs. N. C. Horne, nee Hart, lives near Greenville, Texas and if present will testify that she knew said Davis Logan and knew him to be a Choctaw Indian and that he resided in the State of Mississippi in the Choctaw District.

WHEREFORE plaintiffs pray that this cause be continued for a sufficient length of time to enable them to procure their witnesses and they will forever pray as in duty bound.

Attorneys for plaintiffs.

E. J. Horne, having been by me first duly sworn, according to law, states that he is the principal applicant in the above entitled cause; that he has read the above and foregoing application for continuance and that the statements therein contained, are true to the best of his knowledge and belief.

Subscribed and sworn to before me this 18th day of November, 1903.

CLERK.

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

Joanne Horne et al, Plaintiffs, :
No. 83 vs : Petition to take the evidence
Choctaw and Chickasaw Nations, Defendants: : of Joe Jimmy Jones, N.W. Horne
: Mary Metcalf.

E. J. Horne one of the above named applicants states on his oath that he is informed and believes that if present one Joe Jimmy Jones a full blood Choctaw Indian now residing at or near DeKalb in Kemper County in the state of Mississippi will swear that he was personally acquainted with the man David or Davis Loga the Grand Father of the affiant, and that said Logan lived in Kemper County or the country which is now Kemper Co. Miss. in the year 1830 and prior thereto and was a recognized Choctaw Indian by blood and spoke the Choctaw Language and that he was a married man and left Miss. in about 1849 to go to the present Choctaw Nation, and had a family of children. That the father of the affiant married one of said Logans Daughters there in said County. Affiant has just been informed of this fact, such information having been given him by a party from Miss. which information was received on Wednesday of last week, and too late to secure the attendance of said witness, and further the said witness is too feble to make the trip to this country.

Affiant further states that if present one Mrs. N.W. Horne will swear that she was present at the infare of the father and mother of the affiant, and knew the father and mother of the affiant's mother and that the father was a Choctaw Indian and was as much as a one half blood, and lived in the old Choctaw Country in Miss. and lived there in 1849 and left there to come to this country and did not return to Miss. That he had five children, the mother of the affiant being the oldest one. That the father of the affiants mother showed to be a Choctaw Indian and spoke the Choctaw language
That said witness is about 82 years old and too old and feble
to make the trip here, she living about three miles South of Greenville Texas. A Doctors Certificate is hereto attached showing her condition.

Affiant further states that he can prove by Mrs. Mary Metcalf that the affiant's Grand Father was a choctaw Indian and lived in the state of Miss. several years and was a Choctaw Indian and was about one half blood That he left there in 1849 to come to the present Choctaw Nations, and never returned. That he had five children and the mother of the affiant

was the ~~xxx~~ oldest daughter, and married Edward G. Horne a white man, and remained in Miss. when her father left there and came West. That said Logan spoke the Choctaw Language and was recognized as a Choctaw Indian. Affiant further states that said Mrs. Metcalf is too old and feeble to appear in person, she being about 75 years old. A doctor's certificate is hereto attached and marked exhibit " B" showing her state of health

Wherefore the affiant prays that the evidence of the said witnesses be taken before one of the Judges of this Court at such time as this Court may designate

Subscribed and sworn to before me this the 21st day of Dec. 1903.

Clerk

Received of E. J. Horne a copy of the above motion on this the 21st day of Dec. 1903.

Attorneys for the Choctaw and Chickasaw Nations.

of Dec. 1882.

Received of J. J. Murray a copy of the ... motion on this the 21st day

Subscribed and sworn to before me this 21st day of Dec. 1882.

Copy for
Massfield
W. Murray v
Cornish
Attys for Nations

Cherokee Nations
Attorneys for the Cherokee and

It is made reference to ... showing the state of health
in person, who being about 45 years old. A doctor's certificate
affiant further states that said man appears to be old and feeble to
Joseph spoke the Cherokee language and was recognized as a Cherokee Indian.
remained in this man had written Jeff there and some West. That said
was the man almost deceased, and married Edward G. Horns a white man, and

Joanna Horne, et al,

--VS--

No. 83.

The Choctaw and Chickasaw Nations,

-----o-----e-----

I n d e x .

-o-

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Joanna Horne, et al,

--vs--

No. 83.

The Choctaw and Chickasaw Nations,

--00--

Appearances,

J.G.Ralls, for Plaintiffs,

Mansfield, McMurray & Cornish, for Defendants.

--0--

Judges Foote and Adams sitting.

--0--

December 21, 1903, This day this cause coming on further to be heard upon the part of the Plaintiffs, the following proceedings were had, to-wit.

Mr. Ralls.

I would like to have the evidence of an old full blood, taken at Jackson Mississippi, at the time one of the Judges goes to Mississippi.

Judge Adams;

Alright, prepare your motion and we will pass on it.

--0--

E d w a r d S. Horne,

a witness produced on behalf of the Plaintiffs, being duly sworn testified as follows;--

By Mr. Ralls.

Q.- What is your name?

A.- Edward S. Horne.

Q.- How old are you?

A.- I lack a few days of being seventy six and nine months; was

--1--

born on the 5th day of April 1827.

Q.- Where were you born.

A.- Tennessee. Giles County.

Q.- Did you ever live in the State of Mississippi?

A.- Yes, sir.

Q.- When did you live there?

A.- I went from Tennessee to Mississippi in the latter part of 1844.

Q.- To what point in Mississippi did you go?

A.- Kemper County.

Q.- While you were in Mississippi, were you married?

A.- I was married in Mississippi, yes, sir.

Q.- To whom were you married?

A.- I was married to Mary A. Logan.

Q.- You are a white man, are you?

A.- Yes, sir.

Q.- You are of English descent?

A.- My mother informs me that there was three bloods in our family, Scotch, Irish and English.

Q.- What was the name of your wife's father?

A.- David Logan.

Q.- Where did he live?

A.- In Kemper County.

Q.- Whereabouts in Kemper County, did he live?

A.- He lived two and a half or three miles, right there south east from De Kalb, the county seat of the county, on a Creek, called Socnochee; the Indians said the English was Hog Creek.

Q.- To what race of people did David Logan belong?

Q.- To what race of people did David Logan belong?

A.- Well, I can only answer as to what I have heard, you see I don't really know of my own personal knowledge.

Mr. Cornish;

We object to any hear say evidence which tends to establish blood and racial status.

Judge Adams;

Proceed under the objection.

Mr. Ralls;

Q.- To what race of people did he say he belonged.

A.- Indian; Choctaw Indians. Indians lived in the village that he lived on the edge of.

Q.- When were you married to his daughter?

A.- I was married the 25th, day of October 1849.

Q.- What was the name of your wife's mother?

A.- It looks a little careless, but for the life of me I could not be positive of her given name.

Q.- What race of people did she belong to?

A.- She was a white woman.

Q.- You say your wife's father claimed to belong to the Choctaw Tribe of people?

A.- Yes, sir.

Q.- Did he claim to be a full blood or a mixed breed?

A.- He did not claim to be a full blood and I don't remember now that I ever heard him say what proportion of Indian blood he was, but he was part Indian and his appearance would ~~show that~~ show that; I have frequently heard him boast of his Indian blood.

Q.- What became of him and his family?

A.- Well, they started from Mississippi, I think I was married

on Thursday and on about Monday or Tuesday following, he and his family started west to the Territory and stopped in Arkansas; his wife would not go any further.

Q.- Did you see them any more after they left Mississippi?

A.- Yes, sir.

Q.- ~~Yes, xxxxxx~~ Where?

A.- Drew County, Arkansas.

Q.- When they were leaving Mississippi to come to the Indian Territory, do you know for what purpose they were coming here?

A.- They claimed they were coming to the Territory to where his people were; to where the Indians were; that was all the intentions he told me; that was his talk to get me to come with him after I became a member of the family; that I could have a home there; that the land was held in common and that it was a good country and all of that kind of thing; but I did not want to come and did not come at that time.

Q.- How many children did he have at the time he left Mississippi?

A.- Counting my wife?

Q.- Yes.

A.- Five.

Q.- Which of his children was the oldest.

A.- My wife.

Q.- Do you remember the one next to her?

A.- In what way?

Q.- In any way?

A.- I don't know that I can state the age exactly.

Q.- Was it a girl or a boy?

A.- A girl; only had one boy and that was the youngest.

Q.- About how old was the youngest child?

A.- When he left Mississippi?

Q.- Yes, sir.

A.- About Two or Three years old.

Q.- That was in 1849, I believe?

A.- Yes, sir.

Q.- How long had you know him and his family before you married.

A.- Well, it was about a year; I got acquainted with him in the latter part of '48 or the early part of '49.

Q.- About how close to the Mississippi and Alabama Line did he live?

A.- I could not answer that exactly, but my recollection is that it was twelve or fourteen miles.

Q.- What business were you engaged in at the time you were married to his daughter?

A.- I was a wagon maker.

Q.- Where were you located?

A.- Scooba.

Q.- What County?

A.- Kemper. Near the ~~xxx~~^{east} line of the county near the State Line; Kemper County is a line county on the State Line.

Q.- How long did you remain there?

A.- Until 1855.

Q.- Then where did you go?

A.- To Arkansas.

Q.- You know E.J.Horne and his family?

A.- Yes, sir.

Q.- What relation is he to you?

A.- Well, I have always called him my boy.

Q.- What was the name of his mother?

A.- Mary A. Horne.

Q.- That was the daughter of Logan?

A.- Yes, sir.

Q.- You know when he came to the Territory?

A.- Yes, sir, he has been here ten or twelve years, I don't remember exactly what year he moved in.

Q.- You know where he has lived since he came to this country?

A.- He has lived ever since I have been in the Territory on Twelve Mile Prairie.

Q.- Is your wife living or dead?

A.- His mother?

Q.- Yes.

A.- Yes, sir. She is dead.

Q.- How long has she been dead.

A.- Sixth of August, 1860.

Q.- Where did she die?

A.- In Texas.

Q.- You moved from Mississippi to Texas, did you?

A.- By the way of Arkansas, Yes, sir.

Q.- When did David Logan die, if he is dead?

A.- I cannot answer that.

Q.- You know where and when his wife died, if she is dead?

A.- In Drew County Arkansas, so I have been told by letter, but I don't remember the date and year, she has been dead a good while.

Q.- Is it your understanding that your wife's father is dead?

A.- Yes, sir.

Q.- Is it your understanding that he died before or after your wife's mother?

A.- After, the way I understood it.

Q.- You know what became of his other children?

A.- I do not; you see I left Arkansas in July 1860, and came to Texas, and got to my destination on the first day of August; my wife took sick that night and died on the 6th., and I have not been back to Arkansas since; we quit corresponding and I cannot answer anything about the family.

Q.- How old is your son, Mr. Horne?

A.- He was born in 1854.

Q.- Where were you living when he was born?

A.- Mississippi?

Q.- Kemper County?

A.- Yes, sir.

Q.- Have you other children?

A.- Yes, sir.

Q.- How many other children have you?

A.- That have been born to me, or are living now?

Q.- That are living now?

A.- It is a goodly number, I would have to figure.

Q.- I mean by your wife Mary Logan.

A.- There is only three of them living.

Q.- What is their names?

A.- James Franklin, Cynthia Antonio and Edward.

Q.- Which is the oldest of the three that are now living?

A.- James Franklin.

Q.- At the time you married into the family, did you know that David Logan was a Choctaw?

A.- I knew his name and knew that he claimed to be of the same blood as the Indians that were in the same village on Socnookee Creek, and they were Choctaws.

Q.- About what part Choctaw would you say that David Logan was?

A.- I would have to guess at that, sir.

Q.- What is your best judgment?

A.- Well, I would guess him to be about a half breed; judging from what I have seen around here.

Q.- Know whether he spoke the Choctaw Language?

A.- He could do it.

Q.- Ever hear him speak to the other Indians?

A.- Very little; I was about him very little after I was married. I had fallen in love with his girl and generally went about his house to keep company with her.

Q.- What kind of hair did the old man have?

A.- Very coarse and very black, black beard, black eyes, prominent cheek bones, kind of a dark skin; he could speak English well, too.

Q.- Have you a sister living?

A.- She was a short time ago. I have two, I think.

Q.- What is her name?

A.- Mary.

Q.- Where does she live.

A.- Upshur County, Texas.

Q.- Do you know whether she was acquainted with David Logan, during the time he lived in Mississippi?

A.- Yes, sir.

Q.- What is your sister's name now?

A.- Metcalf.

Q.- Is she older or younger than you are?

A.- Younger.

Q.- Know anything about her physical condition?

A.- ^{Not} ^{I heard} From ~~my~~ observation, she is getting very feeble and she is getting pretty old; she is 73 years old.

Q.- Does your other sister know anything about David Logan?

A.- Yes, sir, they were both acquainted with him.

C r o s s E x a m i n a t i o n ,

By Mr. Cornish;

Q.- What is your age?

A.- I was born the Fifth of April 1827; if I make no mistake in the figures I am Seventy six years old and nearly nine months.

Q.- You were a boy in Tennessee?

A.- Yes, sir.

Q.- How old were you when you first went into the State of Mississippi.

A.- I think I was 18 years old; I went there in 1844. I am not an educated man and cannot figure very fast.

Q.- You were born in 1827 and went there in 1844?

A.- Yes, sir.

Q.- You had neverseen this family of Logans until you went there?

A.- No, sir.

Q.- You have no personal knowledge now, as to how long they had lived there before you knew them?

A.- No, sir.

Q.- You first knew them in 1844 or the time you got into Mississippi?

A.- That is not the way I ~~mean~~^{aim} to say it and did state it a while ago. I went there in 1844 and in 1847 I went to the Mexican War and in the latter part of 1848 was mustered out at Vicksburgh and went back to the old neighborhood.

Q.- In Kemper County?

A.- Yes, sir. And in the latter part of that year or the early part of 1849 I became acquainted with his family.

Q.- Then you first became acquainted with his family in 1849?

A.- Either that or the latter part of '48.

Q.- Then you did not know them, or become acquainted with them when you first went into that county in 1844?

A.- No, sir.

Q.- No, sir. Into what neighborhood did you go in 1844, when you first went into that county?

A.- I stopped on this Creek, Socnochee (Sookanochee). It was about two and a half or three miles east of the county seat De Kalb.

Q.- You came back to the same place in 1849?

A.- To the same neighborhood.

Q.- And you did not know these people when you first came there in '44?

A.- I did not.

Q.- How long before you first became acquainted with them in 1849, that you married the girl?

A.- About a year.

Q.- Then you married about 1850?

A.- Or '49.

- Q.- You all started west immediately after that time?
- A.- I did not, but my father-in-law and his family did.
- Q.- How long did you continue to live there after you married in that neighborhood?
- A.- I did not live in the neighborhood of the Logans, as I call a neighborhood; when I married I lived about twelve miles east of where he lived, running a wagon shop; that was my trade, making wagons.
- Q.- That was near the Alabama Line?
- A.- Yes, sir.
- Q.- You lived there for a year preceeding your marriage to the girl?
- A.- Yes, sir.
- Q.- Then you never lived closer than twelve miles to the girl?
- A.- No, sir.
- Q.- How long after you married was it that Logan and his family came west?
- A.- Five or six days.
- Q.- How long did you continue to live where you were living when you were married?
- A.- Left there in '55.
- Q.- Somewhere about four or five years?
- A.- Yes, sir.
- Q.- Did you ever live in Arkansas?
- A.- Yes, sir.
- Q.- Did you follow to Drew County Arkansas?
- A.- Yes, sir.
- Q.- Then Logan and his family removed from that neighborhood in

Mississippi to Drew County in Arkansas a few days after your marriage to his daughter and you came on to Drew County five years afterwards?

A.- Yes, sir.

Q.- Did you live close to Selma?

A.- I reckon that must have sprung up since I left there; I don't remember it.

Q.- Was Monticello the Postoffice?

A.- Yes, sir.

Q.- How long did you continue to live in Drew County, Arkansas? I am speaking of you now.

A.- I did not live there very long.

Q.- Several years?

A.- No, no, give me a little time to think and I will answer correctly. I rebuilt a mill and got through that job the latter part of '55 and moved to Bradley County to put up a mill for Judge Scoby and ran it a year and moved from there down on the river and rebuilt another mill for Dr. Martin.

Q.- On the Saline River?

A.- Yes, sir. Then went back to Drew County and repair and built a mill for a man by the name of Barker.

Q.- In what year did you build the mill for Mr. Barker?

A.- I reckon it was in 1847, I went from there to near Red River and built a mill for a man named Benford Amison; from there I went to Texas.

Judge Adams;

You built a mill in '57 or '47?

A.- I meant 1857.

• Mr. Cornish;

Q.- What year did you arrive in Texas?

A.- 1860.

Q.- You continued to live in Texas, up until what year?

A.- Until 1894.

Q.- What was your business in Texas; how did you make a living?

A.- Well, I was in the lumber business a good while.

Q.- Did you own land in Texas?

A.- Yes, sir.

Q.- In various counties in Texas?

A.- Yes, sir.

Q.- In what year, did your wife, who was the daughter of Logan, die?

A.- In 1860.

Q.- After you arrived in Texas?

A.- Yes, sir.

Q.- When did Logan die?

A.- I cannot answer.

Q.- When did you last see him in Arkansas?

A.- I left Logan's neighborhood or that county in the latter part of 1858 and went to Hempstead County and built a mill for Benford Amison the latter part of '58 and '59 and ran his mill until July and left there in July; I left there in July and went to Texas: I saw Logan a few days before I left to go to Hempstead County.

Q.- When you moved off from Drew County, Arkansas, how far did you live some four miles from Monticello?

A.- Yes, sir.

Q.- Did he own land?

A.- Yes, sir.

Q.- How much?

A.- A very small tract; about forty acres.

Q.- Did he homestead that land?

A.- I cannot answer.

Q.- Know how he acquired the land?

A.- I do not.

Q.- Your information is that he died there?

A.- Yes, sir.

Q.- Your information is that his wife died there?

A.- Yes, sir.

Q.- In what year?

A.- I do not know.

Q.- You have some information; about what year; give it as accurately as you can.

A.- Yes, sir, I would not like to make a statement.

Q.- Before the War, or after, or during the War?

A.- After the War; I left there just before the War; I met with two or three men since the War from Arkansas and they told me the old man was dead; I cannot now, without a great deal of thought and time locate the year.

Q.- Prior to your marriage with this man's daughter; how many times were you at his house in the State of Mississippi?

A.- I did not keep any account.

Q.- About how often were you there within the year preceding your marriage to his daughter.

A.- Well, it was frequent.

Q.- As often as once a week?

A.- No, sir.

Q.- Once a month?

A.- I was there as often as once a month.

Q.- They lived two and a half or three miles from the County Seat?

A.- Yes, sir.

Q.- What direction?

A.- A little bit south of east.

Q.- What kind of a house did they live in?

A.- A log house.

Q.- How many rooms?

A.- Two rooms.

Q.- And shed rooms?

A.- I don't believe there was.

Q.- Just the two log rooms?

A.- Yes, sir.

Q.- With a porch between them?

A.- Yes, sir.

Q.- How much land did he have under cultivation?

A.- Well, from fifteen to twenty acres in cultivation.

Q.- How much land did he own besides that?

A.- I don't know the size of his tract.

Q.- He had other land besides that?

A.- He had land.

Q.- What disposition did he make of that land when he left; you know to whom he sold it?

A.- I have forgotten.

Q.- Now, Mr. Horne, what other children did David Logan and his wife have besides your wife.

A.- Three other daughters and one boy.

Q.- Name them.

A.- Elizabeth, that was the name of his wife too.

Q.- She was a white woman?

A.- Yes, sir.

Q.-What was the next daughter?

A.- The second one is Missouri; and Delaware.

Q.- What are the others?

A.- That is all the girls.

Q.- Your wife was one of these daughters; he had four daughters?

A.- Yes, sir.

Q.- What was the son's name?

A.- Columbus.

Q.- Just had the one?

A.- Yes, sir.

Q.- Is Elizabeth living or dead?

A.- She is dead.

Q.- Did she marry?

A.- If she did, I have forgotten it.

Q.- She moved to Drew County, Arkansas?

A.- Yes, sir.

Q.- Have you any information that she did grow up and marry in Drew County, Arkansas?

A.- Well, I don't remember.

Q.- Was she living with her father when you left there? Was she grown then?

A.- No, sir.

Q.- She never removed to this country so far as you know.

A.- No, sir.

Q.- Is Missouri living or dead?

A.- I don't know whether any of them are living or not.

Q.- Have you any more information about Missouri and Delaware than you have stated about Elizabeth?

A.- No, sir.

Q.- They were all living with their father in Arkansas, when you left and went to Texas?

A.- Yes, sir.

Q.- None of them came to this country, so far as you know?

A.- No, sir.

Q.- Columbus, was he living with his father, when you left Arkansas?

A.- Yes, sir.

Q.- Your daughter Cynthia, you stated she is living?

A.- Yes, sir.

Q.- Where is she living?

A.- Not far from Durant.

Q.- What is her husband's name?

A.- Smith.

Q.- Is she a party to this suit?

A.- No, sir.

Q.- She has no pending citizenship claim, so far as you know?

A.- Not that I know of.

Q.- Is James F. Living?

A.- Yes, sir.

Q.- Where is he living?

A.- In ~~Oikakomax~~ Oklahoma.

Q.- How long has he lived in Oklahoma?

A.- About three years.

Q.- What county does he live in.

A.- Washita.

Q.- He maintains his home in that territory?

A.- Yes, sir.

Q.- Does he own land there?

A.- Yes, sir.

Q.- He farms?

A.- Yes, sir.

Q.- Did he homestead that land?

A.- I think he bought a homestead.

Q.- He has no claim for Choctaw Citizenship pending, so far as you know?

A.- No, sir.

Q.- He is a full brother of this son in this case?

A.- Yes, sir.

Q.- Cynthia is a full sister of this son?

A.- Yes, sir. They attempted to put in their claims, but they was not able, when this law was passed, for either party to take an appeal to the United States Court; this one that is here seems to be a little luckier than his brothers he had accumulated a little means, enough to go in the Courts; they have the same claim, that is, they believe they have a right.

Q.- But they never have filed a claim, so far as you know?

A.- I don't think they have; if they have, I don't know anything about how to state it.

Witness excused.

--o--

J o h n L e w i s ,

a witness produced by the Plaintiffs, testified as follows in answer to the interrogatories propounded to him by Mr. Ralls, which interrogatories were interpreted to him by Mr. Coleman, who was duly sworn as interpreter. Mr. Mc Kinney was sworn as interpreter for the Defendants.

Q.- Ask him how old he is?

A.- Eighty eight.

Q.- What is your name?

A.- John Lewis.

Q.- To what race of people do you belong; ask him if he is a Choctaw.

A.- Yes.

Q.- Ask him if he is a full blood?

A.- Yes.

Q.- Where do you live?

A.- Blue County.

Q.- What is your postoffice?

A.- Caney.

Q.- That is in the Choctaw Nation, is it?

A.- Yes.

Q.- Where were you born?

A.- Mississippi.

Q.- Whereabouts in Mississippi, were you born?

A.- In the eastern part of the county; Apaka.

Q.- That is the name of the Indian village or neighborhood?

A.- The name of the country; there were no counties there.

Q.- How long did you live in Mississippi?

A.- About sixteen years.

Q.- Where did you go to from Mississippi?

A.- Red River County, Choctaw Nation.

Q.- Did you live near any creek or river in Mississippi, if so what was the name of it?

A.- Tom Bigbie, Lochocee.

Q.- Ask him what the name of the other one was?

A.- Kitula.

Q.- Ask him if he knew a man in Mississippi named Logan?

Mr. Cornish;

The question is did he know a man by the name of Logan and it was propounded to the witness David Logan.

Judge Adams;

You just propound the question to him as it is propounded to you by the lawyer.

A.- Yes, he knows him.

Q.- Ask him if he remembers the first name?

A.- He says he did not remember the first name; he supposes it was some kind of a white name, but he does not know.

Q.- Ask him where this man lived; this man Logan lived, that he was acquainted with.

A.- He said he lived close to Shoocknatchie.

Q.- What was that?

A.- A creek.

Q.- Did he say it was a creek?

A.- Yes, sir.

Q.- Do you know to what race of people Logan belonged?

A.- Belongs to the Choctaws; some French.

Q.- Did he know Logan's wife?

A.- Yes, sir.

Q.- What was she?

A.- She was some little blood Choctaw; she was not a full

blood white woman and was not a full blood Choctaw.

Q.- Ask him if she had any children?

A.- Yes, sir, but he don't know their names.

Q.- How many children did she have?

A.- He remembers two.

Q.- What were they, girls or boys?

A.- Both girls.

Q.- How long did he know Logan?

A.- Ever since he was a little boy.

Q.- Where did he live all that time?

A.- Right close in the neighborhood?

Q.- How near did he live to the State line between Alabama and Mississippi?

A.- He did not know any State of Alabama, did not know anything about lines; he don't know. Did not know any states there or counties or nothing.

Q.- Ask him, who he came to this country with?

A.- He came with an Indian, Amontubbe.

Q.- With what emigration of Indians did he come to this country?

A.- Choctaws.

Q.- What emigration was it?

A.- He came the second time they moved out here?

Q.- Where was this man Logan when he left there and came here?

A.- He left him in Mississippi?

Q.- Did you ever see him any more?

A.- No, sir. He never saw him any more.

Q.- What kind of a looking man was Logan?

A.- A pretty good sized man and a Choctaw.

Q.- What was the color of his hair?

A.- Black hair.

Q.- How did he wear it ?

A.- Long hair and he put silver rings on it.

Q.- Did you ever talk Choctaw with him?

A.- Yes, sir.

Q.- Were there any of the Choctaws living in that community?

A.- There were lots of Choctaws there.

Q.- What was the name of that creek?

A.- Shook - a-nuc-kee.

Q.- What does that mean?

A.- That is all I know.

Q.- Were you married when you left there, or did you marry after you got to this country?

A.- I married after I came here.

Q.- About how old was Logan when you left there?

A.- He was not very old and not very young; about forty years old.

Mr. Mansfield;

I want to ask the interpreter a question; did you not ask this witness a while ago, as to the wife of David Logan, and did he not reply that the wife of David Logan was a half breed Indian, which you interpreted by saying that she had a little Indian Blood in her?

Interpreter.

A.- That is what John Lewis said.

Q.- Did he not reply to your question that she was a half breed.

A.- No, sir, he said just a little blood.

Q.- In interpreting the words used for it, is not the expressions so much alike that mistakes might be made?

A.- Yes, sir.

Q.- Mr. McKinney understood him to say that she was a half breed,

and you interpreted it by saying that she was a little Choctaw; had a little Choctaw blood?

A.- I do not know how to explain that myself.

Q.- He used a term, which in Choctaw meant daughter of a white, the mother, of course is Indian, that is what it meant?

A.- Yes, sir.

Cross Examination.

Mr. McKinney, acting as interpreter.

Mr. Cornish;

Q.- William, ask this man how old he is.

A.- Eighty eight; he says I am over eighty eight.

Q.- Ask him how old he was when he came from the old Choctaw Nation in Mississippi to this country?

A.- Seventeen or eighteen.

Q.- Ask him if he continued to live in this country since that time?

A.- I came to Red River County and stayed for some time; then I came to Boggy Depot and have been living there ever since.

Q.- Ask him if he did not come to this country with the second emigration of Choctaw Indians?

A.- Yes, sir.

Q.- Ask him if he has ever seen the man Logan after he left Mississippi with the second emigration of Choctaw Indians?

A.- No, never saw him.

Q.- Ask him if he stated that at the time he left Mississippi with the second emigration of Choctaw Indians, the man Logan was forty years old?

A.- Yes, sir.

Q.- Ask him if he was a married man at that time; that is, if this Logan was a married man at that time.

A.- Yes, sir.

Q.- Ask him how old his wife was.

A.- He don't know how old she was.

Q.- Ask him if she was a Choctaw?

A.- Half breed.

Q.- Ask him if he means she was a half breed Choctaw?

A.- Yes, sir.

Q.- Ask him if the man Logan he knew was a Choctaw Indian?

A.- Yes, sir.

Q.- Ask him what degree of Choctaw Blood this man Logan was?

A.- He says he does not hear good and he might state things entirely different from what he wants to say them.

Q.- Ask him how much Choctaw blood Logan had?

A.- He says he don't understand; he had more Choctaw blood and just a little whiteman.

Q.- Ask him if he means to say that the man Logan was a full blood, or nearly a full blood Choctaw Indian?

A.- Nearly a full blood Choctaw; just only had a little blood white in him.

Q.- Ask him how many children this man Logan had?

A.- He says he had two children.

Q.- Ask him the sex of these children; you can interpret that what ever your word is.

A.- Girls; both girls.

Q.- Ask him how old they were.

A.- He don't know; saw them from time to time; probably ten years

of age.

Q.- Ask him the names of those children?

A.- He don't know.

Q.- Now ask this man how far he lived from the Tom Bigbie River?

A.- He says he don't know the distance from Tombigbie River.

Q.- Ask him how long it would take him to go from where he lived to the Tom Bigbie River.

A.- He says he don't know; that people used to tell distances differently at that time.

Q.- Ask him, if he would start on a pony at Sun up, what time of day it would be when he got to the Tombigbie River.

A.- Would not be but a little while, probably four or five miles.

Q.- Ask him in which direction he lived from the Tombigbie River.

A.- West of the Tom Bigbie.

Q.- Ask him what was the nearest town to where he lived?

A.- There was no town at that time.

Q.- Ask him what was the nearest trading point; where he went to get his goods.

A.- There was no trading point.

Mr. Ralls;

Q.- Ask him if he is a recognized citizen of the Choctaw Nation.

A.- Yes, sir.

Edward J. Horne,

a witness produced by the Plaintiffs, being duly sworn,
testified as follows, in answer to the interrogatories propounded to him by

Mr. Ralls;

Q.- What is your name?

A.- Edward J. Horne.

Q.- How old are you?

A.--Forty ~~and~~ nine.

Q.- What is the name of your father?

A.- Edward J. Horne.

Q.- He is present today?

A.- Yes, sir.

Q.- What was the name of your mother?

A.- Mary A. ~~James~~ Horne.

Q.- Is she living or dead?

A.- She is dead.

Q.- How old were you when she died.

A.- I was about six years.

Q.- Since her death has your father married again?

A.- It occurs to me it was about a year, sir.

Q.- Did he marry a white woman?

A.- Yes, sir.

Q.- Do you know where you were born?

A.- I was born in ~~Missouri~~ Mississippi.

Q.- What place in Mississippi?

A.- Near Scovan.

Q.- You know what county?

A.- Kemper County.

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

A.- I came to the Territory, I reckon in 1892.

Q.- Where have you resided since that time?

A.- In Texas.

Q.- Since you came to the Choctaw Nation, you have resided in Texas?

A.- Yes, sir, except a little while in Tobuxa River; moved in the Spring and back in the fall.

Q.- Were you ever at Tushkahoma?

A.- Yes, sir.

Q.- What was your ~~kind~~ business?

A.- Establishing my right there.

Q.- Before the Choctaw Council?

A.- Yes, sir.

Q.- You know Mary A. Metcalf?

A.- Yes, sir.

Q.- What relation is she to you?

A.- Aunt.

Q.- Is she living.

A.- Yes, sir, in Texas.

Q.- Did you have her affidavit before the Council?

A.- Yes, sir, I think I did.

Q.- Who represented you there?

A.- A Telle.

Q.-Do you know Martha E. Gregory?

A.- Yes, sir.

Q.- Where is she living?

A.- Corpus Christi, Texas.

Q.- Do you remember whether you had her affidavit Before the Council?

A.- I have had it, but I don't know whether it was before Council or not; it seems like we had it.

Q.- You then applied to the Dawes Commission in 1896?

A.- Yes, sir.

Q.- Who represented you before the Dawes Commission.

A.- Wilkins & Dunstan.

Q.- And also before the United States Court?

A.- Before the United States Court, too.

Q.- Are you married?

A.- Yes, sir.

Q.- Is your wife a white woman or an Indian?

A.- She is part Indian, I am told, sir.

Q.- What is the balance?

A.- White.

Q.- When were you married?

A.- I was married the last day of July 1879, sir.

Q.- Where?

A.- In Hunt County Texas.

Q.- Have you any children?

A.- Yes, sir, we have eight.

Q.- What are their names?

A.- Icy Dora.

Q.- How old is she?

A.- She is about twenty two; if I make no mistake twenty two last June.

Q.- Is she married?

A.- Yes, sir.

Q.- What is her name now?

A.- Davis.

Q.- When was she married?

A.- I think she was married four years ago this fall, sir.

Q.- Has she any children?

A.- She has one, sir.

Q.- How old is it.

A.- It will be two years old in the Spring.

Q.- What is its name?

A.- They call it J.P.; all the name they ever gave it, sir.

Q.- You remember what month it was born in?

A.- I reckon it was in March.

Q.- Is its father a white man or an Indian?

A.- A white man.

Q.- What is the name of your next child.

A.- Della, Victoria Della.

Q.- How old is she?

A.- She is about twenty years old.

Q.- Is she married?

A.- Yes, sir.

Q.- What is she named now?

A.- Pyle.

Q.- How do you spell it?

A.- P-y-l-e.

Q.- When was she married?

A.- I think she was married in February five years ago.

Q.- Has she any children?

A.- Two, sir.

Q.- What is the name of the oldest?

A.- Cecil Smith Pyle. Q.- What is its age?

A.- It is about four years old.

Q.- What is the name of the next?

A.- Thelma; that is not all the name, but it is all I can tell you; I believe they call it Thelma Horne Pyle.

Q.- How old is it.

A.- It is about, well I would say a year and a half.

Q.- Know where it was born.

A.- No, sir; it was born in Louisiana, but I don't know where it was born.

Q.- What is your next child?

A.- James Oscar Horne.

Q.- Is he married?

A.- No, sir.

Q.- How old is he.

A.- I think James is about nineteen years old.

Q.- What is the name of your next child?

A.- Charles Steadman Horne.

Q.- How old is Charles?

A.- About seventeen.

Q.- What is the name of your next?

A.- Commie.

Q.- How old is she?

A.- Fourteen, I think.

Q.- What is the name of your next one?

A.- Mary E. Horne

Q.- How old is she?

A.- She is about twelve.

Q.- What is the name of your next one?

A.- The next child is dead; his name was Saul E.

Q.- Is your wife living?

A.- Yes, sir.

Q.- What is her name?

A.- Joanna Horne.

Q.- You said she is a white woman?

A.- I am told she is part Indian, but I know nothing about that.

Q.- Are these children, except the married ones, living with you?

A.- No, sir, my oldest son is in the war, the last letter from him was from Vancouver, Washington.

Q.- When did he enlist.

A.- Last Spring; and was sent to San Francisco with some other boys in the neighborhood.

Q.- Where were all your children that were born at the time, when you made your application to the Dawes Commission.

A.- At my home in Blue County.

Q.- Were any of them married at that time?

A.- No, sir.

Q.- You were not old enough to remember your mother before she died?

A.- But very little; I have only a very faint recollection of her, sir.

Cross Examination.

Mr. Cornish:

Q.- How old are you?

A.- Forty nine years turned.

Q.- You were born in 1854, about that?

A.- October 21st, yes, sir.

Q.- You were born in Arkansas?

A.- No, sir.

Q.- Where?

A.- In Mississippi.

Q.- In what county in Mississippi?

A.- Kemper County.

Q.- Were you taken to Arkansas when you were quite young?

A.- Yes, sir.

Q.- You lived there several years?

A.- Yes, sir.

Q.- Then your father and family moved on to Texas.

A.- Yes, sir.

Q.- What year did you leave there?

A.- 1892, I think.

Q.- Where was the first place you owned land in the State of Texas?

A.- Hunt County.

Q.- How much?

A.- Forty acres.

Q.- How ^{long} did you own that?

A.- Two or three years, I could not say?

Q.- How did you acquire that, by purchase?

A.- Yes, sir.

Q.- Sold it in two or three years?

A.- Yes, sir.

Q.- Where did you next own land?

A.- Hunt County.

Q.- How much did you own the second time?

A.- One hundred acres in two tracts.

Q.- Did you live there?

A.- Yes, sir.

Q.- Make a living as a farmer?

A.- Yes, sir.

Q.- How long did you own the second tract.

A.- I think it was three years.

Q.- How did you acquire it?

A.- Bought it.

Q.- Did you sell it?

A.- Yes, sir.

Q.- Where did you own land next?

A.- Never owned any except a claim in the Territory.

Q.- That is all the land you ever owned?

A.- Yes, sir, except a place in Clinton.

Q.- A town lot?

A.- Yes, sir.

Q.- When did you acquire that?

A.- It occurs to me, sir, that it was in '87.

Q.- You owned land in 1892 when you started to the Territory
and disposed of it prior to your removal to the Territory?

A.- Yes, sir.

Q.- You had children born to you in the State of Texas?

A.- Yes, sir.

Q.- You sent them to the public schools?

A.- Yes, sir.

Q.- Voted in the State elections?

A.- Yes, sir.

Q.- You exercised all the rights and privileges of a citizen of
the State of Texas.

A.- Yes, sir.

Q.- Did you ever hold office?

A.- No, sir.

Q.- Now, Mr. Horne, what degree of Choctaw blood do you claim?

A.- Well, sir, I cannot tell you, about an eighth, I guess, sir.

Q.- That was your statement to the Court before in the trial of the case.

A.- I cannot say.

Q.- What is your claim, is it an eighth?

A.- That is the best I can make it out, the way I am taught, sir.

Q.- Now, you say you have eight children?

A.- Eight living.

Q.- Are all of your descendants parties to this suit? Are all of your children and descendants of your dead children, parties to this suit? How many children have you living?

A.- Eight living and one dead.

Q.- Are there any descendants of your dead child?

A.- No, sir.

Q.- Then the names of your eight children and their descendants are in this suit?

A.- Yes, sir.

Q.- What brothers and sisters did you have, living and dead?

A.- You mean full brothers and sisters?

Q.- Yes.

A.- Oldest brother William Thomas.

Q.- What are the others.

A.- James F., Cynthia, A. sister, and I am, I cannot give their names. two infants younger than

Q.- Is William Thomas living?

A.- No, sir.

Q.- Did he marry before he died?

A.- Yes, sir.

Q.- Did he have any children?

A.- Yes, sir.

Q.- Where are those children living now?

A.- Most of them in the Territory; well, he may have one son in Texas.

Q.- None of the descendants of your brother William are parties to this suit?

A.- No, sir.

Q.- Is your brother James living?

A.- Yes, sir.

Q.- Where does he live.

A.- In Washita County, Oklahoma.

Q.- He owns a home?

A.- As I understand it, he does.

Q.- He is a citizen of Oklahoma?

A.- Yes, sir.

Q.- He has no claim for citizenship?

A.- No, sir.

Q.- Your sister Cynthia any children?

A.- No, sir.

Q.- She has no citizenship claim, so far as you know?

A.- No, sir.

Re - Direct ,

Mr. Halls;

Q.- You know whether or not your brothers and sister applied to the Dawes Commission in 1896?

A.- They did.

Q.- They filed separate applications?

A.- Yes, sir.

Q.- You know who represented them?

A.- Yes, sir.

Q.- Who?

A.- Dunstan & Wilkins.

Q.- You know whether or not their case was appealed to the United States Court?

A.- It was not, sir, so they claimed.

Q.- You did not have the management of the case yourself, then?

A.- Had nothing to do with it.

Q.- You don't know of your own personal knowledge, whether it was appealed or not, do you?

A.- Yes, sir, I know that they claimed that they failed to appeal within the limitation of the law, until they were debarred, sir.

Mr. Ralls;

I now desire to offer the record, except the affidavit of S.P.Perry, we do not desire to offer that affidavit.

We will want to file an application with the Court, for one of the Judges of this Court to take evidence in Mississippi.

We recently learned from some Indians, who have come from Mississippi that Joe Jimmy Jones, a Choctaw still lives in Mississippi near where his grandfather was raised, we don't know what we can prove by this man, but we would like permission to take his evidence at Jackson Mississippi.

Judge Adams; You can file the application.

Mr. Ralls;

There is another witness, who is unable to be here and we will include in that application, permission to take her testimony.

Mr. Cornish;

The Choctaw and Chickasaw Nations wish to object to the papers offered in evidence before this Court; as to all papers, filed before the Commission to the Five Civilized Tribes, and here offered as evidence, except affidavits, the Nations object because they are parts of a void proceeding, which proceeding is void for the reason that the Choctaw and Chickasaw Nations were both necessary and interested parties, and the Choctaw Nation only was served and made a party. As to affidavits, the Nations object to their introduction here as evidence, because they are exparte and taken without notice to the necessary and interested parties and the matter therein contained does not bear upon the essential issues in this case and is therefore incompetent. Further it has not been shown that the parties who made the affidavits are dead.

As to all papers filed before the United States Court, except depositions, and here offered in evidence, the Nations object, because they are parts of a void proceeding, which proceeding is void for two reasons, first, both nations were necessary and interested parties and only one nation was made a party, secondly, the case was erroneously tried de novo. As to all depositions filed before the United States Court the Nations object and urge all the objections set forth against the affidavits filed before the Commission to the Five Civilized Tribes and all papers filed in the United States Court.

The Nations also wish to object to the testimony offered

in behalf of the Plaintiffs in this case, which tends to establish by hear say evidence, blood or racial status; also all evidence which does not bear upon the essential issues in this case.

In the Choctaw & Chickasaw Citizenship Court, of South McAlister, Indian Territory, evidence taken before Hon. Henry S. Foote, Judge of said Court, sitting to hear evidence in said cause on Jan. 13, 1904, at the court room of the United States Court, Southern District of Mississippi, present the Hon. Henry S. Foote, Judge of said court, and Hon. J. T. Parks, attorney for plaintiff, and Mr. Moore, attorneys for the Choctaw & Chickasaw Nations, in cause of E. G. Horn, et al vs. Choctaw & Chickasaw Nations.

Miss Georgia Brasfield, was first duly sworn as stenographer, to take down said evidence and to transcribe same in long hand; and Simeon Lang and Joe Jones, were duly sworn as witnesses for plaintiff.

Joe Jones, having been duly sworn, deposes and says:

Q. Your name, Joe Jones.

A? Yes.

Q. How old are you Joe?

A. 94.

Q. Where do you live?

A. In Kemper county, Mississippi.

Q. What part of Kemper?

A. Close by DeKalb.

Q. You live close to Suganochee Creek?

A. Yes sir.

Q. How long you live there?

A. I lived there 59 years.

Q. What county you born?

A. Right there, close by, four or five miles where I live.

Q. What is your ma's name?

A. Betsy.

Q. Betsy who?

A. She called Betsy. Betsy Bigsby.

Q. Did you know Davis Logan in his life time?

A. Yes.

Q. Where did he live when you knew him?

A. He live, DeKalb.

Q. In Kemper County?

A. Yes.

Q. How far did you live from him?

A. Two or three mile.

Q. Who was Davis Logan's ma?

A. Yes, Bigby.

Q. Did you say while ago your ma Betsy Bigby?

A. Yes.

Q. What kin if any was Davis Logan's ma to your ma?

A. Her sister.

Q. Did you know how many children Davis Logan had?

A. Five.

Q. Was Mary Logan a daughter of Davis Logan?

Objected to as leading.

No answer.

Q. What were the children's names? Davis Logan's children?

No answer.

Q. How many did he have?

A. Five.

Q. State what their names were?

A. I dont know. I forgets now.

Q. Do you know who his oldest daughter married?

A. Yes.

Q. Who was it?

A. Horn marry Mary.

The Choctaw & Chickasaw Nations object to the taking of this man's testimony without the intervention of an interpreter for the reason that he understands the English and speaks ~~x~~ it so poorly that no satisfactory testimony can be taken from him without an interpreter.

Q. What tribe of Indians you belong to? Choctaw or Chickasaw?

A. Choctaw.

Q. Your mother what was she?

A. Choctaw.

Q. Davis Logan's mother and your mother were what kin?

A. Half sister.

Q. You know who Davis Logan marry, whether he marry Choctaw or white woman?

No answer.

Q. Did you know Davis Logan wife? Did you ever see her?

A. Davis Logan wife, twice, I saw her. I forgets now.

Q. Was Davis Logan wife Choctaw or white woman.

A. Choctaw.

Q? How far you say you lived from Davis Logan in Kemper County?

A. Two or three miles.

Q. How long ~~xxx~~ ^{he} live there?

A. About 49 years. He lived right there.

Q. You know where he went from there?

A. He go to Texas or somewhere .

Q. You know how long he go to Texas or somewhere?

A. I know 40 or 45, I dont know.

Q. What language did Davis Logan talk. How he talk?

A. Choctaw.

Q. Who did he stay with where he lived. What folk?

A. Choctaw.

CROSS EXAMINATION.

Q. Joe, what year were you born?

A. DeKalb, right there.

Q. How long ago?

A. About 94 years ago.

Q. Now, was Davis Logan older or younger than you ?

A. Younger.

Q. How old Davis Logan when you first knew him?

A. About 40 years old.

Q. Was Davis Logan born in Kemper county. He born there close you?

A. Close me, his house this side.

Q. How close?

A. Two or three miles. He says.

By the Court: Who says?

A. His uncle says.

Q. Who is his uncle?

A. Old Jimmy.

Q. What did they call that town where the Indians lived?

Did you ever live in town of Muckalushia?

A. No.

Q. Did Davis Logan live in Muckalushia town?

A. No. Suganoocha.

Q. He never lived at Muckalushia?

A. No.

Q. How many children did Davis Logan have?

A. Four boys, one girl.

Q. Who was the oldest?

A. Girl.

Q. What her name?

A. Mary.

Q. What is the girl's name?

A. One girl, Mala.

Q. What was the oldest boy named?

A. I forgets. I dont stay close there. I Stay by Logan about seven miles.

Q . You stay with your grandma about three miles or so from Davis Logan's house?

A. Me stay grandma about seven miles or so.

Q. Who did Davis Logan marry there? He marry there in Kemper County?

A. Right close DeKalb. Bigby that all.

Q. What was Logan's mother named?

A. Bigby, half sister.

Q. Was Logan's mother and his wife one half sisters?

A. Yes.

Q. Did Logan ever live in Pontotoc county. You know where Pontotoc county is?

No answer.

Q. Did you see this Mala Logan marry this man Horn. Where did they marry?

A. I staid by my grandma's house, Uncle Jimmie told me.

Q. You did not see them marry.

A. I did not see but Uncle Jimmy told me.

Q. You never knew this man horn?

A. No.

Q. Did Horn live in Kemper County?

A. ~~x~~ No.

Q? Never did live there?

A. No.

Q. When did Logan leave that county?

A. Texas, somewhere.

Q. When did Davis Logan leave DeKalb when he moved ?

A. I dont know.

Q. How long ago?

A. In the 40 I know. I believe 45.

Q. Did he and Horn leave there together?

A. Yes.

Q. Davis Logan was a full blood Indian was he not?

A. Yes.

Q. Was his wife a full blood Indian or was she a white woman?

A. White woman.

Q. Davis Logan's wife Indian or white woman?

A. Indian.

Q. Both full blood Indian, just like you?

A. Yes.

Q. Then this oldest daughter that married Horn was a full blood Indian?

A. Yes.

RE-DIRECT.

Q. You say you did not see Davis Logan marry?

A. No. I hear it.

Q. Who told you?

A. Uncle Jimmy told me.

Q. You never see his wife at all?

A. No.

Q. You know whether Davis Logan's wife white woman or Indian?

A. Indian.

The defendants now renew their motion to strike out all the testimony of this man for the reason that he understands so little English and speaks the language so poorly that there is no sense or satisfaction in taking his testimony.

Simeon Lang, being duly sworn deposes and says:

The defendants object to any testimony of the witness because his name was not mentioned in the motion nor in the order under which this testimony was taken.

Q. What is your name?

A. Simeon Lang.

Q. Where do you live?

A. Kemper County.

Q. What is your age?

A. 76 , 20th day of May.

Q. Did you know E. G., or E. Gideon Horn in his life time?

A. Yes.

Q. Where did he live?

A. Kemper County.

Q. How far did he live from you?

A. A mile or so, part of the time, and part of the time nine or ten.

Q. Who did he marry?

A. Mary Logan.

Q. Who was Mary Logan's father?

A. Davis Logan.

Q. She was the daughter of Davis Logan?

A. Yes, as I understand it.

Q. Is Gidion Horn living now in Kemper county.

A. No sir.

Q. How long since he left there?

A. Somewhere in 48 or 49 he left there and went West.

Q. How long did he live there after he was married?

A. Some two or three or four years, may be longer than that.

Q. Did he have any children?

A. I think so, two.

Q. Do you know their names?

A. I dont know.

Q. Did he have a brother by the name of Bill Horn?

A. Yes, he did.

Q. Where did he live when you knew him?

A. Part of the time at my father's house. He came from Tennessee sick and when he got up he wanted to work and staid there two months.

Q. Is he living there now?

A. No sir.

Q. Where did he go ?

A. West.

Q. Do you know what year?

A. I dont reme mber.

Q. About what year?

A. It was somewhere in 40 in reckon. I dont recollect exactly what year it was.

Q. Do you know whether he and ^{Davis} Dick Logan, --how much difference there was in the time of their moving west?

A. No sir? I dont know exactly how long.

Q. You dont know ~~km~~ what time Davis Logan and Bill Horn ~~am~~ moved west?

A. No.

Q. To refresh your memory, did not Davis Logan leave right after the marriage of E. G. Horn to Davis' daughter?

A. I think so. To the best of my recollection he left in a short time.

Objected to as leading.

Q. Do you know where Gideon, or E. G. Horn, moved within a few days after his marriage, if any where in that county?

A. He moved east of there, about ten or twelve miles and went into a shop there, doing wood work.

Q. Near what place was that?

A. It was known as the Thurman place.

Q. Near what place?

A. Near Scooba. One and a half or two miles. I don't think over a mile and a half.

Q. Do you know whether he was engaged in teaming at that time?

A. I don't know.

Q. Where were Mary Logan and E. G. Horn married.

A. Antioch Church.

Q. What county?

A. Kemper.

Q. Were you there?

A. Yes sir.

Q. By whom were they married?

A. Parson Jimmy Barnes.

Q. -----

CROSS. EXAMINATION.

Q. Where were you born?

A. In South Carolina.

Q. In what year?

A. 1828. The best I recollect.

Q. How long did you live in South Carolina?

A. I suppose I was brought over when I was about one year old.

Q. Brought to Kemper County? Have you lived there ever since and have you lived there continuously ever since?

A. Yes sir.

Q. Was Davis Logan an older or younger man than you?

A. He was bound to be older.

Q. How old a man was he?

A. I am not able to say. He had three or four children and he had a grown daughter when I first knew him.

Q. How old a man were you at that time?

A. I was not married.

Q. Where is the town of Muckalushia?

A. It is a little south of where we live.

Q. In what direction from DeKalb?

A. South of DeKalb.

Q. How far?

A. It may be 28 or 30 miles.

Q. That is where this man Logan lives?

A. I don't know.

Q. Do you know whether he lives in the county?

A. He lived a mile and a half of my father's.

Q. How long?

A. I can't state that, some two or three years.

Q. He moved there in that neighborhood was when you first got acquainted with him?

A. No sir.

Q. You don't know where he lives.

A. No sir.

Q. When he left there he went west?

A. Yes sir.

Q. How many children did he have.

A. Four or five.

A. I am not positive about that. This Mary Logan was grown and married.

Q. Can you undertake to give the year in which she was married?

A. No sir.

Q. How long did Horn and Logan live there after they were married?

A. Some three or four years.

Q. Had two or three children?

A. Two children .

Q. Was Davis Logan a full blood Indiana?

A. I aint got to state that.

Q. What is your judgment?

A. I dont know.

Q. You dont know whether he had any Indian blood.

A . I dont know.

Q. Do you know or not whether he had Indian blood or was an Indian?

A. I dont know, sir.

Q. Did you see his w ife?

A. Yes sir.

Q. What was her name?

A. I dont know. I have seen her a few times.

Q. Do you know whether Davis Logan's wife was an Indian or white woman?

A. I dont know.

Q. Did Davis Logan own a farm there?

A. He farmed there. I dont know whether he owned it or rented it or not.

Q. Do you know whether he was a tenant or whether he paid rent.

A. No sir, I dont know , I didnt ask him.

Q. You were not well acquainted with him?

A. I knew the man when I saw him.

Q. You will not undertake to say that he was a Choctaw Indian.

A. No sir.

Q. Do you know who owned the place he lived on?

A. Hopper.

Q. Hopper owned the land adjoining Joe's patch?

A. I think not. This is Alex Hopper.

Q. How old a man?

A. 45 or 50.

Q. Did Hopper get this land?

A. No sir, Joe Patton, a northern man came in there and taught school and lived on Logan's place. I am not going to state whether Logan sold the place to Patton or not.

Q. Who got the land after Patton?

A. I dont know. There were lot of transfers and the records were all burned and I cant recollect.

Q. This man Dwis Logan lived there and farmed the same as any other citizen?

A. yes sir.

Q. By the Court: What did he look like?

A. He was dark skinned, high cheek bones, long dark hair and coarse. the best I can remember. He has been to my father's house.

Q. You dont undertake to say whether he was a white man or an Indian?

A. No sir.

Q. Have you any knowledge on that subject ?

A. No sir.

Q. Did you ever hear him say he had Indian blood in him? or any of his people?

A. No sâr .

Q. You say he wore long hair?

A. Yes.

Q. Did you ever hear him or any one claim that he had Indian blood?

A. No sir.

Q. You said something about the records being destroyed. When and how.

Q. The court house was burned up. I cant remember exactly what time.

Q. Do you remember about what time?

A. It was somewhere in 'A '70 or '80. The court house was burned and the records kept in the county was destroyed. Everything was destroyed.

I hereby certify that the above and foregoing 13 pages contain a true and correct transcript of the evidence taken down by me and transcribed, in the case of E. G. Horn, et al vs. Choctaw & Chickasaw nation, jan. 13, 19 04 , before Hon. Henry S. Foote, Judge.

Stenographer.

BEFORE THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT
SOUTH McALESTER, INDIAN TERRITORY, FEBRUARY TERM, 1904.

Joanna Horne, et al.,

vs.

No. 83.

Choctaw and Chickasaw Nations.

All Judges present,

C. C. Potter, attorney for plaintiffs.

Mansfield, McMurray & Cornish, for defendants.

February 29, 1904. The following proceedings were had in the
above entitled cause on this date.

Judge Adams:

Case of Joanna Horne, et al.

Mr. Cornish:

I understood this case had already been submitted. Our
brief has been filed and the case is submitted.

Mr. Potter:

I understood that the case was to be finally submitted
today but in a conversation with Judge Foote it is his recol-
lection that the final hearing of the case was postponed to
take the testimony of Mr. Durant some time within the next
few days.

Mr. Cornish:

I was not aware of that.

Judge Adams:

The testimony of Durant is to be taken next Friday in a
number of cases.

Mr. Cornish:

So far as the Nations is concerned the testimony is
complete.

Mr. Potter:

I want to file a brief in the case and would like to
have all the evidence in the case. In looking over the papers
I was unable to find any of the new testimony that had been
taken in this court.

Judge Foote:

It was sent here by the stenographer in Mississippi.

Mr. Potter:

I suppose the case will be left open awaiting the testi-
mony of Durant.

Judge Adams:

Yes sir.

Mr. Cornish:

With the understanding that if anything develops in the testimony of Durant we will have time for rebuttal.

Judge Adams:

Yes sir.

BEFORE THE CHOCTAW & CHICKASAW CITIZENSHIP COURT, SITTING AT
SOUTH McALESTER, INDIAN TERRITORY, FEBRUARY TERM, 1904.

Joanna Horne, et al.,

vs.

No.83.

Choctaw & Chickasaw Nations.

Hiram Lancaster, et al.,

vs.

No.82.

Choctaw & Chickasaw Nations.

Nellie J. Gideon, et al.,

vs.

No.80.

Choctaw & Chickasaw Nations.

Judges present and presiding, the Honorables Walter L. Weaver and Henry S. Foote.

J. G. Ralls, attorney for plaintiffs in cases of Hiram Lancaster, et al., and Nellie J. Gideon, et al., and Ralls and Bowman attorneys for plaintiffs in case of Joanna Horne, et al.

Mansfield, McMurray & Cornish, for defendants.

February 17, 1904. In the above entitled causes the following proceedings were had on this date.

Mr. Ralls:

We desire to offer the petition to take the testimony of D. D. Durant at Durant; also petition to take the testimony of Mrs. Nancy Horne (nee Hart), at Greenville, Texas.

(Petition read)

Judge Weaver:

So far as the latter witness is concerned its does not appear that she has ever been subpoenaed to appear and give her testimony in this court, so the motion will not be granted ~~xx~~ as to that witness. As to D.D.Durant we will see later.

Judge Weaver:

In the case of Hiram Lancaster, et al., vs. Choctaw & Chickasaw Nations, the plaintiff having made application to this court supported by his affidavit that one D. D. Durant is a material witness in his case; that said Durant was in attendance upon this court but before his testimony could be heard he was taken ill and returned to his home and has been continuously ill since that time; upon consideration of that application the prayer of the said petition is granted and one of the judges of this court will take the testimony of said witness at his home at Durant on Saturday, the 27th day of February.

Judge Weaver:

A similar notation should be made in the case of Joanna Horne, et al. vs. Choctaw & Chickasaw Nations, No. 83, that the testimony of said D. D. Durant will be taken in that case on the 27th day of February; but that the application to take the testimony of the witness named Mrs. Nancy Horne at Greenville, Texas, is denied as it does not appear that any effort whatever has been made to procure the attendance of said witness at this court and no application has heretofore been made to take her testimony until this date and there has not been due diligence shown by plaintiff and her counsel in this matter to render it such a case as the court would consider it proper, in its discretion, to take the testimony of said witness. Now I will put these cases down for hearing and final determination on the 29th day of February.

Mr. Ralls:

In No. 80, Nellie J. Gideon, et al., vs. Choctaw & Chickasaw Nations, I want Dr. Gideon to come here and give his evidence in rebuttal of the testimony as to his giving Bangston Johnston \$50. to testify in his case.

Judge Weaver:

You wire Dr. Gideon to come here and come here tomorrow if possible. If you can get him here tomorrow we want him here.

Mr. Ralls:

I don't suppose a wire would reach Dr. Gideon today. He lives in the country about four miles. Inasmuch as the court is going to Durant on the 27th--there is a case set on the 26th for John Mitchell, in which case Dixon Durant was subpoenaed to appear and testify--I would like an order to take his deposition at th at time.

Judge Weaver:

If you will make an affidavit as attorney for John Mitchell, stating what you expect Durant to testify to and make your application--the rule says that the application shall be sworn to by the party and his attorney--if you will make an affidavit setting forth what you expect the witness to testify to--if you will come within the ~~rule~~ rule we will consider the application.

Mr. Ralls:

I will draw up that application.

Mr. Mansfield:

Did Durant testify in the Gideon case before?

Mr. Ralls:

I don't know.

Judge Weaver:

I don't think he did.

Mr. Mansfield:

That would seem to me to be a motion to reopen the case.

Judge Weaver:

Mr. Ralls, you desire the presence of Dr. Gideon to give testimony in rebuttal of testimony given this morning?

Mr. Ralls:

Yes sir.

Judge Weaver:

When can you get Dr. Gideon here. Of course you are entitled to have time for rebuttal testimony. How soon can you get the gentleman here?

Mr. Ralls:

I don't think that a telegram would reach him.

Judge Weaver:

When would a letter reach him?

Mr. Ralls:

He lives about four miles southeast of Caddo.

Judge Weaver:

We will set the Gideon case for hearing on rebuttal for next Monday, the 22nd, inasmuch as we have some other cases that day and you are to be here on that date, Mr. Ralls. Then if Dr. Gideon can make a showing according to the rule of the court for taking the testimony of Mr. Durant and it appears to the court that the testimony of Mr. Durant is material to the cause then it will be heard.

In the Choctaw and Chickasaw Citizenship Court, sitting at South McAlester, in the Central District of the Indian Territory,
March Term, 1904.

E. J. Horne, et al., :
: :
vs. : :
: : No. 83.
Choctaw and Chickasaw Nations. :

DECREE OF COURT.

On this 28th day of March, 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, Joanna Horne or Joan Horne, Edward J. Horne or E. J. Horne, James S. Horne or James O. Horne, Charles S. Horne or Chas. S. Horne, Commie E. Horne, Mary E. Horne, Sarah E. Horne, Icy D. C. Davis (nee Horne) or Icy D. O. Horne, Victoria D. Pyle (nee Horne) or Victoria D. Horne, are not entitled to be deemed or declared citizens of the Choctaw Nation, or to enrollment as such, or to any rights whatever flowing therefrom; and the Court doth further find that it has no jurisdiction over the plaintiffs Joellen Horne, Jewell Horne, J. P. Davis, Cecil Smith Pyle and Thelma Horne Pyle.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs, Joanna Horne or Joan Horne, Edward J. Horne or E. J. Horne, James S. Horne or James O. Horne, Charles S. Horne or Chas. S. Horne, Commie E. Horne, Mary E.

Horne, Sarah E. Horne, Icy D. C. Davis (nee Horne) or Icy D. O. Horne, Victoria D. Pyle (nee Horne) or Victoria D. Horne, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom; and as to the plaintiffs Joellen Horne, Jewell Horne, J. P. Davis, Cecil Smith Pyle and Thelma Horne Pyle, the Court having no jurisdiction, their petition is dismissed.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP
COURT, SITTING AT SOUTH McALESTER, INDIAN
TERRITORY, MARCH TERM,
1904.

JOANNA HORNE, ET AL.,

VS.

No.83.

CHOCTAW AND CHICKASAW NATIONS.

STATEMENT OF FACTS AND OPINION

BY ADAMS, CHIEF JUDGE.

On the 11th day of August 1896, E. J. Horne, for himself and for his wife, Joan Horne, and for his seven children, to-wit: Icy D. O. Horne, Victoria D. Horne, James O. Horne, Chas. S. Horne, Commie E. Horne, Mary E. Horne and Sarah E. Horne, filed a petition with the Commission to the Five Civilized Tribes, in which he alleged that he and his children were Choctaw Indians by blood, and as such entitled to citizenship and enrollment; and that his wife Joan Horne was entitled to citizenship and enrollment as an intermarried Choctaw Indian.

On the 9th day of September, 1896, the Commission to the Five Civilized Tribes passed upon the application of plaintiffs and denied the same. From this finding of the Commission the plaintiffs appealed their case to the United States Court for the Central District of the Indian Territory, where, on the 24th day of August, 1897, the same came on to be heard;

and on that date said Court rendered its judgment therein, finding as a fact that the plaintiffs, E. J. Horne, Joan Horne, Icy D. O. Horne, Victoria D. Horne, James O. Horne, Chas.S. Horne, Commie E. Horne, Mary E. Horne and Sarah E. Horne, are descendants of a member by blood of the Choctaw nation and are entitled to be placed upon the roll as members by blood of the Choctaw tribe of Indians. This judgment further orders the Commission to the Five Civilized Tribes to place these persons, named as above, on the roll as Choctaw Indians by blood.

After the decision of this Court in the case of Choctaw and Chickasaw nations vs. J. T. Riddle, et al., known as the "Test Suit", instituted under and provided for by section 31 of an Act of Congress approved July 1, 1902, plaintiffs Joanna Horne, Edward J. Horne, James O. Horne, Charles S. Horne, Commie E. Horne, Mary E. Horne, Sarah E. Horne, Joellen Horne, Jewel Horne, Icy D. C. Davis, (nee Horne), J. P. Davis, Victoria D. Pyle, (nee Horne), Cecil Smith Pyle, Thelma Horne Pyle, filed a petition in this Court, asking that their cause be transferred from the United States Court for the Central District of the Indian Territory to this Court for adjudication. This petition was granted by this Court; and after both nations were served with process notifying them of the institution of this proceeding, the case was set on the calendar of this Court for hearing, and to be heard on the 18th day of November, 1903. On that date the plaintiffs filed an affidavit asking for a continuance of the cause for the reason that the principal applicant had been sick and had not had an opportunity to prepare his case for trial. The case was continued until the 21st day of December, 1903; and on

this date came on for trial when the plaintiffs introduced the following witnesses:

Edward S. Horne, a white man, seventy-six years of age, born on the 5th day of April, 1827, in Giles County, state of Tennessee. Witness says that he remained at the place of his birth until the latter part of 1844, when he moved to Kemper county, Mississippi, where he married Mary A. Logan, on the 25th of October, 1849; that Mary A. Logan, his wife, was a daughter of David Logan; that David Logan lived two and a half or three miles from DeKalb, the county seat of Kemper county, Mississippi; that he does not know of his own knowledge what race of people David Logan belonged to, but heard that he was a Choctaw Indian; that David Logan lived on the edge of a village where Indians lived; that he does not now remember the name of the wife of David Logan, his wife's mother, but says that she was a white woman; that he does not know how much Indian blood David Logan possessed; that his appearance showed he had Indian blood; that he has often heard Logan boast of his Indian blood. Witness says he was married on Thursday and about Monday or Tuesday following David Logan and his family started west to the Indian Territory and stopped in the State of Arkansas; that Logan told witness that he was coming to the Territory where his people were, and tried to get witness to come also; that he told witness the land was held in common here and witness would have a home, but witness did not want to come. Witness says that he afterwards saw David Logan and his family in Drew county, Arkansas. Witness says that David Logan had five children, and that witness's wife was the eldest; that Logan had only one boy, who was a young child two or three years old when

Logan left Mississippi in 1849. Witness says he knew the family of David Logan about one year before he married. Witness further says that he lived twelve or fourteen miles from the Alabama line and was a wagon maker; that he remained there in Kemper county, Mississippi until 1855 and then moved to the state of Arkansas. Witness says E. J. Horne is his son by his marriage with Mary A. Logan; that E. J. Horne came to the Territory ten or twelve years ago; that his mother died the 6th day of August, 1860, in the state of Texas; that David Logan and his wife died in Drew county, Arkansas; that witness does not know the date of their death; that witness does not know what became of the other children of David Logan; that witness moved from Arkansas to Texas; that E. J. Horne was born in 1854 in Kemper county, Mississippi. Witness says that he has now living three children born by his marriage with Mary A. Logan, to-wit, James Franklin, Cynthia Antonio and Edward; that James Franklin is the oldest and lives in Oklahoma Territory. Witness says that he would guess that David Logan was about a half breed; that he could speak the Choctaw language, had very coarse and very black beard, black eyes and prominent cheek bones and kinder dark skin; that Logan could also speak English well.

On cross examination witness says that he had never seen any of Logan's family until he went to Mississippi in 1844; that he does not know how long they had lived in Mississippi prior to that time. Witness then says he is mistaken as to when he first got acquainted with the Logan family; that he went to Mississippi in 1844, and in 1847 went to the Mexican War, and in the latter part of 1848 was mustered out and went back to Kemper county, Mississippi, and in the latter

part of that year or in the early part of 1849 he became acquainted with the Logan family for the first time. Witness further says that in 1844 he stopped on the creek where the Logan family lived, which was about two and a half or three miles from the county seat, DeKalb, east; that after he left the army he came back to the same neighborhood in 1849, and married in about one year, either in 1849 or 1850; that he remained there until 1855, when he moved to Drew county, Arkansas; that he never lived nearer than twelve miles to the Logans in Mississippi. Witness further says that he had land in Mississippi and also in Arkansas; that Logan's four children were living in Arkansas the last he heard of them. Witness says that his daughter Cynthia is now living near Durant in the Choctaw nation; that she married a man named Smith; that she is not a party to this suit and has no citizenship claim pending; that his son James F., has no claim for Choctaw citizenship pending, and is a full brother of Edward; that they made some sort of claim but were not able to take an appeal to the courts.

John Lewis is the next witness introduced for the plaintiffs and says he is 88 years of age, and is a full blood Choctaw Indian, and spoke through an interpreter to this Court. Witness says he now resides in Blue county, Choctaw nation; that he came to this country from Mississippi at the time of the second emigration of Choctaws; that he knew a man in Mississippi named Logan, but did not know his first name, but supposed it was some kind of a white name; that Logan belonged to the Choctaws, some French; that he also knew Logan's wife; that she was "some little blood" Choctaw; that witness left Logan in Mississippi and never saw him any more; that Logan had black hair, was a pretty good size man

and a Choctaw; that Logan wore long hair and put silver rings on it; that Logan talked Choctaw with witness, and that lots of Choctaws lived where Logan did; that Logan was forty years old when witness left Mississippi.

On cross examination witness says that Logan's wife was a half breed Choctaw Indian and Logan nearly a full blood Choctaw Indian, and had just a little white blood.

E. J. Horne, the next witness for plaintiffs, says that he is 49 years old; that he is a son of Edward G. Horne; that his mother is now dead; that her name was Mary A. Horne; that witness was six years old when his mother died; that he was born in Kemper county, Mississippi and came to the Territory about 1892, and has resided since that time in Texas, (evidently meaning Indian Territory); that he was married the last day of July, 1879, in Hunt county, Texas, and has eight children by that marriage; that his wife's name is Joanna. Witness further says that his children which were born at that time were living with him in Blue county when application was made to the Dawes Commission in 1896, and that none of them were married at that time.

On cross examination witness says he was taken to Arkansas when quite small and then his father moved on to Texas; witness says he lived in Texas from that time on up to 1892; that he owned land in Texas, sent his children to school there, voted there and exercised all the rights and privileges of a citizen of the state of Texas while there. Witness says he cannot tell what degree of Indian blood he possesses, but would guess about one-eighth.

Upon the completion of this testimony plaintiffs filed an affidavit, asking the Court to allow plaintiffs to take testimony in this case in the State of Mississippi of certain witnesses who were too infirm to attend the sessions

of this Court. The Court granted the order, and on the 13th day of January, 1904, His Honor Judge Foote, one of the Associate Judges of this Court, went to the city of Jackson, State of Mississippi, and on that date and at said place the plaintiffs offered the following witnesses:

Joe Jones, who says he is 94 years of age and is a Choctaw Indian, and resides in Kemper County, Mississippi, close to DeKalb; that he has resided there for 59 years; that he was born four or five miles from where he now lives; that his mother's name was Betsy Bigsby; that he knew Davis Logan; that Davis Logan lived at DeKalb, Kemper County, Mississippi; that witness lived two or three miles from there; that Davis Logan's mother was a Bigby, and was a half sister to witness' mother; that Davis Logan had five children. Witness is then asked by plaintiffs' attorney if Mary Logan was the daughter of Davis Logan, and the witness did not answer; witness says he does not know the names of the children of Davis Logan; that his oldest daughter married Horne; that Davis Logan's mother was a Choctaw; that Davis Logan lived in Kemper County for forty nine years and then went to Texas or somewhere; that Logan talked Choctaw and stayed with the Choctaws.

On cross examination witness says Davis Logan was forty years old when he first knew him; that Logan was born two or three miles from where witness was; that Davis Logan had four boys and two girls; that the girl was the oldest; that he knew Horne that Mary married and that Horne never lived in Kemper County, Mississippi; that Logan left Mississippi for Texas or somewhere else in the forties, he believes in '45; that Logan and Horne left there together; that Davis Logan was a full blood Indian, and that Logan's wife was a white woman. Witness then says that Davis Logan and his wife both

were full blood Indians, and that his daughter who married Horne was also a full blood Indian.

Simeon Lang is the next witness offered for plaintiffs and says he is 76 years old, and resides in Kemper county, Mississippi; that he was taken there when a year old from South Carolina, where he was born. Witness says that he knew E. G. Horne; that Horne lived in Kemper county, Mississippi, near where witness lived; that Horne married Mary Logan, the daughter of Davis Logan, and left Kemper county and went west in 1848 or 1849. Witness says that he was present at the marriage of E. G. Horne to Mary Logan. Witness says that Davis Logan was older than himself; that he does not know whether Davis Logan had any Indian blood or not; that he does not know whether Logan's wife had any Indian blood or not; that he never heard Logan claim to be an Indian, or any one claim that Logan was an Indian.

This is a synopsis of all the oral testimony taken before this Court.

The plaintiffs offered as evidence in this case the affidavit of Mary Ann Metcalf, taken on the 31st day of August, 1892. The purpose of the introduction of this affidavit I am unable to discover, as the affiant does not state in her affidavit that these plaintiffs or any of them are Indians, but simply states in an indefinite and general way that Davis Logan was a Choctaw Indian. The plaintiffs also offer in evidence an ex parte affidavit of Martha E. Gregory, taken on the 12th day of September, 1892. This affiant does not state that any of these applicants or their ancestors were Choctaw Indians. She does state however, in her affidavit, that she knew E. G. Horne and Mary Logan; that she was present at their marriage, and that Mary Logan was the daughter of Davis Logan; that Davis Logan and his wife moved to Kemper

county, Mississippi, from Perry county, Alabama, in 1846 or 1847.

The plaintiffs also introduce an exparte affidavit of Nancy W. Horne, who says she was present at the marriage of E. G. Horne and his wife. This affidavit is dated August 29, 1892.

But nowhere in these last two affidavits is it stated that these plaintiffs are Choctaw Indians, or that Davis Logan or his wife were Choctaw Indians.

It will be noted that E. G. Horne, the father of the principal plaintiff in this case, says he does not know of what race of people Davis Logan belonged to; that he heard he was a Choctaw Indian; that Logan had three girls and one boy, and that his wife, while he does not remember her name, was a white woman; while Joe Jones, a witness offered by plaintiffs, says that the Davis Logan he knew had four boys and one girl. This witness Jones also says in his testimony that Davis Logan was a full blood Indian and that his wife was a white woman, and afterwards changes his testimony and says that Logan and his wife both were full blood Indians, and hence his children were full blood Indians. This same witness says that Logan was born in Kemper county, Mississippi, and resided there until he moved west, while Mrs . Gregory in her affidavit offered to this Court as evidence by plaintiffs says that she was well acquainted with Logan and his wife, and that they moved from Perry County, Alabama, to Kemper County, Mississippi in 1846 or 1847. John Lewis, another witness Court, that Logan had a white name and then says that he was Choctaw and French. Joe Jones also testified that E. G. Horne

never lived in Kemper county, Mississippi, and then says that Horne and Logan left Kemper county, Mississippi, for the west together; while E. G. Horne states in his testimony that he did live in Kemper county, Mississippi, and remained there for several years after Logan and his family departed for the west.

The plaintiffs applied to this Court to take the testimony in this case of D. D. Durant, near Durant, Indian Territory. This application was granted by the Court and his Honor Judge Weaver, one of the Associate Judges of this Court, went to Durant for the purpose of taking the testimony of the said D. D. Durant, and after arriving there the plaintiffs failed or refused to examine the said D. D. Durant in this cause; and we may assume that they have offered all the testimony they desire to offer to establish their rights.

The plaintiff, E. G. Horne, claims that he is the son of Mary Horne, whose maiden name was Mary Logan; that she was a daughter of David or Davis Logan, a Choctaw Indian.

It will be seen that this evidence is so conflicting and so inconsistent as to render it insufficient to warrant this Court in finding as a fact that the plaintiffs, or any of them are Choctaw Indians; and I am, therefore, of the opinion that the application of the plaintiffs should be denied.

A judgment of this Court will be entered in accordance with this opinion.

(Signed) Spencer B. Adams
Chief Judge.

(Signed) Walter L. Weaver
Associate Judge.

(Signed) H. S. Foote
Associate Judge.

In the C. Heston & Chickasaw
Citizenship Court sitting at
South McAlester, D. A.

Joanna Horne et al

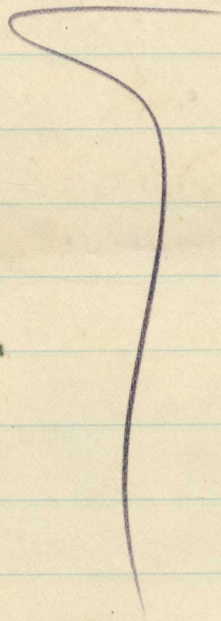
vs

Plaintiffs

Cheston & Chickasaw Nations

Defendants

Memorandum of Argument
for Nations



The essential issues in this as well as all other parallel cases are:

- 1st: Are the applicants Choctaw Indians by blood; and
- 2nd: Has there been such a compliance by them and their ancestors with the requirements of the Treaty of 1820 as would warrant their admission and participation in the distribution of the tribal property -

~~Upon~~ The allegation is made & no testimony offered showing or tending to show that these applicants or their ancestors complied with either the 3^d or 14th Articles of the Treaty of 1820 -

~~Their contention is based~~
Claim is based solely upon a contention of some uncertain degree of Choctaw blood -

~~The~~
It is our view that the entire record transmitted to this Court from the United States Court for the Central District of the Indian Territory is ~~an~~ incompetent evidence, for reasons heretofore often and fully stated, but we shall examine it, as a whole, together with the

James Horne et al Case

Applicants claim to be the descendants of Edward J. Horne, by his wife Mary A. Horne, nee Logan, the daughter of Davis Logan, an alleged Choctaw Indian. The degree of Choctaw blood claimed, differs with the different witnesses, but the claim as originally made was that he was between $\frac{3}{4}$ and a full blood. That is the claim made by Edward J. Horne in his application to the Dawes Commission.

Record made up in this Court as
the same been upon the issue
of Choctaw blood -

The first affidavit found in the record is that of Thomas Greenwood made in 1896 in which he says he knew Edward J. Horne, his mother Mary Horne and her father Davis Logan and the latter he puts at "a little more than three quarters blood Choctaw Indian" but the important statement is that "these people were born and reared in Musk-alushia old town, Miss."

This latter statement is repeated in ~~all~~ almost the exact words in the affidavit of Sam Perry in an affidavit made on the same day and before the same Notary Public

we quote: "I was well acquainted with Davis Logan during his life time, He as well as his daughter were born and reared in Muckalusia old town, Mississippi" This witness made a further affidavit in October 1895 in which he says that his acquaintance with Davis Logan was in Pontotoc Co.,

Applicants having taken and used the foregoing testimony knowing it to be false must bear the burden of one who asserts an ~~un~~unfounded claim, that it is false appears from the affidavit of Mattie E. Gregory taken in Sept 1892 in which she says: "Was well acquainted with Davis Logan and wife. They moved to Kemper County from Perry County Alabama in 1846 or 7" and that she was present at the marriage of Edward G. Horne to their daughter Mary Logan in 1849. This affidavit was the very first one taken as the date will show and when applicants secured witnesses to swear that Davis Logan and his daughter were born and raised in Mississippi they were using false testimony and must have known it. Instead of

being born & reared in Mississippi
Mary Logan was a woman within
two or three years of her marriage
when she reached that state and
her father instead of being born
and raised in that state ~~for~~
was a resident thereof for only
three or four years.

That Mattie E. Gregory is correct
in her statement is shown
by the testimony of applicants
~~Witness~~ Edward G. Horne.
He says he was born in Tennessee
and moved to Kemper Co., Miss., in
1844 when he was 18 years of age
when he lived until he went into
the Mexican war in 1847. Up
until this time he did not know
the Logan family. He returned to
the same neighborhood after
his muster out in 1849 and
found them living there. He
came acquainted with Mary
whom he married a year later.

This fits the testimony of Mrs Gregory to
a nicety.

We begin then to consider the
question of his Indian blood with
the fact established that Davis

Logan was originally from Alabama and outside of the Choctaw reservation thus raising a strong presumption against him being an Indian. Now we will examine the testimony in the case touching on his Indian blood which must rebut this position, if it is rebutted.

Thomas Greenwood and Sam Perry testified before the Dawes Commission and U.S. Court that Davis Logan was between a $\frac{3}{4}$ and full blood Indian, but both say ^{on his daughter} he was born and raised in Mississippi and Sam Perry though agreeing with Greenwood as to the name of the town, says in ~~out~~ place that it was in the Choctaw ~~it~~ that said Logan was in Pontotoc County where he knew him. A reference to the map will show that Pontotoc County was in the Chickasaw⁺ not the Choctaw reservation. As we have shown above however that the only residence Davis Logan ever had in Mississippi was for about three years in Kemper County in the Choctaw reservation, these witnesses are ascended and their evidence goes out of the case.

The only other evidence in the case prior to the testimony taken before this court is the affidavit of Mary Ann Metcalf who incidentally refers to Davis Logan as a Choctaw Indian; ~~then~~ the affidavits of Nancy W. Horne and Mattie E. Gregory both of whom state that they were present at the marriage of Mary Logan and Horne in Kemper County Mississippi in 1849, but are suspiciously silent as to the important point of Davis Logan being an Indian of any degree of blood. The last named witness ~~is~~ shows considerable acquaintance with Davis Logan and had he been an Indian of nearly or quite full blood ~~the~~ applicants would not have omitted to have her so state. Their applicants started out to prove that Davis Logan was nearly or quite a full blood is shown by the entire record, none of the witnesses putting it at less than three quarters, while E. J. Horne on ~~April 19, 1897~~ in his motion to take the testimony of D. D. Durant supported by his affidavit of April 19, 1897, says said

Durant will testify that Davis Logan was a full blood,

We think we can safely say that until this time the proof of the Indian blood of Davis Logan does not appear. We shall now take up the evidence in this Court: ~~Edward~~

Edward S. Home, the son-in-law of the alleged Choctaw Indian, Davis Logan has spoken to said Logan's blood; ~~and the~~ ~~quote~~; we call attention to the fact that he gives Logan's name as David, not Davis.

We quote:

"Q What was the name of your wife's father? A. David Logan

+ + "Q

"Q To what race of people did David Logan belong? A. Well, I can only answer as to what I have heard; you see, I don't really know of my own personal knowledge

"Q To what race of people did he say he belonged? A. Indian; Choctaw Indians

Indians lived in the village
that he lived on the edge of."
+ + + +

"Q You say your wife's father
claimed to belong to the
Chectaw Tribe of people
A Yes, sir

"Q Did he claim to be a
full blood or a mixed
blood? A. He did not
claim to be a full blood &
I don't remember now
that I ever heard him
say what proportion of
Indian blood he was, but
he was part Indian and
his appearance would
show that; I have fre-
quently heard him boast of
his Indian blood."

+ + +

"Q At the time you married into
the family, did you know
that David Logan was a
Chectaw? A I knew his name
and knew that he claimed to
be of the same blood as
the Indians that were in

the same village on Socucochee
creek, and they were Choctaws
"Q About what part Choctaw
you say David Logan was?
A I would have to guess at
that, sir.

"Q What is your best judg-
ment? A Well, I would
guess him to be about a
half breed; judging from
what I have seen around
here.

"Q Know whether he spoke
the Choctaw language?
A He could do it.

+ + +

"Q What kind of hair did the
old man have? A Very coarse
and very black hair, black
beard, black eyes, promi-
nent cheek bones; kind of
dark skin; he could speak
English well, too.

It would seem to a casual observer
that there had been enough per-
jured testimony in this case
to answer the purpose of any
one case, but not content with the
statements of Greenwood and Perry

before the U S Court and Dawes Commission applicants to make their conviction sure put John Lewis on the stand in this Court and before he had covered two pages with his testimony he had convicted himself of perjury and applicants of presenting a notoriously venal witness to prove their claim. His ^{evidence} testimony disputes every scrap of testimony ~~of~~ in the case. He has been so thoroughly impeached before this Court that it is perhaps not necessary to note his evidence but we cannot resist the temptation to examine his evidence in detail.

Witness says he is 88 years of age which would put his birth in 1815; that he left Mississippi when 16 years of age when he moved west with the second emigration. This puts his removal in 1831. Now, although the record shows David Logan did not reach Mississippi until 1846 or 1847, this witness boldly claims to have known him intimately in Mississippi. Witness goes on and says Logan was part Indian and part French, and then ~~for good measure~~ goes on and ~~goes~~ for good

measure gives Logan's wife a share of Indian blood although all the other witnesses who speak, including applicants, that she was white.

Edward J. Horne, an applicant, was introduced but as he does not touch any of the material questions we shall pass his evidence.

Before discussing the testimony taken at Jackson, Mississippi, we wish to call the attention of the court to the objection we made ~~against~~ to taking the testimony of Joe Jones without an interpreter. We assert that the record gives us adequate idea of the examination of this ~~second~~ witness. We call the members of the court who was present when the evidence was taken to confirm our statement that his knowledge of the English language was so limited that no correct idea of what he really knew could be obtained without an interpreter.

His statement does applicants no possible good. He claims to have known Davis Logan and that his eldest daughter married Horne. But he also says Logan lived in Keuper County 49 years and that his wife was a Choctaw; was younger than

witness and born close to him. This witness says Logan never lived in Muckalaasha but did live in Sugarcacha, witness further says that Logan married in Kemper County which in view of the other evidence is impossible, witness further says Horne & Logan left Kemper County together while Horne says he lived there five years after Logan left, witness further further says Horne's wife was a full blood and sticks to it in the face of the efforts of applicants attorney to get him to retract and say she was white.

Simon Lang was introduced by applicants and while he says he knew Logan, his daughter Mary and her husband Horne, he absolutely refuses to say Logan was an Indian and fixes the town of Muckalusha as 28 or 30 miles from where Logan lived and he, agreeing with the statement of Watter & Gregory says he only lived in the County for two or three years,

~~In many of these cases the witnesses and court are sometimes embarrassed by the fact that~~

The willingness of the applicants, as here shown, to make use of false and contradictory evidence, the character of which they must know; describes them as witnesses of in their own behalf & discredits their testimony before this Court -

From the whole record it appears that they are of the usual class and that the case is a usual one - The family originated in Perry County, Alabama outside of the old Choctaw Nation. ~~There is no evidence tracing the family further back than Perry Co. Al.~~ to where they come from into Perry County Alabama, the record does not disclose - They moved into Kember County, Mississippi in the old Choctaw Nation, in the late 40's nearly 20 years after the emigration of the Choctaws to the New Nation. They there lived two or three years and moved on west, landing in Drew County, Arkansas - From there they moved to Texas where they lived until only a few years ago - In Mississippi, Arkansas and Texas they lived and acted as other citizens of those states -

Having wholly failed upon both
the essential issues in the case,
we ask that their petition be
denied —

Respectfully Submitted,

Attorneys for ~~Charles~~ ~~Johnson~~ Nelson

Thelma Home Pyle

No 83

E. J. Horne et al.

- + Joanna Horne or Joan Horne
- + Edward J. Horne, or E. J. Horne
- + James S. Horne or James C. Horne
- + Charles S. Horne or Chas. S. Horne
- + Corinn E. Horne
- + Mary E. Horne
- + Sarah E. Horne
- Jordan Horne
- Jewell Horne
- + Lucy D. C. Davis (nee Horne) Lucy D. C. Horne
- J. P. Davis
- + Victoria D. Pyle (nee Horne), or Victoria D. Horne
- Cecil Smith Pyle

over

Duplicate

SUMMONS.

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

SS:

The President of the United States of America,

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

GREETING:

YOU ARE COMMANDED TO SUMMONS P. S. Headley

Governor of the Chickasaw nation

on behalf of said nation

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

as Governor of said nation

a complaint in Equity filed against the Choctaw and Chickasaw nations

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

as said Governor

by Joanna Horne et al and warn him that upon his failure to answer, the

on behalf of said nation the

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

first day of next instanter Term of said Court.

and you are further commanded to notify said Spencer Adams, Governor

aforsaid, that the files, papers and proceedings in the case of

Joanna Horne et al File No. 24 in the District court for the

Central District of the Indian Territory has been trans-

ferred to the Choctaw and Chickasaw citizenship court, and that the

certificate of the clerk of said court for said Central

District, Indian Territory, has been attached thereto.

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

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

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

this 18 day of March, A. D. 1903

By Gas B. Bassada Clerk.
E. L. Beritt, Deputy.



Tiowa IA
Nov 9 1890

Manfred McMillan
also at law

So McArthur IA

Genl I had a talk with
the parties relative to the status
of E. J. Horn of Fabson IA
His says all the evidence
you want is the father of E. J. Horn
He lives at Durant he said
the old man was heard to say
he did not see how E. J. Horn
his son could claim Indian
rights for he nor his wife the
mother of E. J. Horn made no claims
to Indian citizenship E. J. Horns
brother Albert told his brother-in-law
Dove Clark I am expecting a letter

from a party in Durant with further
evidence in the matter & will
give you the benefit as soon
as I receive it
also will write for further evidence
in the Kizer case by the way
Judge Lewis of the Choctaw Court
will be good evidence in the
Kizer case I understand that he
made the negro who swears that
Mrs Kizer was the daughter of one
Harrison was not the daughter
of the said Harrison for the daughter
I died in her teens also one Harris
& Hot Harrison who is a brother
of Mrs Kizer I am told will
swear that their names are Harris
& that they are white people
was born in Louis & became
orphans in very early life & was
raised to man & woman hood by
an old lady who is still living
and I understand has given her
affidavit to that effect I will get
all that soon
Yours truly
A. P. G. G.

C. H.

COMMISSIONERS:
HENRY L. DAWES
TAMM BIXBY
THOMAS B. NEEDLES
C. R. BRACKINRIDGE

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
SECRETARY.

Muskogee, Indian Territory, November 8, 1900.

South McAlester, Indian Territory, November 6, 1900.

McKennon, Mansfield, McMurray & Cornish,
The Commission to the Five Civilized Tribes,
Attorneys at Law,

Muskogee, Indian Territory,

South McAlester, Indian Territory.

Dear Sirs:

We understand Ed Horn has been listed for enrollment as a citizen of the Choctaw Nation. If so, please advise us if the number of the card, his post office address, and the names of his father and mother as they appear upon such card.

We are advised that his brother Frank Horn is enrolled as a Choctaw Freedman. In the same letter, please advise us of the number of the card upon which Frank Horn is listed, the

Also whether his brother, Frank Horne, is enrolled as a Choctaw freedman and if so that you be advised of the number of the card upon which he is so listed, his post-office address, the names of his parents, et cetera.

If it appears that these persons are from the same mother and Frank Horn is in fact a Freedman, we shall, of course desire to contest Ed Horn, and take testimony at Atoka, in which event we will duly advise him, as required by the Commission.

You are informed that the records of this Commission do not show that any party by the name of Frank Horne has been listed for enrollment as a freedman of either the Choctaw or Chickasaw Nation.

Dictated.

Yours truly,

As to Edward J. Horne, and his family, the records of the Commission show that on August 24th, 1899, Edward J. Horne, 47 years of age, of Nedra, Indian Territory, together with his wife, Jean Horne and their seven minor children, Isedara, Victoria D., James O., Charles S., Connie E., Mary E., and Sarah E. Horne were listed for enrollment as citizens of the Choctaw Nation by blood, having been admitted to such citizenship by a judgment of the United States

THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
SECRETARY.

Muskogee, Indian Territory, November 8, 1900.

McKennon, Mansfield, McMurray & Cornish,
Attorneys at Law,
South McAlester, Indian Territory.

Gentlemen:

The Commission is in receipt of your letter of the 6th instant in which you state that you have been informed that Ed Horne has been listed for enrollment as a citizen of the Choctaw Nation by this Commission. You desire to be informed the number of the card, his post-office address, the names of his father and mother as they appear upon such record.

Also whether his brother, Frank Horne, is enrolled as a Choctaw freedman and if so that you be advised of the number of the card upon which he is so listed, his post-office address, the names of his parents, et cetera.

You are informed that the records of this Commission do not show that any party by the name of Frank Horne has been listed for enrollment as a freedman of either the Choctaw or Chickasaw Nation.

As to Edward J. Horne, and his family, the records of the Commission show that on August 24th, 1899, Edward J. Horne, 47 years of age, of Nedia, Indian Territory, together with his wife, Joan Horne and their seven minor children, Isedora, Victoria D., James O., Charles S., Commie E., Mary E., and Sarah E. Horne were listed for enrollment as citizens of the Choctaw Nation by blood, having been admitted to such citizenship by a judgment of the United States

Court for the Central District of the Indian Territory rendered at South McAlester, August 4th, 1897, in court case No. 29. Since that date there have been born to Mr. and Mrs. Horne two children, Joe E. and Juel, the last two children having been listed for enrollment by this Commission upon presentation of the proper affidavits as to their birth.

The mother of Edward J. Horne appears upon the records of the Commission as Mary Horne, a Choctaw Indian and his father as E. G. Horne, a non citizen.

629
2/11/98

There is no testimony or other evidence filed with the Commission to show that the mother or the father of this applicant was ever the slave of a Choctaw or Chickasaw Indian or that he has ever been listed for enrollment as a freedman of either the Choctaw or Chickasaw Nations.

These parties appear upon the records of the Commission on Choctaw roll card, field No. 3877.

Yours truly,

James Dixby
Acting Chairman.

Report on Present Status of the Joanna Horne Case -

The application states that Davis Logan was a Choctaw Indian of almost the full blood. That he was married and that he had a daughter named Mary Logan, who married one Horne, & who is the mother of the applicant, E. J. Horne.

Thomas Greenwood, a negro, 70 yrs, of age, P. O. Wiley, T. T. made an affidavit in 1896 in which he stated that he knew the applicant, E. J. Horne, knew his mother, Mary Logan, & his grandfather Davis Logan. Knew Davis Logan to be a Choctaw Indian of a little more than $\frac{3}{4}$ blood.

It does not appear that this witness has been seen, nor does it show anything to show whether he is living or dead.

If he is living, he should be brought before the Court, I am sure that he will contradict his former testimony -

Sam Perry gave some evidence in this case as did Thomas Greenwood. His testimony, however, has not been introduced in the citizenship Court, being specially exempted by Mr. Rales when he introduced the record. (See ~~evidence~~ transcript of Evidence before Cit. Ct. p. 36.)

This affidavit however has not been removed from the record, and it would be well to call the Court's attention to the impeach-

Reeder will also swear that E. J. Horne worked for him when Horne first came into that part of the country, that he had frequent conversations with Horne in regard to his nationality; that Horne always told him that he was a mixture of Dutch & Irish, & that he never said anything about having Indian blood - That he did not claim Indian blood until many years after

The testimony of Reeder should be taken before the Court.

The applicants have not alleged or proven a case -

ment of Paul Perry in the cases of Mary
M. Harvey, et al, ^{1867,} and Helen T. Newton, et
al. No 71.

Mattie E. Gregory testified in 1896 to her
knowledge of the Logans, their marriages,
& relationship, but says nothing about
their having Choctaw blood - Her affi-
davit is unimportant. E. J. Horne, in
his testimony before the Cit. Ct. said that
Mattie E. Gregory now lives at Corpus
Christi, Texas.

Joe Reeder of Tolson, T. T. says that
he can furnish an old lady to whom
E. J. Horne offered a bribe of \$200⁰⁰
to swear that she was an Indian.

Duplicate

SUMMONS.

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

SS:

The President of the United States of America,

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

GREETING:

YOU ARE COMMANDED TO SUMMONS Green Mc Curtain, Principal Chief of the Choctaw nation,

on behalf of said Nation, to answer in twenty days after the service of this summons upon him, as

Principal Chief of said Nation, a complaint in Equity filed against The Choctaw and Chickasaw Nations,

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, So. Mc Alester by Joanna Sterne et al and warn him that upon his failure to answer, ~~the~~ as Principal Chief of said Nation, on behalf of said Nation, the complaint will be taken for confessed, and you will make return of the summons ~~to the~~

~~to the~~ instanter, ~~Term of said Court~~ and you are further commanded to notify said Green Mc Curtain, Principal Chief aforesaid, that the files, papers and proceedings in the case of Joanna Sterne et al File No. 29 in the District Court for the Central District of the Indian Territory/ have been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the Clerk of said said for said Central District, Indian Territory, has been attached thereto.

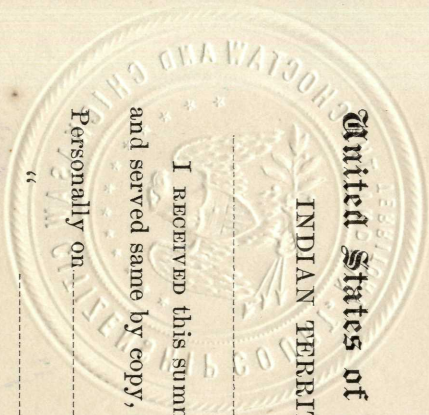
WITNESS the Honorable SPENCER B. ADAMS, Chief Judge, WALTER L.

WEAVER and HENRY S. FOOTE, Associate Judges, and the Seal thereof, at South Mc Alester, I.T., aforesaid, this 18 day of March, A. D. 1903



By Gas B. Cassidy Clerk.
E. S. Bennett, Deputy.

MARSHAL'S RETURN.



United States of America,
INDIAN TERRITORY,
DISTRICT.

ss:

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

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

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

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

U. S. Marshal.

By _____ Deputy

Duplicate

No. 83-M

SUMMONS
IN EQUITY.

Joanna Horne et al
vs.
Chesaw & Chickasaw Nations

Summons issued the 18 day
of March, 1903

Returnable instantly Term, 190

Returned and filed _____, 190

Clerk.

By _____, Deputy.

MARSHAL'S FEES.

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

J. G. Rales Atoka D.C.
Attorney for Plaintiff.

JOANNA HORNE, ET AL.

The application states Edward J. Horne is a 1/4 blood Choctaw Indian; that his mother was Mary Horne, nee Logan; that she was a daughter of Davis Logan; and that Davis Logan was a Choctaw Indian of almost pure blood. Applicant is 42 years old, and was born in the Indian settlement in Mississippi. He came to the Indian Territory in 1892, and is now a bona fide resident of the Choctaw Nation. He knew his grandfather, Davis Logan, well; and he knew him to be a Choctaw Indian. In 1892 petitioner applied for citizenship before the Choctaw Council at Tuskahoma; paid his \$100 as required by law; was represented by A. Telle. The citizenship Committee recommended that he be admitted; and that he and his family be enrolled. : The application is still pending before the Council. Applicant was legally married to Joanna Horne, a white woman in the State of Texas in July, 1879, by whom he has had 7 children who are also applicants, and whose names he gives.

Application was denied by the Dawes Commission. Appealed to the United States Court for the Central District; Admitted all of the applicants.

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AFFIDAVITS BEFORE THE DAWES COMMISSION.

THOMAS GREENWOOD says that he is 70 years old and lives at Wiley. Knows Edward J. Horne; he is a Choctaw Indian of about a quarter blood; his mother, Mary Horne, nee Logan, who was a daughter of Davis Logan, was a little more than three-quarters Choctaw Indian. Affiant also knew her well. These people were born and reared in Muckalushia old town in Miss. Affiant's master's family and the Logans were intimate friends and visited each other frequently. Affiant is a Choctaw Freedman.

SAM PERRY says that he knows Edward J. Horne; that he is about a fourth fourth blood Choctaw Indian. That his mother Mary Horne, nee Logan, a daughter of Davis Logan, was between a three-quarter and a full blood Choctaw Indian. Affiant knew Davis Logan well; he was born and reared in Muckalushia old town, Mississippi.

MATTIE E. GREGORY testifies to her knowledge of the Logans and their marriages and relationship; but says nothing about their having any Choctaw blood.

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There are no depositions.

The evidence is that of negroes and they are standing witnesses. It is not sufficient, even if nothing else is done in the case, to make the case a formidable one.

The applicants fail to prove that there was such a person as Davis Logan; that he had any Indian blood; that he was a Choctaw; and that he was the ancestor of the petitioners.

Applicants did not come to the Territory until 1892.

The Choctaw Council has refused to admit them.

Handwritten signature: Logan

These witnesses say that he is the son of one Mrs. Logan, who was the daughter of Davis Logan, a three-quarter Choctaw Indian. His mother was a white woman, and his father was a Choctaw Indian. He was born in the State of Georgia in 1817, and he has had 7 children. He is now living in the Territory of Oklahoma.

These witnesses also say that his mother was the daughter of one Mrs. Logan, who was the daughter of Davis Logan, a three-quarter Choctaw Indian. His mother was a white woman, and his father was a Choctaw Indian. He was born in the State of Georgia in 1817, and he has had 7 children. He is now living in the Territory of Oklahoma.

These witnesses also say that his mother was the daughter of one Mrs. Logan, who was the daughter of Davis Logan, a three-quarter Choctaw Indian. His mother was a white woman, and his father was a Choctaw Indian. He was born in the State of Georgia in 1817, and he has had 7 children. He is now living in the Territory of Oklahoma.

Joanna Horne case

Testimony for Nation's

No case proven -

Submitted and brief filed

In the case of E.J. Horne, et al., No. S 83,
applicants claim that they are quarter blood Choctaw
Indians, that they derived their Choctaw blood from their
mother, Mary Horne nee Logan who was the daughter of
Davis Logan, a Choctaw Indian almost of the full blood.
We are informed that old man Horne of Durant, Indian
Territory, can and will furnish the nations with valuable
information in regard to this case, that the witness is
the father of the applicant and has been heard to say
that his son had no Indian blood. You are directed to
see Mr. Horne and take his testimony in the case.

mistake

In the case of E. J. Horne, et al I was directed to see old man Horne, whose name is E. G. Horne, and who is the father of the applicant E. J. Horne. I saw the old gentleman at Durant and inquired of him concerning the case. He stated that his son did have Choctaw blood; that said blood came to his son through the old mans first wife, whose maiden name was Mary Logan. I saw that the witness was a biased one, as was natural, and that I could get nothing from him of advantage to the Nations. I did not therefore reduce his statements to writing, as it was merely a repetition of the facts set forth in the application of E.J. Horne.

1
2 Joe Reeder, Folsom, S. F. says he
3 can furnish an old lady that
4 E. J. Horne tried to bribe for 200⁰⁰
5 to swear that he was an Indian

#

Joanna Horne, et al

In the case of Joanna Horne, et al, I was instructed to see Joe Reeder of Folsom. Mr. Reeder is the Post Master at Folsom. I saw him and took from him the statement appended hereto. Mr. Reeder was not inclined to make an affidavit in the case. He said that the case was none of his business, but that he felt sure it was a fraud.

He says that he has had frequent conversations with Horne in regard to his nationality, and that Horne always told him that he, Horne, was a mixture of Dutch and Irish. He says that Horne did not claim Indian blood for a long time after he came here, that is all he knew about it.

James Home, et al.

Postmaster

Joe Reeder of Tolson, W. D. says that he knew
Ed. Home when the latter first came into this
part of the country. That Home worked for him.
He says that he has had frequent conversations
with Home in regard to his nationality, and
that Home always told him that he, Home,
was a mixture of Dutch and Irish. He says
that Home did not claim Indian blood
for a long time after he came here. That is all
he knows about it.

Before the Commission to the Five Civilized Tribes.

-----oOo-----

J.F.Horne, Sarah Ann Horne,
~~Bulah Bell Horne~~
Bulah Bell Horne, Homer C.Horne,

Dora D.Horne, Robert Horne,

Ernest N.Horne, Syncia Ann Horne,

M.M.Smith, Ida Smith, Virgil Smith,

Lynal Smith, Cora Smith, Coral Smith,

Arthur Smith. Martha ~~Horne~~, William ~~Horne~~, *Thomas Horne*

Claude ~~Horne~~, Aubrey ~~Horne~~, Cleveland ~~Horne~~,

May ~~Horne~~, Orlin Thomas Scott and Thomas Scott.

-----Plaintiffs,

vs.

Application for citizenship.

The Choctaw Nation,-----Defendants.

Comes now the above named plaintiffs and say that they are entitled to citizenship in the Choctaw Nation for the following reasons;-

That they are citizens of the Choctaw Nation by blood; and that E.J.Horne, the ~~brother~~ Brother of J.F. Horne and Syncia Ann Horne was admitted to citizenship in the Choctaw Nation by the United States Court in the Central District of the Indian Territory on the 3rdrd day of July, 1897, as shown by copy of opinion of the Court herewith attached.

That J.F.Horne, the brother of the said E.J.Horne was lawfully married to Sarah Ann Davenport in the year 1877, by whom he has the following children; Bulah B., Homer C., Dora D., Robert and Earnest N.Horne, all of whom are now living in the Indian Territory.

That Syncia Ann Horne, the sister of the said E.J.Horne was

lawfully married to M.M. Smith, a white man in the year 1874, by whom she has the following children;- Ida, Virgil, Lynam, Cora, ^{Arthur} Coral and Nellie, all of whom are now living in the Indian Territory.

That W.T.Horne, who is now deceased, was also a brother of E.J. Horne; that the said W.T.Horne during his life time married Martha Wolf, by whom the following children were born;-- William, Claude, A Aubrey, Cleveland, Thomas and May, all of whom are now living in the Indian Territory.

That Ida Smith, the daughter of of Syncia Horne and M.M. Smith, was lawfully married to Thomas Scott, ^{in 1895} a white man by whom she has one child, Orlin Thomas Scott, who is now living in the Indian Territory.

That all of these applicants ~~are~~ ^{are} residents of the Indian Territory, and are Choctaws by blood.

Premises considered plaintiffs pray that they be enrolled as citizens of the Choctaw Nation.

J.F.HORNE, SARAH ANN HORNE, EULAH BELL HORNE, HOMER C.HORNE, DORA D.HORNE, ROBERT HORNE, ERNEST N.HORNE. SYNCIA ANN HORNE, M.M.SMITH, IDA SMITH, VIRGIL SMITH, LYNAL SMITH, CORA SMITH, CORAL SMITH, ARTHUR SMITH, NELLIE SMITH. MARTHA HORNE, WILLIAM HORNE, CLAUDE HORNE, AUBREY HORNE, THOMAS HORNE, CLEVELAND HORNE, MAY HORNE. THOMAS SCOTT and ORLIN THOMAS SCOTT.

By their Attorneys,

Anna Louise Wickins

J.F.Horne and M.M.Smith being duly sworn according to law, state that the matters and things set forth in the above is true and correct as they verily believe.

J.F. Horne

M.M. Smith

Subscribed and sworn to before me this 14th. day of August, 1897.

Chas. W. Dunstan

Notary Public.

J.F.Horne being duly sworn according to law states;--

My name is J.F.Horne, I am 46 years old, I live near Silo I.T. E.J.Horne who was admitted to citizenship by the United States Court for the Central District of the Indian Territory las month is my Brother. And Syncia Ann Horne one of the Applicants herein is my Sister, she is also the Sister of the said E.J.Horne. She married a white man by the name of M.M.Smith in 1874 by whom she has the following children; Ida, Virgil, Lynam, Cora, Arthur, Coral and Nellie all of whom are now living at Silo, I.T. I was lawfully married to Sarah Ann Davenport in the year 1877, she is a white woman and we have the following children;--Bulah., Honer C., Dora D., Robert and Earnest N.Horne, all of whom are now living near Silo, I.T.

W.T.Horne was also my brother and the brother of E.J.Horne, he married a white woman by the name of Martha Wolf, who is now living, and by whom he has the following children;-- William, Claude Aubrey, Cleveland, Thomas and May, All of whom are now living at Cliff, I.T. W.T.Horne died in 1892.

J. F. Horne

Subscribed and sworn to before me this 14th. day of August, 1897.

Chas. W. Dunstan
Notary Public.

(Seal)

M.M. Smith after being duly sworn according to law says;---

My name is M.M. Smith, I am a white man, I am 40 years old, and my post office is Silo, I.T.

I know E.J. Horne who was admitted to citizenship by the United States Court in the Central District of the I.T. some time in July; he is a brother of of Syncia Ann Horne who is my wife, and J.F. Horne one of the applicants herein.

I also knew W.T. Horne during his life time, he was also a brother to the said E.J. Horne, J.F. Horne and Syncia Ann Horne. W.T. Horne married a white woman by the name of Martha Wolf and by whom she had the following children; - William Claude, Aubrey, Cleveland Thomas and May; their post office address is Cliff, I.T. where they are all living.

J.F. Horne married a white woman in 1877, by the name of Sarah Ann Davenport, and by that union they have the following children, Bulah, Homer C. Dora D. Robert and Earnest N., their post office is Silo, I.T. and they are all living near that place.

I was married to Syncia Ann Horne, the sister to the said E.J. Horne, J.F. Horne and W.T. Horne. We have the following children; - Ida, Virgil, Lynam, Cora, Authur Coral and Nellie, their post office is Silo, I.T., and all of whom are now living at that place.

M. M. Smith

Subscribed and sworn to before me this 14th. day of August, 1897.

Chas. W. Dunster
Notary Public.

Seal

E.G.Horne after being duly sworn according to law says;--

My name is E.G.Horne, I am 70 years old, my post office is Silo, IT

E.J.Horne who was admitted to citizenship by the U.S.Court at South McAlester, I.T. some time last month is my son. J.F.Horne and Syncia Ann Horne the applicants in this case are also my children, and the full brother and sister of my son E.J.Horne. W.T.Horne who is now dead, was my son, he is also the full brother of J.F. Horne, E.J.Horne and Syncia Ann Horne.

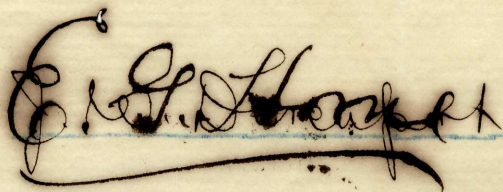
J.F.Horne was married to a white woman by whom he has five children;-- Bulah, Homer C. Dora B. Robert and Earnest.

W.T.Horne's widow has six children;-- William, Claide, Aubrey, Cleveland, Thomas and May.

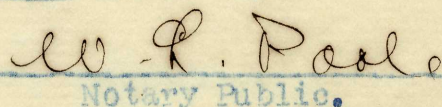
Syncia Ann Horne married M.M.Smith, a white man by whom she has seven children;-- Ida, Virgil, Lynam, Cora, Authur, Coral and Nellie.

Ida Smith, my Grand Daughter, married a man by the name of Thomas Scott in 1895, by whom she has one child, Orlin Thomas Scott.

All of these parties I have named in this affidavit, with the exception of W.T.Horne, who is dead, are now living in the Indian Territory.



Subscribed and sworn to before me this th 16 day of Aug. 1897.



Notary Public.



J.W.Davenport after being duly sworn according to law states;--

My name is J.W.Davenport, I am 66 years of age, my post office is Silo, I.T.

I have known E.J.Horne, J.F.Horne, Syncia Ann Horne and W.T. Horne very nearly all their lives. They are the children of E.G. and Mary Horne.

W.T.Horne died several years ago. I understand that E.J.Horne was admitted to citizenship in the Choctaw Nation by the Court some time ago. The applicants, J.F.Horne and Syncia Ann Horne are his brother and sister, as I above stated. W.T.Horne deceased, was also a full brother of E.J.Horne.

I have no interest whatever in this application for citizenship.

J.W.Davenport

Subscribed and sworn to before me this 16 day of August, 1897.

W.R. Park
Notary Public.

(Seal)

Refer in reply to the following;
Land 29266-1897.

Department of the Interior,
Office of Indian Affairs.

Washington, July 22, 1897.

Copy

J.F.Horne, Esq.,
Silo, Indian Territory.

Sir;

I am in receipt, by the Department reference, of your letter of July 11, 1897, in which you state that you and other members of your family applied to the Dawes Commission for admission to citizenship in the Choctaw Nation, but were rejected; that your brother, E.J. Horne, appealed his case to the Court and was admitted, and you ask to be advised whether or not you and your other brothers are not entitled to admission on the decree of your brothers case.

In reply I have to state that this is a matter which should be laid fully (with a thorough statement of facts) before the Dawes Commission for their action in the premises.

Very respectfully,

THOS. P. SMITH

Acting Commissioner.

Murchison. (H)

II.

E.J.Horne,

vs.

THE CHOCTAW NATION.

In this case, the pleadings and proof show that the claimant is a Mississippi Choctaw, and that prior to his application to be enrolled, he had, in good faith, moved into the Choctaw Nation, and on the 9 day of Sept. 1896, filed with the Dawes Commission, his application to be enrolled as a Choctaw citizen. That he is a **Choctaw** of the 1/4 blood.

The act conferring jurisdiction on the "Commission to negotiate with the five civilized tribes", called the "Dawes Commission", entitled "An Act making appropriation for current and contingent expenses of the Indian Department" etc., approved June 10, 1896, (page 339 Statutes at Large, 1895-96) among other things provides, that every "application for citizenship must be made to the Commission within three months after the passage of the aforesaid act" And, therefore, the claimant in this case, having complied with the provision of the statute, and being a "Mississippi Choctaw" and having returned to the Choctaw Nation in good faith, under the rule laid down in the decision just rendered, in the case of _____, vs. the Choctaw Nation, he is entitled to be enrolled as a Choctaw citizen; unless the fact that he is a Choctaw of less than one-eighth blood shall deprive him of that right.

On Nov. 5, 1896, the following Act of the Choctaw council was approved and went in force:

"An Act entitled" An Act defining the quantity of blood necessary for citizenship".

"Sec.1. Be it Enacted by the general Council of the Choctaw Nation assembled: That hereafter all persons, non-citizens of the Choctaw Nation, making or presenting to the General Council, petition for rights of Choctaws in this Nation, shall be required to have one-eighth Choctaw blood, and shall be required to prove the same by competent testimony".

"Sec.2. Be it enacted that all applicants for rights in this Nation shall prove their mixture of blood to be white and Indian.

"Sec.3. Be it further enacted, that no person convicted of any felony or high crime shall be admitted to the rights of citizenship within this Nation.

"Sec.4. Be it further enacted that this Act shall not be construed to affect persons within the limits of the Choctaw Nation, now enjoying the rights of citizenship.

"Sec.5. Be it further enacted that this act take effect and be in force from and after its passage" (Durant Digest, p.266)

By the 14th Article of the Treaty between the United States and the Choctaw nation, negotiated on the 27th day of September, 1830, as interpreted by this Court in the case of _____ vs. The Choctaw Nation, all Mississippi Choctaws and their descendants, were entitled, upon their removal to the Choctaw Nation, to all of the privileges of a Choctaw citizen, except to the right to participate in their annuities. This right of citizenship being conferred by the treaty, no law afterward enacted by the Choctaw Council can deprive them of that right because it would be in conflict with the treaty which confers this right to them and their descendants, without reference to the quantity of Indian blood. If they are descendants ~~xs~~ of Choctaw ancestors, it is sufficient.

In this case the claimant is entitled to be enrolled as a Choctaw citizen. The decision of the Dawes Commission is reversed and judgment will be entered for the claimant.

INDIAN TERRITORY
CENTRAL DISTRICT. ss.

Personally appeared before me, R. E. Campbell
a Notary Public within and for the Central District of the Indian Territory, James E. Gresham, who after being duly sworn states on oath that the above and foregoing is a true and perfect copy of the opinion rendered by the United States court for the central District of the Indian Territory in the case of E.J. Horne vs. The Choctaw Nation.

James E. Gresham

Subscribed and sworn to before me this 19th day of
August, 1897.

R. E. Campbell
Notary Public.

True

Copy

GEORGE A. MANSFIELD.
J. F. McMURRAY.
MELVEN CORNISH.

LAW OFFICES OF
MANSFIELD, McMURRAY & CORNISH.

GENERAL COUNSEL FOR
THE CHOCTAW NATION
THE CHICKASAW NATION

South McAlester, Indian Territory, August 15, 1903.

Postmaster,

Cache, I. T.

Dear Sir:

Will you be good enough to tell us if E. K. Wilson gets his mail at your office?

For your convenience in replying we enclose a self-addressed, stamped envelope.

Thanking you for a prompt reply we remain,

Yours very truly,

Dictated.--Env.

Mansfield McMurray & Cornish

Yes Sir?

8-83

Joanna Horn,

BEFORE THE CHOCTAW & CHICKASAW CITIZENSHIP COURT, SITTING AT
SOUTH McALESTER, INDIAN TERRITORY, FEBRUARY TERM, 1904.

Joanna Horne, et al.,

vs.

No. 83.

Choctaw & Chickasaw Nations.

Hiram Lancaster, et al.,

vs.

No. 82.

Choctaw & Chickasaw Nations.

Nellie J. Gideon, et al.,

vs.

No. 80.

Choctaw & Chickasaw Nations.

Judges present and presiding, the Honorables Walter L. Weaver and Henry S. Foote.

J. G. Ralls, attorney for plaintiffs in cases of Hiram Lancaster, et al., and Nellie J. Gideon, et al., and Ralls and Bowman attorneys for plaintiffs in case of Joanna Horne, et al.

Mansfield, McMurray & Cornish, for defendants.

February 17, 1904. In the above entitled causes the following proceedings were had on this date.

Mr. Ralls:

We desire to offer the petition to take the testimony of D. D. Durant, at Durant; also petition to take the testimony of Mrs. Nancy Horne (nee Hart), at Greenville, Texas.

(Petition read)

Judge Weaver:

So far as the latter witness is concerned it does not appear that she has ever been subpoenaed to appear and give her testimony in this court, so the motion will not be granted as to that witness. As to D.D. Durant we will see later.

Judge Weaver:

In the case of Hiram Lancaster, et al., vs. Choctaw & Chickasaw Nations, the plaintiff having made application to this court supported by his affidavit that one D. D. Durant is a material witness in his case; that said Durant was in attendance upon this court but before his testimony could be heard he was taken ill and returned to his home and has been continuously ill since that time; upon consideration of that application the prayer of the said petition is granted and one of the judges of this court will take the testimony of said witness at his home at Durant on Saturday, the 27th of February.

Judge Weaver:

A similar notation should be made in the case of Joanna Horns, et al., vs. Choctaw & Chickasaw Nations, No. 83, that the testimony of said D. D. Durant will be taken in that case on the 27th day of February; but that the application to take the testimony of the witness named Mrs. Nancy Horns at Greenville, Texas, is denied as it does not appear that any effort whatever has been made to procure the attendance of said witness at this court, and no application has heretofore been made to take her testimony until this date and there has not been due diligence shown by plaintiff and her counsel in this matter to render it such a case as the court would consider it proper, in its discretion, to take the testimony of said witness. Now I will put these cases down for hearing and final determination on the 29th day of February.

Mr. Ralls:

In No. 80, Nellie J. Gideon, et al., vs. Choctaw & Chickasaw Nations, I want Dr. Gideon to come here and give his evidence in rebuttal of the testimony as to his giving Bangston Johnston \$50. to testify in this case.

Judge Weaver:

You wire Dr. Gideon to come here and come here tomorrow if possible. If you can get him here tomorrow we want him here.

Mr. Ralls:

I don't suppose a wire would reach Dr. Gideon today. He lives in the country about four miles. Inasmuch as the court is going to Durant on the 27th--there is a case set on the 26th for John Mitchell, in which case Dixon Durant was subpoenaed to appear and testify--I would like a ~~xxxxxxx~~ order to take his deposition at that time.

Judge Weaver:

If you will make an affidavit as attorney for John Mitchell, stating what you expect Durant to testify to and make your application--the rule says that the application shall be sworn to by the party and his attorney--if you will make an affidavit setting forth what you expect the witness to testify to--if you will come within the rule we will consider the application.

Mr. Ralls:

I will draw up that application.

Mr. Mansfield:

Did Durant testify in the Gideon case before?

Mr. Ralls:

I don't know.

Judge Weaver:

I don't think he did.

Mr. Mansfield:

That would seem to me to be a motion to reopen the case.

Judge Weaver:

Mr. Ralls, you desire the presence of Dr. Gideon to give testimony in rebuttal of testimony given this morning?

Mr. Ralls:

Yes sir.

Judge Weaver:

When can you get Dr. Gideon here. Of course you are entitled to have time for rebuttal testimony. How soon can you get the gentleman here?

Mr. Ralls:

I don't think that a telegram would reach him.

Judge Weaver:

When would a letter reach him?

Mr. Ralls:

He lives about four miles southeast of Caddo.

Judge Weaver:

We will set the Gideon case for hearing on rebuttal for next Monday, the 22nd, inasmuch as we have some other cases that day and you are to be here on that date, Mr. Ralls. Then if Dr. Gideon can make a showing according to the rule of the court for taking the testimony of Mr. Durant and it appears to the court that the testimony of Mr. Durant is material to the cause then it will be heard.

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

-----oOo-----

Joanna Horne, et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	No. 83.
	:	
Choctaw and Chickasaw Nations.	:	
	:	
Defendants.	:	

MEMORANDUM OF ARGUMENT FOR NATIONS.

Applicants claim to be the descendants of Edward S. Horne, by his wife Mary A. Horne, nee Logan, the daughter of Davis Logan, an alleged Choctaw Indian. The degree of Choctaw blood claimed, differs with the different witnesses, but the claim as originally made was that he was between 3/4 and a full blood. That is the claim made by Edward J. Horne in his application to the Dawes Commission.

The essential issues in this, as well as all other parallel cases, are;

1st. Are the applicants Choctaw Indians by blood; and
2nd: Has there been such a compliance by them and their ancestors with the requirements of the treaty of 1830, as would warrant their admission and participation in the distribution of the tribal property.

No allegation is made and no testimony offered showing or tending to show that these applicants or their ancestors complied with either the 3rd or 14th articles of the treaty of 1830.

Their claim is based solely upon a contention of some uncertain degree of Choctaw blood.

It is our view that the entire record transferred to this Court from the United States Court for the Central District of the Indian Territory is incompetent as evidence, for reasons heretofore often and fully stated; but we shall examine it, as a whole, together with the record made up in this Court, as the same bears upon the issue of Choctaw blood.

The first affidavit found in the record is that of Thomas Greenwood, made in 1896, in which he says he knew Edward J. Horne, his mother Mary Horne and her father Davis Logan, and the latter he puts at "a little more than three quarters Choctaw Indian", but the important statement is that "these people were born and reared in Muckalushia old town, Mississippi.

This latter statement is repeated in almost the exact words in the affidavit of Sam Perry in an affidavit made on the same day and before the same Notary Public. We quote:

"I was well acquainted with Davis Logan during his lifetime. He as well as his daughter were born and reared in Muckalushia old town, Mississippi."

The witness made a further affidavit in 1895 in which he says that his acquaintance with Davis Logan was in Pontotoc County.

Applicants having taken and used the foregoing testimony knowing it to be false, must bear the burden of one who asserts an unfounded claim. That it is false appears from the affidavit of Mattie E. Gregory taken in September, 1892, in which she says:

"Was well acquainted with Davis Logan and wife. They moved to Kemper County from Perry County, Alabama, in 1846 (or '7)";

and that she was present at the marriage of Edward G. Horne to their daughter Mary Logan in 1849. This affidavit was the very

first one taken as the date will show, and when applicants secured witness to swear that Davis Logan and his daughter were born and reared in Mississippi they were using false testimony and must have known it. Instead of being born and reared in Mississippi Mary Logan was a woman within two or three years of her marriage when she reached that State, and her father instead of being born and reared in that State, was a resident thereof for only three or four years.

That Mattie E. Gregory is correct in her statement is shown by the testimony of applicants' father, Edward G. Horne. He says he was born in Tennessee and moved to Kemper County, Mississippi, in 1844, when he was eighteen years of age, where he lived until he went into the Mexican War in 1847. Up until this time he did not know the Logan family. He returned to the same neighborhood after his muster out in 1849 and found them living there. Became acquainted with Mary, whom he married a year later.

This fits the testimony of Mrs. Gregory to a nicety.

We begin then to consider the question of his Indian blood with the fact established that Davis Logan was originally from Alabama, and outside of the Choctaw Reservation, thus raising a strong presumption against him being an Indian.

Now we will examine the testimony in the case touching on his Indian blood which must rebut this position, if it is rebutted.

Thomas Greenwood and Sam Perry testified before the Dawes Commission and the United States Court that Davis Logan between was a 3/4 and full blood Indian, but both say he and his daughter were born and reared in Mississippi and Perry, though agreeing with Greenwood as to the name of the town, says that said Logan was in Pontotoc County when he knew him. A reference to the map

"Q. To what race of people did David Logan belong?

A. Well, I can only answer as to what I have heard; you see, I don't really know of my own personal knowledge.

Q. To what race of people did he say he belonged?

A. Indian; Choctaw Indians lived in the village that he lived on the edge of." x x x x.

"Q. You say your wife's father claimed to belong to the Choctaw tribe of people?

A. Yes, sir.

Q. Did he claim to be a full blood or a mixed blood?

A. He did not claim to be a full blood and I don't remember now that I ever heard him say what proportion of Indian blood he was, but he was part Indian and his appearance would show that; I have frequently heard him boast of his Indian blood." x x x x x.

"Q. At the time you married into the family did you know that David Logan was a Choctaw?

A. I knew his name and knew that he claimed to be of the same blood as the Indians were in the same village on Socnochee Creek, and they were Choctaws.

Q. About what part Choctaw you say David Logan was?

A. I would have to guess at that sir.

Q. What is your best judgment?

A. Well, I would guess him to be about a half breed; judging from what I have seen around here.

Q. Know whether he spoke the Choctaw language?

A. He could do it. x x x x x.

"Q. What kind of hair did the old man have?

A. Very coarse and very black hair, black beard, black eyes, prominent cheek bones; kind of dark skin; he could speak English well too."

It would seem to a casual observer that there had been enough perjured testimony in this case to answer the purpose of any one case, but not content with the statements of Greenwood and Perry before the United States Court and the Dawes Commission, applicants, to make their conviction sure, put John Lewis on the stand in this Court, and before he had covered two pages with his testimony, he had convicted himself of perjury, and applicants of presenting a notoriously venal witness to prove their claim. His evidence disputes every scrap of testimony in the case. He has been so thoroughly impeached before this Court that it is perhaps not necessary to note his evidence, but we can not resist the temptation to examine his evidence in

detail.

Witness says he is 88 years of age which would put his birth in 1815; that he left Mississippi when 16 years of age when he moved West with the second emigration. This puts his removal in 1831. Now, although the record shows David Logan did not reach Mississippi until 1846 or 1847, this witness boldly claims to have known him intimately in Mississippi. Witness goes on and says Logan was part Indian and part French, and then goes on and, for good measure, gives Logan's wife a share of Indian blood, although all the other witnesses who speak, including applicants, state that she was white.

Edward J. Horne, an applicant, was introduced but as he does not touch any of the material questions we shall pass his evidence.

Before discussing the testimony taken at Jackson, Mississippi, we wish to call the attention of the Court to the objection we made to taking the testimony of Joe Jones without an interpreter. We assert that the record gives no adequate idea of the examination of this witness. We call the member of the Court who was present when the evidence was taken to confirm our statement that his knowledge of the English language was so limited that no correct idea of what he really knew could be obtained without an interpreter.

His statement does applicants no possible good. He claims to have known Davis Logan and that his eldest daughter married Horne. But he also says Logan lived in Kemper County forty-nine years and that his wife was a Choctaw; was younger than witness and born close to him. This witness says Logan never lived in Muckalusha but did live in Suganoocha. Witness further says that Logan Married in Kemper County, which, in view of

the other evidence is impossible. Witness further says Horne and Logan left Kemper County together, while Horne says he lived there five years after Logan left. Witness further says Horne's wife was a full blood and sticks to it in the face of the efforts of applicants' attorney to get him to retract and say she was white.

Simeon Long was introduced by applicants, and while he says he knew Logan, his daughter Mary and her husband Horne, he absolutely refuses to say Logan was an Indian and fixes the town of Muckalusha as 28 or 30 miles from where Logan lived and he, agreeing with the statement of Mattie E. Gregory, says he only lived in the County for two or three years.

The willingness of the applicants, as here shown, to make use of false and contradictory evidence, the character of which they must know; discredits them as witnesses in their own behalf and discredits their contentions before this Court.

From the whole record it appears that they are of the usual class and that the case is a usual one. The family originated in Perry County, Alabama, outside of the old Choctaw Nation. As to where they came from into Perry County, Alabama, the record does not disclose. They moved into Kemper County, Mississippi, in the old Choctaw Nation in the late forties, nearly twenty years after the emigration of the Choctaws to the new Nation. They there lived two or three years and moved on West, landing in Drew County, Arkansas. From there they moved to Texas where they lived until only a few years ago. In Mississippi, Arkansas and Texas they lived and acted as other citizens of those States.

Having wholly failed upon both the essential issues in the case, we ask that their petition be denied.

Respectfully submitted,

Attorneys for Choctaw and Chickasaw Nations.