

General Relations

Bettie Lygon
Case

Department of Justice.

OFFICE OF

United States Attorney,

SOUTHERN DISTRICT OF INDIAN TERRITORY,

PLACES OF HOLDING COURT:

Ardmore,
Pauls Valley,
Purcell,
Chickasha,
Ryan,
Tishomingo,
Ada,
Marietta.

J.E.H.

Ardmore, Ind. Ter.,

Plaintiffs File No.

April 19, 1907 /

Gentlemen:

We are in receipt of a letter from Honorable J. George Wright, enclosing us Summons left at his office against the Secretary of the Interior and the Governors of the Choctaw and Chickasaw Nation, by one Betty Ligon et. al.

We have examined the Bill which is filed at the Court in Ardmore, by Eldon E. Sams, Attorney for the Plaintiff. It seems to be a suit by Betty Ligon and several hundred others to compel the Secretary of the Interior to transfer them from the Freedman Roll to the Roll of Indians by Blood, and to restrain the Secretary of the Interior from selling or disposing of any of the unallotted communal lands of the Choctaw and Chickasaw tribes for townsite or school purposes or disposing of the money from any fund whatever or from delivering patents as Freedmen to the plaintiffs.

This suit was filed in court at Ardmore as a Bill in Equity. The court at this place begins the 29th day of this month.

Mansfield, McMurray & Cornish-2.

From a casual reading of the Bill it strikes me that it is subject to Demurrer, but we address you, presuming that you are the Attorneys for Governors Johnson and McCurtain.

We would be glad to hear from you as soon as convenient, or let us see you personally for consultation in relation to the matter.

The return day is twenty days from April 16th.

Respectfully,

George R. Wacker
United States Attorney.

Messrs. Mansfield, McMurray & Cornish,

Attorneys at Law,

McAlester, Indian Territory.

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Mc Alester, Indian Territory, April 22, 1907.

Hon. George R. Walker,
United States Attorney, Southern District,
Ardmore, Indian Territory.

Dear Sir:

We are just in receipt of your letter, dated April 19th, referring to the suit recently filed in the Ardmore Court of Ligon et al versus Garfield et al.

Honorables Green Mc Curtain and Douglas H. Johnston, Chief Executives of the Choctaw and Chickasaw Nations, have forwarded to us the Summonses served upon them in this case and directed us, in the usual way, to cooperate with your office in the proper defense of the case. We have written the Clerk of the Court at Ardmore, requesting a copy of the Complaint or Petition and are expecting the same in a day or two.

Upon receipt of this copy, after careful examination of the same, we shall either communicate our views to you fully by letter or come to Ardmore for a personal conference in regard to the case.

We deem it not improper to say at this time, even before an examination of the Petition or Complaint, that, according to our view, the case presents no difficulties either for the government or the Choctaws and Chickasaws. The people referred to are not entitled to enrollment as Indians and, further-

Hon. George R. Walker,

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more, the whole work of the government in the making up of the Tribal Rolls has been closed on March 4th, 1907, under the provisions of the Act of April 26th, 1906. We agree at this time with the view suggested in your letter that the Petition or Complaint is subject to Demurrer and that the case will be disposed of in that way.

As above stated, however, we shall communicate with you further after a careful examination of the Complaint or Petition.

Very respectfully,

Dic.

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Mc Alester, Indian Territory, May 30, 1907.

Hon. George R. Walker,

United States Attorney, Southern District,

Ardmore, Indian Territory.

Dear Sir:

We have received a letter from Messrs. Lee and Ballinger in regard to a consideration of the Ligon case by the Court of Appeals. They state that they will file their brief within the next week and that they wish to submit the case at the June term of the court and that such is agreeable with you. They state further that they will furnish us with a copy of their brief within the next few days.

Please advise us of your pleasure in regard to the preparation and filing of a brief. Is it your idea that one brief will be sufficient for all of the parties defendant in which we may all join, or do you think separate briefs should be filed on behalf of the government and Messrs. McCurtain and Johnston?

Please understand that it is entirely agreeable with us to conform with any suggestions or ideas that your office may have and the purpose of this letter is to simply inquire your pleasure in relation thereto.

With best wishes, we are,

Sincerely yours,

Dic.

UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF
THE INDIAN TERRITORY

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Bettie Ligon, et al. :
Plaintiffs :
v. :
Douglas H. Johnson, et al., :
Green McCurtain, et al., : EQUITY NO.
and :
James R. Garfield :
Secretary of the Interior :
Defendants :

The Plaintiff, for herself and for, and on behalf of Russell Franklin, Ellen Gibson, Gracie Perkins, Virgie Adams, Mable Smith, Pearlie Gibson, Kizzie Gibson, Mirvan Gibson, Sorena James, Solomon Gilbert, Abigail Hill, Celestine Hill, Roger Hill, Ed Johnson, Julia Smith (nee Johnson), Albert Johnson, Shirley Johnson, Linton Johnson, Clarence Johnson, Fleetwood Johnson, Alda Johnson, Lafate Johnson, Amanda Duncan, Mintora Duncan, Anna May Duncan, Lydia Jackson, Josie Jackson, Jennie Davidson, Dora Johnson, John Jackson, Frank Jackson, Effie Johnson, Rayford Johnson, Arrens Jackson, Gaddie Jackson, Marietta Jackson, Flossie Jackson, Calvin Jackson, Kelton Jackson, William Jackson, Bessie Jackson, Dewitt Jackson, Cal Humdy, Mandy Peters, Rosa Ray, Peter Humdy, Arthur Humdy, Hattie Patterson, Jack Ray, Curtin Ray, Lillie Bell Ray, Bell Zora Patterson, Ed Humdy, Jack Humdy, Minerva Patten, Harriet Powers, Royal Humdy, Simon Humdy, Retta Jones, Tom Humdy, Frank Humdy, Mandy Humdy, Jennie Humdy, Mary Humdy, Clarence Humdy, Lawrence Humdy, Maria Humdy, Bessie Humdy, Caroline Humdy, Nancy Patten, Maudie Patten, Nealey Patten, Toliver Patten, Mary Patten, Marceda Patten, Dovie Powers, Thirston Powers, Odessa Powers, Leo

Viola Stevenson, Elizabeth Lanie, Dewey Lanie, Robert
Lanie, Peter Stevenson, J. C. Stevenson, Angeline Stevenson
Monroe Stevenson, Gaddis Stevenson, Amos Stevenson,
Nancy Tyner, Ally Tyner, Riley Stevenson, Elijah
Stevenson, Cora Stevenson, Anderson Stevenson, Jackson
Stevenson, Amanda James, Gertie Knowles, Laura Richardson,
Amanda Richardson, Robert Richardson, Mira Richardson,
Sylvia Alexander, Flora James, Lanie Colley, Oliver
Colley, Maudie Colley, Mary Colley, Winchester Colbert,
Leford Colbert, Thomas Colbert, Claudia Colbert, Mary
Kindricks, Nelson Stevenson, Cornelia Stevenson, Lucy
Stevenson, Matildy Johnson, Ellis Stevenson, Edward
Stevenson, Fleet Stevenson, Sam Stevenson, Ellen Williams,
Mattie Williams, Irine Williams, Pearlina Franklin, Helen
Franklin, Alice Hamilton, Garde Newberry, Dave Stevenson,
Lydia Franklin, Solomon Franklin, Wellington Williams,
Henrietta Williams, Calie Sherley, Bell Sherley, Albert
Sherley, Victor Sherley, George Hamilton, Stand Watty
Stevenson, Lillie Eight, Ernest Eight, Cellis Walters,
Bertha Walters, Lila Franklin, Ed. Franklin, Arthur
Franklin, Rupert Stevenson, Abraham Stevenson, Banks
Stevenson, Hay Williams, Benjamin Williams, Katie Williams,
Albert Williams, Carrie Williams, Rutha Williams, Fulson
Williams, Sical Williams, Thomas Stevenson, Anna Stevenson,
Dud Stevenson, Henry Stevenson, Houston Stevenson, Carrie
Butler, Moseley Butler, Moseley Plummer, Lischice Munds,
Annie Munds, Levi Stevenson, Benjamin Stevenson, Belle
Williams, Wade Williams, Mary Williams, Henrietta Williams,

Laura Colbert, Andrew Colbert, Beulah Colbert, Battie Colbert
Sarah Colbert, Lester Colbert, Lerondo Abrahams, Ross Williams
Della May Williams, Liza Williams, Manuel Williams, Elnora
Williams, Willie Williams, Amy Hooks, Savannah Hooks, Sam
Wright, Willie Wright, Ellis Williams, Emma Lewis, (as Emma
Mitchell, Kensie Williams (as McKensie Williams, Robert
Williams, Joe Williams, Lula Williams, Henry Williams,
Reuben Williams, Angie Williams, (as Angeline Williams),
Jennie Walker, Ellis Drain, Ellen Franklin, Susie Pender
(as Susie Stanfield, Carrie Anderson (as Carrie Colbert, Ora
Colbert, Nellie Franklin, Madge Franklin (as Madgie Franklin)
Letha Franklin (as Letha Franklin), Lisa Franklin (as Eliza
Franklin, Sue Kekeu (as Louisa Stanfield), Sadie Bell
Stanfield (as Belle Stanfield), William Stanfield, Samantha
Stanfield, Lenora Stanfield, (as Lenora Stanfield, Jack
Stanfield (as Zack Stanfield), Henry Stanfield, Roberts
Stanfield (as Roberts Bennett), Alberta Stanfield (as Alberta
Bennett), Katy Peters (as Katie Peters), Savannah Love,
Earnest Newberry (as Ernest Newberry), Essie Newberry, Ophelia
Newberry, Robert Jackson, Julia Williams (as Julia Love, Sam
Jackson (as Samuel Jackson), Wiley Jackson, Ben Love, Lolla
Love (as Leora Love), Oda Love (as Odee Love, Lula Love,
Maggie Love (as Marge Love, Kealie Bell Jackson (as Nelie
Jackson, Wilburn Jackson (as Welburn Jackson, Lula Jackson,
Lidia Ann Taylor (as Little Taylor, Willie Taylor, Ora
Taylor (as Orie Taylor, Nona Taylor (as Nonie Taylor),
Linsey Taylor (as Linsy Taylor), McKinley Taylor (as Wm.
M. K. Taylor), Hereta Taylor (as Nevada Taylor, Edna Taylor,
Calvin James, Charley Bias, Arthur James, Ora James, Nona
James, Willie James, Rosella James, Ande James (as Andy
James), Charley Prince, Liza Prince (as Eliza Prince),
Matilda Prince, Jessie Prince (as Jesseo Prince), Mattie
Prince, Violet Childs, Joe Peters, Minerva Franklin,
Margaret Taylor, Leola Peters, (as Leora Peters), Mosley

Childs (as Halsey Peters), Swain Peters, Willis Childs,
 (as Willis Peters, Helen Childs, Emma Childs, Brown Peters,
 Nettie May Peters, Sam Johnson Peters, (as Samuel J. Peters),
 Phoebe Franklin (as Phoebe Franklin), Maude Franklin (as
 Maud Franklin), Margaret Heard, Hundy Heard (as Mahomedy
 Heard), Ida Heard, Mary Williams, Lisa Williams, Agnes
 Williams, Robert Williams, Minnie May Williams, Hattie W.
 Stanfield, Lawrence Franklin, Albert Franklin, Rayney Williams,
 John Henry Williams, Buell Jackson, Robert Jackson, Columbus
 Jackson, George Richardson, Julia Richardson, Mattie Richard-
 son, Franklin James, Jackson Heard, Martha Colbert, Nathaniel
 Franklin, Otis Franklin, Minerva Jackson, Jersey Bell Jackson,
 Furman Jackson, Melton Jackson, Richard Thompson, Annie
 McGee, all Chickasaws; John Alexander, Elva (Elyie) Alexander,
 Earnest Alexander, Charlie Alexander, Georgeann Alexander,
 Joe Battiece, Ollie Battiece, Lila Battiece, Francis Benson,
 Thomas Benson, Columbus Benson, Joe Benson, Pearlle Benson,
 Mary J. Burton, Bettie Allean Burton, Susan Brashears, Mary
 Jane McCoy, Michael McCoy, Elizabeth Boebuck, Francis Boat-
 right, Emily Cook, Olliver Boatright, Tommie Boatright, Jimmie
 Boatright, Isaac Cook, Lila Cook, Kellie Cook, William Cook,
 Eva Cook, Marlon Boatright, Gleaton Victor Boatright, George
 Washington Boatright, Amelia Brashears, Josie Brown, Mattie
 Brown, John Willis, Renzo Wilson, Lenzo Wilson, Willie McCoy,
 Emma Brown, Pearlle Butler, Kosh Butler, Ida Butler Emmet Butler,
 Phyllis Butler (as Phyllis Jackson, Lewis Jackson (as Louis
 Jackson), Charles Jackson, Mary Butler, Willie Roberts, Henry
 Butler, George Butler, Lemax Butler, Julius Butler, Fannie
 Colbert, Oliver Colbert, Lillie Colbert, Georgie Conley,
 Ada Crittenton, Jack Crittenton, Sarah Dod, William Doney
 (as William Dana), James Doney (as James Dana), Emma Butler,
 (as Emma Butler), Emma Doney (as Emma Dana), Alberta Doney
 (as Alberta Dana), Willie Doney (as Willie Dana), Bessie
 Doney (as Bessie Dana), Emmet Doney (Emmet Dana), Lissie
 Doney (Lissie Dana, Jr., Sammie Doney (Sammie Dana),

Sarah Daney (Sarah Dana), Neomi Daney (Neomi Dana),
Calvin Davis, Elizabeth Davis, Violet Maybelle Hines,
Moses Douglas, Gabriella Douglas, Emaly Douglas, Walter
Durant, Carrie English, Wilson Everidge, Violet Everidge,
Bryant Everidge, Josie May Everidge, Mary Murphy, May Ever-
idge, Lillie Everidge, Manuel Everidge, Ella Fisher,
Martin Fisher, Tillie Fisher, Osborn Fisher, Reason Fisher,
Charlie Fisher, Harrison Fisher, Ellen Fisher, Newnig
Fisher, Abigail Fisher, Emma Fisher, Henry Fisher, Alexander
Fisher, Jordan Folsom, Victoria DeFlore, Johnson Folsom,
Levenia McDaniels, Jordan Folsom, Jr., Martin Byrd,
Gertrude Byrd, Martha Brashears (LeFlore), Ephriam Folsom,
Dexcy Folsom (Dixie Folsom), Permesalia Folsom (Parmelia)
Georgia Folsom (Georgie), Jennie McDaniels, Henry McDaniels,
Hona McDaniels, Bessie Folsom, Andrew Folsom, McKinley
Folsom, Sam LeFlore, Lee Folsom, Arthur Folsom, Ada Folsom,
Cleaven Mills, Napoleon Mills, Irriella Mills, Lucinde
Mills, Rose Mills, Agnes Frenchman, Atlas Frenchman, Clarence
Frenchman, Jerry Fulsom, Mary Jane Fulsom, Nancy Garlands,
Sam Cole, Kizzie Fulsom, Henderson Allen, Birdie Allen,
Jefferson Allen, Moses Fulsom, Marthe Fulsom, Dora Fulsom
Emma Fulsom, Edgar Fulsom, Violet Fulsom, Henry Fulsom,
Arthur Fulsom, Isarina Ward, Parthenia Nolen, Willie Fulsom,
Francis Fulsom, Robert Hoelen, Louis Nolen, Gertrude R.
Nolen, Willie Nolen, Pearlie Nolen, Leverne Nolen, Cooper
Fulsom, Lula Clayton, Ada Fulsom, Jennie Fulsom, Ida
Fulsom, Junie Fulsom, Vivie May Fulsom, Ora Fulsom, Joe
Gardner, Morris Garland, Mary Garland, William Garland,
Rodella Giddens, Leanna Woods, Tennessee Edwards, Alberta
Parker, Prentice Giddens, Lola Bell Giddens, Fancy Giddens,
James Ashley Giddens, Curley Giddens, Tillman Giddens,
Conda Lee Butler, Percy Butler, Redella May Butler,
Jacob Green, Addie Goldsmith, Christie Goldsmith (as Crissy)

Eecusseh Goldsmith, Carrie Goldsmith, Stanley Goldsmith
(as Capt. S.), Otis Goldsmith, Orange Goldsmith, Ross
Goldsmith, Solomon Goldsmith, Lloyd Goldsmith, (as Lloyd
Levi, Henry Goldsmith, Nabel Goldsmith, Lincoln Jefferson
Goldsmith, Guy Goldsmith, Mattie Graham, Isabella Guess
(as Isabella), Wilson Guess, Martha Guess, Thomas Guess,
Columbus Guess, Elba Guess, Jessie Guess, (as Jesse), Bessie
Guess, Vernetta Guess, Katie Everidge, Pearlie Guess, John
Guess, Jr., Jimmie Guess, Anna Guess, Patsy Hall, Wilburn
Hampton, Linn Hampton (as Lync), Mary Hampton, Jesse Hampton,
James Hampton, Amelia Hill (as Hills), Bessie Lee Hill
(as Bessie Hills), Rosa Lee Hill, (as Hills), Mary Shoals
(as Mary Hampton, Pearlie Hill, Jackson Harkins, Dave Harkins,
Nelson Harris, Lula Harris, Julia Ann Jackson, Ella Freeman,
Martha Redford, (as Margaret), Robert Jackson, Phoebe Williams
Willy Jackson (as Willie), Ben Jackson, Andrew Jackson (as
Anderson, Mitchell Jackson, Josephine Jackson, Anna Jackson,
Lu Jackson, Celie Thompson, Elizabeth Willie (as Washington)
Sarah Ewing (as McHardy), George McHardy (as George McHardy),
Mary Ann Jackson (as Mary Jackson, Claxborn Washington (as
Claxburn, Sarah Washington, Ida Washington, Charley Washington,
George Cleborn Willis (as George Cleveland Willis), Thelma
McHardy (as Thelma L.), Elbridge Jackson (as Elbridge), Horace
Jackson (as Harris Elwood), Jackson James, Cleafus James (as
Telephus), Luenda Littrell (as Lucinda James), Luanna Walker
(as Luanna James), Daniel James, Guy James, Willie James, Jimmie
James, Sylvia James (enrolled as Sylva), Lucie Hilliard (enrolled
as Hilliard), Janie Hilliard (as Janie B. Hilliard), McKinley
Hilliard (as McKinley Hilliard), Lonza Hilliard (as Lonza
Hilliard), Ephreum Hilliard (as Ephreum Hilliard), Plina
Jackson (as Palina Jackson), Ernest Jackson, Laura Jackson,
Merina Walker, Wilmena Walker, Zola Littrell, Lorena Litt-
rell, Lorenna Hilliard, Carrie Jackson, Hickman James, George

Ann (as Georgia James), Lenzo James, Vina James (as Viney)
Bessie James, Lila James (as Lida James, Elsie James, Charlie
James, Callie James, Galetia James, Fozmie King, Melvina
King, Clara King, Earnest King, Robert King, Joe Lawrence,
Lavotia Lawrence, Zachariah Lawrence, Nana Lawrence, Grant,
Lawrence, Emily Lawrence, Douglass Lawrence, Eli Lawrence,
Mary Ann LeFloxe, Sherman Fry, Estella Fry, Malinda Fry,
Alice Fry, Mattie Fry, Frank Fry, Becken Fry, Clarence Fry,
Alphonse Fry, Francis Lynch, Katy Logen, Elvira Anderson,
Nicholas Lynch, Lila Lynch, Caroline Pickens, Ella Harris,
Lela Tombs, Hickman Prince, Henrietta Prince, Josephine
Prince, Sim Prince, Leona Prince, Emma Scott (nee Prince),
Martha Nunley, Ruthie Wright, Warrick Smith, Lena Scott,
Katie Nunley, Mary Nunley, Maddy Nunley, Perry Nunley (as
Garie Nunley), Warrick Prince, Hattie Kirk (as Hattie Milton),
Cordelia Galloway (as Cordie Prince), Leavy Brown, George
Brown, Sandy Brown, Pitman Brown, Willie Brown, Della Brown,
Lorenzo Russell, Jesse Maytubbe, Della Maytubbe, Fannie
McNair, Alex Miller, Jessie Miller, William Mills, Cora
Everidge, Lucy Thompson, Nana Hampton, Ed. Thompson, Walt
Thompson, Jimmie Thompson, Freeman Thompson, Lenzo Hampton,
Mary Hampton, Violet Vinson, Isaac Gardner, Linnie Gardner,
Florida Gardner, Magnolia Gardner, Johnson Vinson, Louisa
White, Gretia Shoales (as Greassie), Fena Woods, Laura Woods,
Caroline Smith, Wheeler Wilson, Aaron Wilson, Della Wilson,
Thomas Wilson, Daniel Wilson, Johnny Wilson, Mary Smith,
Henry D. Smith, Maybelle Smith, Hannah Stanley, Tada Stanley,
Eva Stanley, Gertrude Walker, John Williams, Clarisa Jackson,
Ida Williams, Hattie Helford, Rosie Freeman (nee Williams,
Garfield Williams, Mary Lena Freeman, Rose Willis, Thomas
Willis, Walter Willis, Emma Willis, Georgia Jefferson, (as
Jeffers), Ida Byrd, Ruth Willis, Frances Thomas (nee Willis),
Cora Grant (nee Willis), Rosa Murphy (by Mitchell Willis
administrator), Mary Murphy (by Mitchell Willis guardian),

Mollie Wilson, Cora Lundia, Rosa Lundia, Margaret
Lundia, Rayfields Lundia, James Wilson, Joe Wilson,
Nettie Wilson, Emma Wilson, Eddie Wilson, Harrison Wilson,
Shub Wilson, Johnny Wilson, Jeff Walton (as Waldron),
Jesse Walton (as Jessie Waldron), George Walton (as George
Waldron), Henry Walton (as Henry Waldron, Sophy Walton
(as Sophy Waldron), Sophie Lenox, Thomas Lenox, Ariella
Lenox, (Arella Beaver), Lela Lenox, Ruthy Brown, Solomon
Brown, Henry Brown, Lula Brown, George Brown, Willie
Thomas (as Willie Brown), Icie Thomas (as I. C. Thomas),
Kitty Butler, George Walton, Jr., Luvicy Washington,
Epolian Williams (as Napoleon Williams), Thomas Williams,
Heady Williams (as Nettie Williams), Texanna Camel (as
Texanna Campbell), Walter Camel (as Walter Campbell), J.
D. Camel (as J. D. Campbell), Bessie Camel (as Bessie
Campbell), Jeff Camel (as Jeff Campbell), Edward Camel
(as Edward Campbell), Cato Newberry, Louisa Webster, Sam
LeFlore, David LeFlore, Cleavan LeFlore, Lela Robins,
Bessie Robins, Nora Robins, Andrew McAfee, Terry McAfee,
Louvetia McAfee, McKinley McAfee, Jerry Hampton, Delbert
Green, Robert Burns, Jim Burns, John Burns, Isaiah Burns,
Viola Burns, Edna Burns, Ben Burns, Laura Burns, Martha
Burns, Richard Thompson, Rebecca Samuels, Ivason Montgomery,
Bertha Samuels, Clarence Samuels, Kiziah Harrison (as Kiziah
Harrison), Emma Gordan (as Emmaline Gordan), Brigham Young
Harrison (as Brigham Y. Harrison), James Harrison, Cora
Harrison (as Cora H. Harrison), Catherine Harrison, Thomas
Harrison, Louisa Harrison, Hattie Harrison, Willie Boyd
(as Willie Veyd), Edna Gordan, Lela Gordan (as Lela Gordan),
Earnest Gordan (as Elmer Gordan), Clarabel Gordan (as
Garric Bell Gordan), Paul Harrison, Florid Harrison, (as
Floyd Harrison), Clyde Harrison, Mortie Mabel Harrison,
(as Monte Mabel Harrison), Carl Harrison, Brillie May

Harrison, Mable Harrison, Mariod Boyd (as Mary Ines Voyd),
Burnis Boyd (as Bernice Voyd), William Boyd (as Will
Lee Voyd), Junie Boyd (as Junie V. Voyd), Ezekial Boyd
(as Eakiel Voyd), Emma Boyd, Jimmie James (Jim James),
Jesse James, Minerva James, Eva James, Joseph James,
Clarissa James, Martin James, Emerson James, Mary James,
Peggie Fields (as Peggy Fields), Hollie Moss, Lula Fields,
Arthur Fields, John Fields, Catherine Dunford, Minnie Carr
(as Minnie Gooding), Emma Hodgkins, Jesse Matubby, Rena
Dunford, Vicy Powell (as Vacey Dunford), Elsie Dunford,
Tomnie Carr (as Tommie Hicks), Ella Carr, (as Ella
Jeffers), Maggie Matubby, William Matubby, Hattie Dunford,
Albert Dunford, Mack Powell, Ester Powell, Melvina James,
Ellis Johnson, Martin Johnson, Malinda Hall (as Malinda
Jones), Annie Johnson, Martin Johnson, Katy Johnson
(as Mandy Johnson), Si Johnson, Charley Johnson, Porter
Johnson, Lue Johnson (as Lucelia Johnson), Bessie Johnson,
Maudie Johnson, Minerva Ann Hall (as Minerva Powell), Lillie
Hall (as Lilly Jones), Lee Hall (as Levi Jones, Martin
Hall (as Martin Lee Hall), Estoria Hall, Mamie Hall,
Betty Prince (as Bettie Prince), Henrietta Butler, Isabel
Gardner (as Isabelle Gardner), Albert Wilson, Herbert
Frazier (as Hubbard Frazier), Wallace Frazier, Milana Prince,
(as Malinda Prince), Josephine Vincent (as Josephine Jeffer-
son), Sarah Butler, Rosa Butler, Sallie Butler, Edward
Butler, Bonnie Butler, Julia Gardner, Jesse Gardner, (as
Jessie Gardner), Nelson Gardner, George Vincent, Lula
Gardner, Nellie Hall, Thomas Hall, Ramsey Hall, Jake Hall,
Patsy Whittaker (as Patsy Whitaker), Sophera Byrd (as
Sophine Hall), Jane Butler (as Janie Butler), Josephine
Evans (as Josephine Hall), Annie Green (as Anna Green),
Austin Byrd (as Austin Child), Alice Byrd, Ida Byrd, Sorena
Willis, Robert Johnson, Brit Johnson, Charlottee Johnson,
Lila Graham (as Lila Williams), Minnie Williams (as
Minnie Freeman), Louis Freeman, Neat James (as Neat Colbert),

Maggie Colbert, Dollie Johnson, Lena Edwards (as Lena Johnson), James Johnson, Johnny Freeman, Willie Wilson, Mack Wilson, Sophia Wilson, Louis Wilson, Lillie Wilson, Lennie Wilson, Grant Wilson, Joel Wilson, Eben Wilson, Ardeales Wilson, Cerneler Wilson, Johnnie Wilson, Alice Roberts, Lyman Roberts, Sylvester Roberts, Maudie Roberts, Carter Roberts, Samuel Roberts, Delora Roberts, Jack Roberts, George Roberts, Willie Roberts, Winnie Richard, Jordan Richard, Mathew Richard, Thomas Richard, Sylvia Richard, William Richard, Annie Richard, James Richard, Mayhall Richard, Cyrus Richard, John Richard, Rattie Brown, nee Richard, Frances Smith, Jim Smith, Bill Smith, Ed Smith, Andy Smith, Ethel Smith, Nannie Smith, Clifton Smith, Albert Butler, Ned Burris, Jeffie Burris, Clayton Burris, Robbie Burris, Lee Burris, Herman Harper, Alfred Lewis, Shephard Lewis, Lena Lewis, Georgie Lewis, George Lewis, Georgia Colbert, Bud Womack, Fannie Womack, Robert Womack, Thomas Womack, Denny Womack, Dolly May Womack, Rosettie Womack, Levi Wilson, Sharlott Finley, Cornelius Donogay, Joe Beryman, Arthur Beryman, Robert Gally, Frances Graham, Estelle Finley, Richard Mills, John Finley, Jeff Brooks, Thomas Richards, Korah Richards, Marable Richards, Ruffin Gardner, James Reynolds, Robert Hampton, Lizzy Durant, Bether Durant, Eliza Durant, Lilly Durant, Louisa Yocubby, Liley Clark, Emma Mobley, Turner Moses, Rube Moses, Frank Moses, Turner Moses, Jr., Stella Moses, Minervia Moses, Emily Moses, Jim Moses, Martha Moses, Mary Moses, Lewis Moses, Silvia Abram, nee Alexander, Gray Willard Abram, Isabelle Gillispie, Christopher C. Gillispie, George H. Gillispie, Rufus C. Gillispie, Benjamin B. Gillispie, Friendly J. Gillispie, Frank M. C. Gillispie, Cluna L. Gillispie, Julia A. Gillispie, Teddy H. Gillispie, Rado Gillispie, Alberta Savannah Gillispie, Andrew J. Gillispie, Martha Young, Felix Alexander, Israel Blue,

Gladdie Blue, Frances Williams, Mattie Williams, Buford
Williams, Anna Williams, Leeferd Williams, Alberta Williams,
Cassey Jackson, Charley Frazier, Jordan Richards, Ewrit
Richards, Serena Richards, Alberta Richards, Mary Richards,
Mary Eliza Bizzell, Alberta Bizzell, Delila Bizzell, Albert
Lewis, Alonso Lewis, Nettie Burris, Cora Lewis, Buller
Johnson, Omer Johnson, Judy Brown, Crockett Brown, Bulah Brown
Ben Pitchlynn, Sam Burris, Jennie Gable, Alec Fisher,
Martin Fisher, Billy Fisher, Osborn Fisher, Reason Fisher,
Charley Fisher, Harris Fisher, Ellen Fisher, Nancy Fisher,
Abigail Fisher, Emma Fisher, Henry Fisher, Henry Powell,
Ollie Powell, Anna Bell Powell, Richard Powell, John Powell,
Mont Powell, Mattie Powell, Frankie Garson, Amanda Lathers,
Kurt White, Lennie White, Irene White, Cressy Morris, nee
White, Sam Morris, Alex Dick, Ed White, Lizzie Lawrence,
Mayra Durant, William Watters, Mattie Williams, all Choctaws
Henry Kemp, Madrid Gas, Consie Gas, Sam Gas, Alter Barber
(or Allen), Maline Kemp, Louis F. Kemp, Gabriel Kemp, Smith
Kemp, Smith Kemp, Jr., Nathaniel Kemp, Malina Kemp, Missouri
Kemp, Taelma Kemp, Lottie Wright, nee Kemp, Malinda Hall,
Ebeneser Daniel, Mitch Wright, Malinda Sears, Ebeneser Kemp,
Fred Douglas Kemp, General T. Kemp, Laurel Kemp, Arminata
Hennesy, Ernest Hennesy, Sayre Hennesy, Moody Hennesy, Ludie
Hennesy, Jimmie Hennesy, Joe Williams, Mattie Williams,
Irene Williams, Lorena Kemp, Sheniko Jackson, Minnie Butler,
Kellie Carson, Ownie Smith, Emily Kemp, Ina Allen, Arden
Allen, Verna M. Allen, Araminta Allen, Cecil M. Allen,
Yock Jackson, Frank Jackson, Virginia Blue, Minnie Blue,
Tom Blue, Isabelle Blue, Cornelious Blue, Willie Blue,
Lewis Blue, Iereal Blue, Glerrisa Blue, Charley Blue,
all mixed Choctaw and Chickasaw blood, Nelson Colbert,
Sampson Alexander, Dalton Alexander, Sincy Alexander, Lula
Stevenson, Lon Stevenson, Ramon Stevenson, Willie Newberry

Effie Newberry, Wiley Newberry, Willie Newberry, Jr.,
Sadie Newberry, Barbary Newberry, Mattie Newberry,
Simon Newberry, Isaac Newberry, Bertha Newberry, Mary
Newberry, Ben Newberry, Lillie Newberry, Louis Newberry,
Gertie Newberry, Charles Brown, Lavina Carlina, Stephen
Alexander, Jackson Foreman, Frances Foreman, Ned Foreman,
George Hamilton, Winchester Colbert, Leoford Colbert,
Clandie Colbert, Thomas Colbert, Addie May Colbert,
Elizabeth Lamey, Dewey Lamey, Robert Lamey, Mandy James,
Mary Kendrick, Sennie Kendrick, Peter Hamilton, Willie
Hamilton, Mary Hamilton, Annie Hamilton, Sallie Hamilton,
Persia Hamilton, Oliver Colley, Mandy Colley, Mary Colley,
Savannah Colley, Maggie Hoppy, Claude Williams, Bertha
Stevenson, Leander Miles, Roosevelt Williams, Letha Jackson,
Mary Grayson, Boston Colbert, Robert Colbert, Richard
Colbert, Rachel Williams, Sallie Burton, Robert Gravat,
Silphie Grayson Cohee, Gladys Cohee, Nose Burris, Frances
Grayson, Edmond Grayson, Fannie Grayson, Chabbie Grayson,
Julious Grayson, Roxie Anderson, Sarah Bruner, Douglas
Colbert, John Brown, Harrison Brown, Margaret Brown, Janie
Brown, Walter Brown, Sallie Brown, Viney Brown, Frank
Brown, Salina Brown, Mitchell Brown, Pink B. Brown, Douglas
Brown, Cephas Brown, Jimmie Brown, Wesley Brown, Benjamin
Brown, Susie Brown, William McKinley Brown, Toney Brown,
Agus Brown, Parlee Clark, Jesse Clark, Albert Clark, Lenie
Clark, Dallas Clark, Ephriam Clark, Louise Black, Leftie
Black, Willie Black, Cleveland Black, French Black, Mary
Black, Jane Perry, Nephi Black, Agnes Brown, Marietta
Frazier, Josie Black, Alex Brown, Nebax Johnson, Watt
Brown, Mitchel Brown, Ben Brown, Thomas Brown, Craven Brown,
George Brown, Bertha Brown, Arthur Brown, Lissie Brown, Maggie
Brown, Serena Watson, Alice Franklin, Nora Franklin, Irene
Watson, Sarah May Watson, Bedellie Watson, Sampson Lamey,
Dewey Lamey, Robert Lamey, Simmon Lamey, Bessie Lamey,

Mary Lamey, Tippie Lamey, William Lamey, Florey James,
Carrie Franklin, James Brown, Liday Newberry, Mary Newby
McAbelle Newby, Marcus Newby, Maggie Newby, Dave Newby,
Fannie Newby, Linnie Newberry, Barney Kemp, Mattie Smart,
Ben Stevenson, Malinda Stevenson, Jake Stevenson, Garfield
Stevenson, Hardy B. Brown, Ella Love, Amos Love, Aaron Love,
Richmond Love, Lawrence Love, Jr., Lucy Ann Love, Linton
Love, Bensora Love, Emily Brewer, Lillie Huntley, Eddie
Brown, Fernelia Griffin, James Henry Griffin, Silvester V.
Colbert, Agnes Grayson, James Grayson, Nellie Grayson,
Luvina Davis, Mary Gordon, Abner Harris, Ed Howell, Peter
Gordon, Marie Green, nee Kemp, Moria Stevenson, Grady
Douglass, Mary Russell, Donie Greer, nee Paul, Addie Green,
Henrietta Franklin (or Roberts), Lissie Roberts, Minnie
Roberts, Eddie Lamey (deceased), Hattie Mahardy (deceased),
Meanna Mahardy, Alethia Mahardy, Beauty B. Colbert, Amy Blue,
(deceased), Catherine Perry, Lissie Stevenson, Angeline
Stevenson, Jay C. Stevenson, Patsy Harper, Leona Harper,
Ellen Harper, Tommie Lamey, Charley Gibson, Lottie Gibson,
Joanna Garney, Simpson Garney, Stella Kemp, William Lamey,
Albert Lamey, Charley Lamey, Daisy Lamey, Evelina Lamey,
Tom Alberson, Noah Lamey, Robert Holitubby, Sarah Holitubby,
Ella Holitubby, Dicy Holitubby, John Riddle, Clarence Riddle,
(or Cheadle), Addie Riddle, (or Cheadle, Ella Riddle (or
Cheadle), Thomas Riddle (or Cheadle), Elsie Riddle, (or
Cheadle, Cleveland Riddle (or Cheadle), Eveline Riddle (or
Johnson), Mariah Riddle (or Johnson, Evan Riddle, Edgar
Riddle, Alice Bennett, Adolphus Bennett, Isaac Frazier,
Sam Holitubby, Selina Johnson, Fishie Milom (formerly
Greenwood), Lucy Greenwood, George Greenwood, Annie Green-
wood, Martha Adkins, Arthur Adkins, Serena Reed, Effie
Frances Eastman, Hageline Eastman, Annie Eastman, Patsy
Eastman, Ruby Eastman, Theoda Sparks, nee Hines, Lizzie
Douglas (or Mason, Amy Quinn, Lela Younger, Louisa Kemp,
Lula Kemp, Levi Kemp, Willie Kemp, Louis Kemp, Green Burton,

Reindy Grundy, Julia Wolf, Sallie Hampton, Jack Gamble,
Milphie Foster, Mattie Kelso, Andrew Kelson, Houston Kelso,
Charles Kelso, Paul Kelso, Maud Kelso, Lee Anna Kelso,
Caroline Wilson, Katie Wilson, Grove Wilson, Ruthie Wilson,
Ross Wilson, Richard Wilson, Will Spencer, Sefronia Oliver,
Hallett Oliver, Willie Oliver, Delila Cole, Theodore Gibbs,
William Gibbs, Sarah Gibbs, Sam Gibbs, Sam Perry, William
Alexander, Malinda Malone, Mitchell Wright, Melvin Taylor,
Elsie Stevenson, Paul Stevenson, Nora Stevenson, Pearl
Stevenson, Annie Stevenson, Buel Stevenson, Ollie Stevenson,
George Stevenson, Lylie Stevenson, Daniel Stevenson, Tobias
Colbert, Isadora Bennett, Roosevelt Bennett, Samuel Bennett,
Frazier Dendy, Reckey Dendy, Sallie Dendy, Edmond Dendy,
Ozar Dendy, George Dendy, Minnie Dendy, Charlotte Wright,
Katie Smith, Amanda Smith, Clarence Smith, Lula Smith,
Columbus Smith, Lucy Smith, Lou Roebuck, Mattie Roebuck,
James Roebuck, Garnett Roebuck, Sam Roebuck, Rosie Roebuck,
Rebecca Dendy, Lissie Burke, John Alfred, Mary Petty, Katie
Mills, Nealie Kemp, Bernellie Walker, nee Frazier, George
Burton, Mary Abram, Laura Walker, Angie Brown, all Chickasaws
all persons similarly situated, being of Choctaw and
Chickasaw Indian descent and blood, and members of the
Choctaw and Chickasaw tribes or communities of Indians, and
who were before the Commission to the Five Civilized Tribes
under the provisions of the Act approved June 28, 1898,
complaints against the defendants, Douglas E. Johnson and
Green McCurtain, residents of the Chickasaw and Choctaw
Nations, respectively, and citizens of the United States,
and against all persons whose names appear on the rolls
of the Chickasaw and Choctaw Nations with the names of the
said Douglas E. Johnson and Green McCurtain, as approved
by the Secretary of the Interior on the 4th day of March,
1907, and against James R. Garfield, Secretary of the
Interior of the United States, and who is sued herein in
his official capacity as Secretary of the Interior, and

performed under and by authority of various Acts of Congress in respect to the property and affairs of the Choctaw and Chickasaw Nations or tribes of Indians and that they are matters, the determination of which is clearly within the constitutional authority of Congress, and therefore the questions raised by the Bill in Equity are not a proper subject of judicial cognizance, but are purely political.

.....,
Attorneys for Douglas H. Johnson
and Green McCurtain.

.....,
United States Attorney.

.....,
Assistant United States Attorney.

Attorneys for James R. Garfield,
Secretary of the Interior.

petition this court to exercise its equity powers in determining and protecting their lawful rights.

Plaintiff represents to this court and complains as follows:

I

That the plaintiff, and all those members of the Choctaw and Chickasaw tribe of indians who were not citizens of the United States prior to March 3, 1901, and on whose behalf also this suit is brought, became such on that day, by the terms and provisions of the Act of Congress of that date, wherein it is provided that:

"Every indian in Indian Territory is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges, and immunities of such citizens, whether said indian has been or not, by birth or otherwise, a member of any tribe of indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such indian to tribal or other property." (31 stat., L. 1447)

II

That by the terms and provisions of a treaty entered into by and between the Government of the United States and the people then comprising the Choctaw Nation or community of indians, and proclaimed as a law on the 24th day of February, 1831, and commonly known as the Dancing Rabbit Creek Treaty of 1830, the United States agreed, for valuable considerations, more specifically described in Article 3 thereof, to convey, a certain tract of country situated west of the Mississippi River, and described in Article 2 thereof by metes and bounds, to "the Choctaw Nation" in fee simple, to them and their descendants, to inure to them while they shall exist as a Nation and live on it;" that said tract of country included the identical lands now and heretofore held in common by the people comprising the Choctaw and Chickasaw Nation, or communities of indians, and such portions thereof as have been lawfully allotted and patented to persons entitled to share in the

communal lands of said tribes.

The pertinent articles of said treaty follow:

Article 11. The United States under a grant specially to be made by the President of the U. S. shall cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River, in fee simple to them and their descendants, to inure to them while they shall exist as a nation and live on it, beginning near Fort Smith where the Arkansas boundary crosses the Arkansas River, running thence to the source of the Canadian fork; if in the limits of the United States, or to those limits; thence due south to Red River, and down Red River to the west boundary of the Territory of Arkansas; thence north along that line to the beginning. The boundary of the same to be agreeable to the Treaty made and concluded at Washington City in the year 1825. The grant to be executed as soon as the present Treaty shall be ratified.

Article 111. In consideration of the provisions contained in the several articles of this Treaty, the Choctaw nation of Indians consent and hereby cede to the United States, the entire country they own and possess, east of the Mississippi River;

 (Indian Laws and Treaties, Vol. 2, p. 221.)

III

That pursuant to, and in execution of, the terms and provisions of Article 2 of said treaty, the Government of the United States of America did, on, to wit: the 23rd day of March, 1848, cause to be duly issued a patent to the Choctaw Nation, reading as follows:

Whereas, by the second article of the treaty begun and held at Dancing Rabbit Creek, on the fifteenth day of September in the year of our Lord One Thousand Eight Hundred and Thirty, (as ratified by the Senate of the United States, on the 24th of February, 1831) by the Commissioners on the part of the United States, and the Kingoes, chiefs, captains, and warriors of the Choctaw Nation, on the part of said Nation, it is provided that "The United States, under a grant specially to be made by the President of the United States shall cause to be conveyed to the Choctaw Nation,

"a tract of country West of the Mississippi River, in fee simple to them and their descendants, to inure to them while they shall exist as a nation, and live on it: Beginning near Fort Smith, where the Arkansas boundary crosses the Arkansas River, running thence to the source of the Canadian Fork, if in the limits of the United States, or to those limits; thence due South to Red River, and down Red River, to the West boundary of the territory of Arkansas; thence North along that line to the beginning. The boundary of the same to be agreeably to the treaty made and concluded at Washington City in the year 1825.

Now Know Ye, that the United States of America in consideration of the premises, and in execution of the agreement and stipulation in the aforesaid treaty, have given and granted, and by these presents do give, and grant, unto the said Choctaw Nation the aforesaid, "Tract of country west of the Mississippi," to have and to hold the same, with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as intended "to be conveyed" by the aforesaid article, "in fee simple to them and their descendants, to inure to them, while they shall exist as a nation and live on it," liable to no transfer or alienation, except to the United States, or with their consent.

IV

That by the terms and provisions of a treaty entered into by and between the people comprising the Choctaw and Chickasaw Indian communities and existing as Nations, ratified by the Senate of the United States and proclaimed as a law on the twenty-fourth day of March, 1837, the Choctaw people agreed, for and in consideration of the sum of five hundred and thirty thousand dollars, to be paid by the Chickasaw people, that the Chickasaw people should have the privilege of forming a district within the limits of the Choctaw country, to be held "on the same terms that the Choctaws held it, except the right of disposing of it," the lands to be held in common by the people of both of said tribes or communities.

The pertinent portions of the articles of this treaty follows:

Article I. It is agreed by the Choctaws that the Chickasaws shall have the privilege of forming a district within the limits of their country, to be held on the same terms that the Choctaws now hold it, except the right of disposing of it, (which is held in common by the Choctaws and Chickasaws)*****

Article II. The Chickasaw district shall be bounded as follows, viz: Beginning on the north bank of Red River, at the mouth of Island Bayou, about eight or ten miles below the mouth of Falls Wachitta; thence running north along the main channel of said bayou to its source; thence along the dividing ridge between the Wachitta and Low Blue Rivers to the road leading from Fort Gibson to Fort Wachitta; thence along said road to the line dividing Masha-la-Tubbee and Bush-metahaw districts; thence eastwardly along said district line to the source of Bushy Creek; thence down said Creek to where it flows into the Canadian River, ten or twelve miles above the mouth of the South Fork of the Canadian River; thence west along the main Canadian River to its source, if in the limits of the United States, or to these limits; and thence due south to Red River, and down Red River to the beginning

Article III. The Chickasaws agree to pay the Choctaws, as a consideration for these rights and privileges, the sum of five hundred and thirty thousand dollars--

(Indian Laws and Treaties, Vol. 2, p. 361)

V

That thereafter and on to wit: the twenty-second day of June, 1855, a treaty was negotiated by and between the Choctaw and Chickasaw tribes of Indians, which treaty was duly approved by the United States, being ratified by the Senate thereof on the twenty-first day of February, 1856, and proclaimed as a law on the fourth day of March, 1856; that said treaty states the objects for which it was negotiated to be to secure a re-adjustment of the relations

existing between the Choctaw and Chickasaw people and the United States, and to more clearly define the respective property rights of the people of said tribe. Under the terms and provisions of this treaty it was stipulated and mutually agreed, the United States concurring therein, that the said tribe should hold all of the lands embraced in a certain district, and which lands included the identical lands now and heretofore held in common by the people of said tribe, and such portions thereof as have been lawfully allotted to members of said tribe, in common, "so that each and every member of either tribe shall have an equal, undivided interest in the whole."

The pertinent provisions of said treaty are as follows:

Article I. The following shall constitute and remain the boundaries of the Choctaw and Chickasaw country, vis: Beginning at a point on the Arkansas river, one hundred paces east of old Fort Smith, where the western boundary-line of the State of Arkansas crosses the said river, and running thence due south to Red River; thence up Red River to the point where the Meridian of one hundred degrees west longitude crosses the same; thence north along said meridian to the main Canadian River; thence down said river to its junction with the Arkansas River; thence down said river to the place of beginning.

And pursuant to an Act of Congress approved May 28, 1830, the United States do hereby forever secure and guarantee the lands embraced within the said limit to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common so that each and every member of either tribe shall have an equal, undivided interest in the whole; Provided, however, No part thereof shall ever be sold without the consent of both tribes, and that said lands shall revert to the United States if said Indians and their heirs become extinct or abandon the same.

Article II. A district for the Chickasaws is hereby established, bounded as follows, to-wit:

Article III. The remainder of the country held
in common by the Choctaws and Chickasaws,
shall constitute the Choctaw district.....
(11 stats .p.611.0.

VI

That the lands now held in common by the members of the Chickasaw tribes, or communities of indians, and such lands as may have been heretofore lawfully allotted to individuals entitled thereto, and which were heretofore held in common by the members of said tribes, form a part of the identical lands described in the treaty of 1830, and which by the terms and provisions of said treaty, it was stipulated and agreed should be ceded to the Choctaw Nation, in fee simple, for the use and benefit of all those persons then comprising the Choctaw community of indians and their descendants, and are a part of the identical lands conveyed by the patent issued in the year 1842 to the Choctaw Nation, in fee simple, for the use and benefit of all those persons comprising the Choctaw community of indians at the date of the ratification of the treaty of 1830, and their descendants, and are a part of the identical lands described in the treaty of 1837 and 1838, by the terms of which treaties the members of the Chickasaw tribe, for themselves and their descendants purchased with the consent of the United States an interest in the whole of said lands, which were thereafter to be held in common by the Choctaws and Chickasaws, "so that each and every member of either tribe shall have an equal undivided interest in the whole.

VII

That under and by virtue of the terms and provisions of the treaty of 1830, and by virtue of the patent issued in 1842, every descendant of a person who was a member of a community of Choctaw Indians at the date of the ratification of said treaty became at his birth, vested with an undivided indefeasible communal interest in said tract of country, and that each and every one of your petitioners who is of Choctaw blood and descent, would at his birth, ever since has been, and is today so vested.

VIII

That under and by virtue of the terms and provisions of the treaties of 1837 and 1855 (as set out in specifications III and V herein) every person who was a member of the community of Chickasaw Indians at the date of the ratification of either of said treaties became vested with an undivided indefeasible communal interest in said tract of country, and every one of your petitioners who were living at either of said dates and who are of Chickasaw descent and blood are today so vested and every descendant of a person who was a member of the community of Chickasaw Indians at the date of the ratification of either of said treaties became at his birth vested with an undivided indefeasible communal interest in said tract of country, and that each and every one of your petitioners who is of Chickasaw descent and blood are today so vested.

IX

That at the date of said grant to the Choctaw Nation as set out in specification III herein, all free persons affiliated with or who were members of the Choctaw community, were beneficiaries thereunder, without regard to the quantum of Indian blood or the admixture of negro blood, or the blood of any other race.

X

That section 21 of the Act approved June 28, 1898, and entitled, "AN ACT FOR THE PROTECTION OF THE PEOPLE OF THE INDIAN TERRITORY AND FOR OTHER PURPOSES," (Ch. 617. 30 stat. L. 495.), authorized and directed a Commission therein designated as "The Commission to the Five Civilized Tribes" to make correct "Rolls of citizenship" of the Choctaw and Chickasaw people and to enroll as citizens, all persons entitled to such enrollment under existing law, and said Commission was specially directed to enroll all persons who were of Choctaw or Chickasaw blood, as citizens of said nations or tribes, provided only, that they had removed to, and in good faith, settled in said nations or tribes, on or before June 28, 1898: that said Act further directed said Commission to make "such rolls" descriptive of the "persons thereon", so that they may be thereby identified; and said Commission was further authorized to take a census of the

Choctaw and Chickasaw people preparatory to the preparation of correct rolls of citizenship, or to adopt any other means by said Commission deemed necessary to enable it to make "correct rolls". Said Commission was, by the provisions of said Act, clothed with plenary power to compel the attendance of all persons having, or claiming any right in and to the communal property of the Choctaw and Chickasaw Nations or communities, to appear before it for examination and identification, in order that said Commission might ascertain their legal rights and correctly enroll them; to compel the tribal authorities to deliver over to it all tribal rolls and records to compel the production of any and all papers pertaining or appertaining to the rights of any person to share in the communal property of said nations or communities; to administer oaths, to compel witnesses to give testimony in any case wherein the rights of any person were involved, and on refusal, to punish as for contempt.

The same section authorized and directed the Commission to make "correct rolls" of the Choctaw and Chickasaw freedmen entitled to any rights or benefits under the treaty of 1866, and their descendants thereafter born. Said section of said law then provided that when said Commission had "so made" the rolls of citizenship as therein provided, and said rolls were approved by the Secretary of the Interior, that they "shall be final" and that "the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent."

The pertinent portion of said section relating to the preparation by said Commission of "rolls of citizenship" and of rolls of freedmen are in *hæc* verba as follows:-

Section 21. That in making rolls of citizenship of the several tribes as required by law*****

Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls, such names as may have been placed thereon by fraud or without an authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes.

It shall make a correct roll of all Choctaw freedmen entitled to citizenship under the treaties and laws of the Choctaw nation, and all their descendants born to them since the date of the treaty.

It shall make a correct roll of Chickasaw freedmen entitled to any rights or benefits under the treaty made in eighteen hundred and sixty six between the United States and the Choctaw and Chickasaw tribes and their descendants born to them since the date of said treaty and forty acres of land, including their present residences and improvements, shall be allotted to each, to be selected, held, and used by them until their rights under said treaty shall be determined in such manner as shall be hereafter provided by Congress.

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship.

Said Commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or to adopt any other means by them deemed necessary to enable them to make such rolls. They shall have access to all rolls and records of the several tribes, and the United States court in Indian Territory shall have jurisdiction to compel the officers of the tribal governments and custodians of such rolls and records to deliver same to said Commission, and on their refusal or failure to do so to punish them as for contempt; as also to require all citizens of said tribes, and persons who should be so enrolled, to appear before said Commission, for enrollment, at such times and places as may be fixed by said Commission, and to enforce obedience of all others concerned, so far as the same may be necessary, to enable said Commission to make rolls as herein required, and to punish any one who may in any manner or by any means obstruct said work.

The rolls so made, when approved by the Secretary of the Interior, shall be final and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The members of said Commission shall, in performing all duties required of them by law, have authority to administer oaths, examine witnesses, and send for persons and papers; and any person who shall wilfully and knowingly make any false affidavit or oath to any material fact or matter before any member of said Commission, or before any other officer authorized to administer oaths, to any affidavit or other paper to be filed or oath taken before said Commission, shall be deemed guilty of perjury, and on conviction thereof, shall be punished as for such offense. (20 stat.L. 495)

XI

That section 11 of said Act approved June 28, 1898, provided that when the "rolls of citizenship" of the Choctaw and Chickasaw Nations or tribes are "fully completed as provided by law", and a survey of the lands of said tribes is completed, the Commission to the Five Civilized Tribes, but therein designated as the "Dawes Commission" "shall proceed to allot the surface of the lands of said tribes" except mineral and other lands which were reserved from allotment" among the citizens thereof, as shown by the tribal rolls, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil and the location and value of the same, "provided that no authority or direction given the Commission to do or perform any thing or act found in any section of said law, should in any way, impair any vested legal rights theretofore granted by Act of Congress. The pertinent provisions of this section are as follows:

Section 11. That when the roll of citizenship of any one of said nations or tribes is fully completed as provided by law, and the survey of the lands of said nation or tribe is also completed, the Commission heretofore appointed under Acts of Congress and known as the "Dawes Commission "

shall proceed to allot the exclusive use and occupancy of the surface of all the lands of said nation or tribe susceptible of allotment among the citizens thereof, as shown by said roll, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil, location and value of same:..... When such allotment of the lands of any tribe has been by them completed, said Commission shall make full report thereof to the Secretary of the Interior for his approval;

Provided, That nothing herein contained shall in any way affect any vested legal right which may have been heretofore granted by Act of Congress, nor be so construed as to confer any additional rights upon any parties claiming under any such Act of Congress. (30 stat.1.495.)

XII

That there was attached to and made a part of said Act approved June 28, 1898, and forming a part of section 29, thereof, an agreement entered into by and between the Choctaw and Chickasaw people, existing as nations, or tribes in which section of said Act it was provided that the provisions thereof except section 14 should not become effective unless said agreement was ratified before the first day of December, 1898, by a majority of those persons entitled, under the tribal laws to participate in the elections of said tribes, ^{unless} and said Act was not in conflict with the provisions of said agreement, that thereafter and on to-wit: the twenty-fourth day of August, 1898, at a general election held for the purpose of ratifying said agreement, said agreement was ratified; that said agreement as ratified provided among other things:

Section 29.

Paragraph 4. That all lands within the Indian Territory belonging to the Choctaw and Chickasaw Indians shall be allotted to the members of said tribes, so as to give to the members of these tribes so far as possible a fair and equal share thereof considering the character and fertility of the soil and the location and value of the lands.

Paragraph 10. That each member of the Choctaw and Chickasaw tribes including Choctaw and Chickasaw freemen, shall, where it is possible, have the right to take his allotment on land, the improvements on which belong to him and such improvements shall not be estimated in the value of his allotment. In the case of minor children, allotments shall be selected for them by their father, mother, guardian,

or the administrator having charge of their estate, preference being given in the order named, and shall not be sold during his minority, allotments shall be selected for prisoners, convicts, and incompetents by some suitable person akin to them, and due care taken that all persons entitled thereto have allotments made to them.

Paragraph 15. That as soon as practicable, after the completion of said allotments, the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation shall jointly execute, under their hands and the seals of the respective nations, and deliver to each of the said allottees patents conveying to him all the right, title, and interest of the Choctaws and Chickasaws in and to the land which shall have been allotted to him in conformity with the requirements of this agreement, excepting all coal and asphalt in or under said land.

Said patents shall be framed in accordance with the provisions of this agreement, and shall embrace the land allotted to such patentee and no other land, and the acceptance of his patents by such allottee shall be operative as an assent on his part to the allotment and conveyance of all the lands of the Choctaws and Chickasaws in accordance with the provisions of this agreement, and as a relinquishment of all his right, title and interest in and to any and all parts thereof, except the land embraced in said patent, except also his interest in the proceeds of all lands, coal, and asphalt herein excepted from allotment. (30 stat.L.495.)

XIII

That proceeding under the authority contained in section 21 of said Act approved June 28, 1898, said Commission did take what purported to be a census of the Choctaw and Chickasaw "Indians by blood" and of the Choctaw and Chickasaw freedmen in the years 1898 and 1899, but plaintiff represents that said census was not a correct census for the reason among others that her name as well as the names of all other persons in whose behalf this suit is brought, were enumerated on said census rolls as freedmen, whereas had they been correctly enumerated their names would have appeared on the rolls of "Indians by blood" of said nations; and plaintiff further represents that the Commission did not attempt to ascertain the indian blood and descent of any of the parties plaintiff herein as it was directed to do by the

XIV

That thereafter said Commission proceeded to make up the "rolls of citizenship" and rolls of freedmen of said tribes, which rolls were, (when made in conformity with the provisions of the statutes, and approved by the Secretary of the Interior) to become final; that said Commission erroneously and illegally placed the names of each and every one of the parties plaintiff herein on the freedmen rolls, which rolls have since been approved by the Secretary of the Interior; that said rolls were not made as the statute directed, viz: that the names of all citizens by blood of said tribes should be placed thereon, and the names of all persons whose names had been lawfully placed on any of the tribal rolls and their descendants, as appears from the fact; that the names of plaintiff herein, who were bona-fide residents of said Nations on the 23th day of June, 1898, do not appear thereon; that in some cases the names of blood citizens of said tribes, which blood citizens are brothers and sisters of certain of the plaintiffs herein, appear on a citizenship roll of said tribes; that in many cases the names of persons who are blood citizens of said tribes, which persons are the fathers or mothers of certain of the plaintiffs herein, appear on the citizenship rolls of said tribes, as approved by the Secretary of the Interior on or before the 4th day of March, 1907, while plaintiffs herein are enrolled as freedmen; that said rolls are not descriptive of the persons whose names appear thereon. The said rolls are therefore not final although approved by the Secretary of the Interior.

XV

That section 11 of the Act of Congress approved July 1, 1902, ratifying an agreement with the Choctaw and Chickasaw Nations or tribes, which agreement was thereafter submitted to the people of said nations or tribes and was by them ratified, provided, among other things, that there "shall be allotted to each and every member of the Choctaw and Chickasaw tribes, as soon as practicable, after the approval by the Secretary of the Interior of his enrollment, as herein provided, land equal in value to three hundred and twenty acres of the average allotable land of the Choctaw and Chickasaw Nations, and to each Choctaw and Chickasaw freedmen, as soon as practicable after the approval by the Secretary of the Interior of his enrollment, land equal in value to forty acres of the average allotable land of the Choctaw and Chickasaw Nations.

XVI

That under the provisions of said section 11 of said act of July 1, 1902, allotments were to be made to only those persons, whose enrollment was approved by the Secretary of the Interior, as provided in said act, and that sections 27 and 28 thereof provided, as follows:

Section 27 .

The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the Act of Congress approved June 28, 1898, (30 stats. 495), and the Act of Congress approved May 31, 1900, (31 stats. 221), except as herein otherwise provided.....

Section 28.

The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission;.....
(32 Stat.641).

XVII

That the act of Congress approved May 31, 1900, (31 stat s. 221) in strict compliance with which it was provided in section 27 of the agreement with the Choctaw and Chickasaw people, contained in the act approved July

July 1, 1902, (30 stats. 641) the rolls of Choctaw and Chickasaw citizens and freedmen should be made, provided as follows:

That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider or make any record of any applications of any persons for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior.

Plaintiff represents that this Act did not preclude the Commission and the Secretary from correctly enrolling plaintiffs herein as citizens of said nations in accordance with the provisions of section 21 of the Act approved June 28, 1898, but that if it did so do it was unconstitutional, null and void, in that it would deprive plaintiffs of property without due process of law, contrary to the fifth amendment of the Federal Constitution.

XVIII

That section 30 of the agreement with said Choctaw and Chickasaw tribes and made a part of the Act approved July 1, 1902, authorized the Secretary of the Interior to approve partial schedules or lists containing the names of persons found by said Commission to be entitled to enrollment as Choctaw and Chickasaw citizens and freedmen, and that upon the approval of said partial list, land should be allotted to the persons whose names appeared thereon; said section being in full as follows:

For the purpose of expediting the enrollment of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen the said Commission shall, from time to time, and as early as practicable, forward to the Secretary of the Interior lists upon which shall be placed the names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior shall constitute a part and parcel of the final rolls

of citizens of the Choctaw and Chickasaw tribes and of Choctaw and Chickasaw freedmen, upon which allotment of land and distribution of other tribal property shall be made as herein provided. Lists shall be made up and forwarded when contests of whatever character shall have been determined and when there shall have been submitted to and approved by the Secretary of the Interior lists embracing names of all those lawfully entitled to enrollment, the rolls shall be deemed complete. The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes. (31 stat. 641.)

XIX

That said Commission has from time to time since the first day of January, 1902, made up partial lists, of Choctaw and Chickasaw freedmen, but said lists were erroneously made not being made as the statute directed, which erroneous and illegal lists included the names of parties plaintiff herein, and which erroneous and illegal lists were, on or before, the fourth day of March, 1907, approved by the Secretary of the Interior.

XX

That after the approval of said erroneous and illegal partial lists of Choctaw and Chickasaw freedmen, which lists illegally included the names of parties plaintiff herein, said Commission did, without authority of law, allot each and every one of parties plaintiff, lands of said nations as freedmen, allotting each and every one of them forty acres of the average allotable lands of said tribes.

XXI

That after being informed of the action taken by the Commission to the Five Civilized Tribes in erroneously and illegally placing the names of the parties plaintiff herein

on the freedmen rolls of said Nations or tribes and of the erroneous and illegal action taken by the Secretary of the Interior in approving the erroneous and illegal enrollment of plaintiffs herein as freedmen, plaintiffs filed, or caused to be filed, by their attorneys, before the Commission to the Five Civilized Tribes and the Secretary of the Interior, motions for a correction of their erroneous and illegal enrollment as freedmen and praying for a transfer of their names from the freedmen rolls to the rolls of citizens of said tribes; that said motions were erroneously and fraudulently considered and adjudicated by said Commission in that one William O. Beall while an employee of the Commission to the Five Civilized Tribes and occupying the position of Chief Clerk of the Choctaw and Chickasaw Enrollment Division, and while on furlough, during the month of June, 1903, though actually in the employ of said Commission, was employed by the law firm of Mansfield, McMurray and Cornish, attorneys for the Choctaw and Chickasaw nations, said firm of attorneys being employed mainly to defeat the rights of certain persons claiming citizenship in said nations, among which persons said attorneys then sought to prevent the enrollment of were the plaintiffs herein; that the said Beall remained in the employ of said attorneys, assisting in the preparation of certain cases for the tribes and against the applicants therein until the 30th day of June, 1903, with the knowledge and consent of certain of the members of the Commission to the Five Civilized Tribes; that on the first day of July, 1903, the said Beall resumed his duties as Clerk in charge of the Choctaw and Chickasaw Enrollment Division of said Commission; that although not a lawyer, he directed the preparation of decisions in citizenship cases, involving the rights of parties plaintiff herein, instructing the attorneys of said Division as to questions of law and directing them to deny the petitions of plaintiffs herein; that he publicly asserted that the

plaintiffs herein were not entitled to enrollment as citizens by blood; that they were mere chattles of said nations being descended from ancestors once held in slavery and that if he could prevent it they should never be enrolled as citizens of said nations; that thereafter the said William C. Beall was promoted to the office of Secretary to the said Commission and was, in the absence of the Commissioner, Acting Commissioner in charge of the work of the said Commission; that notwithstanding the fact that the said Beall was no longer officially connected with the Choctaw and Chickasaw Enrollment Division, he continued to consider, approve and initial every case coming from said Division wherein the right of any person to enrollment as a citizen of said tribes was involved, and before said cases went to the Commissioner for his official approval and signature; that while occupying the position of Secretary to the Commission or Acting Commissioner, he presided at hearings had in cases of plaintiffs herein and passed on questions of law determinative of their rights; that at such hearings he quoted provisions of bills then pending in Congress which had not been enacted into law and which were not then laws and determined the rights of certain of the plaintiffs herein thereunder; that he refused to permit certain of the parties plaintiff herein to have included in the official record of their cases documentary evidence of their right to enrollment as citizens by blood, which documentary evidence was then in his possession, and likewise refused to permit the official stenographer to make a record of the request of the petitioners or their counsel to have said documentary evidence included in said record or to permit to be made of record the exceptions or objections duly made of plaintiffs' counsel; that he withheld information from the Secretary of the Interior of the legal rights of plaintiffs herein; that said decisions written by the law Clerks of said Choctaw and Chickasaw Division of said Commission after

being approved and initialed by the said Beall, were approved pro forma by the Commissioner to the Five Civilized Tribes, who was not a lawyer and who did rely upon the decisions prepared by the Law Clerks under the supervision and direction of the said Beall; that the Commissioner to the Five Civilized Tribes, Tams Bixby, withheld information of the rights of plaintiffs herein from the Secretary of the Interior said information showing the Indian blood and descent of plaintiffs herein and being known to said Commissioner and being of record on the field cards prepared by said Commission and then in its custody; that he likewise failed to certify to the Secretary applications for enrollment as citizens of said nations of certain of the plaintiffs herein which resulted in the denial by the said Secretary of their legal rights to such enrollment; that during the month of October or November the Secretary of the Interior authorized and directed the said Commissioner in charge of the work of the Commission to the Five Civilized Tribes to prepare a bill, to be thereafter introduced in the Congress of the United States and by it to be enacted into law, for the purpose of winding up the affairs of the Five Civilized Tribes, among which tribes were the said Choctaw and Chickasaw tribes; that the said Commissioner was given discretionary powers; that with the aid and assistance of the said William O. Beall

the said Commissioner included in the draft of the said proposed bill a provision which sought to prevent a correction of the erroneous enrollment of the parties plaintiff herein, said section being known as section four of the Act approved April 26, 1906; that thereafter said proposed draft of a bill was forwarded to the Secretary of the Interior and by the said Secretary of the Interior was referred to a Committee of officers of his Department for a full and complete examination and report thereon; that said Committee approved the provision in the draft of the proposed bill inserted by the said Commissioner, Tams Bixby, which sought to prevent a correction of the erroneous enrollment of the plaintiffs herein; that the report made by said Committee to the Secretary of the Interior did not state the objects for which said section was inserted, but adroitly concealed the real objects and the true facts; that thereafter the said Secretary of the Interior transmitted the proposed bill to the Congress of the United States with the erroneous and misleading reports made thereon by his subordinates; that thereafter said said proposed bill was introduced in Congress and subsequently became a law; that during the pendency of said bill before the Secretary of the Interior and the Congress of the United States, the cases then pending before the Commissioner to the Five Civilized tribes of plaintiffs

herein were not considered, adjudicated, or finally acted upon; that after the enactment of said law, the applications for correction of the erroneous enrollment of parties plaintiff herein as freedmen were retained in the office of the Commission at Muskogee, Indian Territory, or the great majority of them, and were not passed upon and decided by said Commission until the months of October, November and December in the year 1906; and the months of January and February in the year 1907; that the time existing between the date of the reports or decisions of said Commission in said cases and the fourth day of March, 1907, on which day the jurisdiction of the Secretary of the Interior, to lawfully add any names to the citizenship rolls of said nations, expired, by operation of law, precluded a complete consideration and adjudication of said cases by said Secretary, as under the rules of the Department the plaintiffs herein were entitled, upon a proper showing of error to a re-consideration by said Secretary of his first decision in said cases; that the said Secretary did not have before him when he adjudicated and determined the rights of parties plaintiff herein the complete record in their separate cases; that said Secretary did not give due consideration to said petitions, or in fact, give such consideration to their petitions as would enable him to ascertain their rights and correctly enroll them under the law; that by reason of the limitation of time in which the said Secretary could legally adjudicate and determine the rights of petitioners

and erroneous and fraudulent decisions of reports made
 by said Commission ^{w ere} pro forma affirmed by said Secretary
 on and prior to the fourth day of March, 1907, and that
 in no case of any party plaintiff herein did said Secretary
 adjudicate and determine his or her right as the law direc-
 ted it should be determined; that during the week ending
 March 4, 1907, said Secretary examined and decided 2,023
 citizenship cases involving the property rights of more
 than seven thousand persons to enrollment as citizens and
 freedmen of the Choctaw, Chickasaw, Cherokee, Creek and
 Seminole tribes, and that the petitions of many of the
 parties plaintiff herein, were among said cases thus
 determined without due consideration by said Secretary and
 contrary to law, and the erroneous and fraudulent decisions
 or reports therein or thereon made by said Commissioner
 were affirmed, which action sought to deprive parties
 plaintiff herein of their property according to the guar-
 antee contained in the fifth amendment to the Federal
 Constitution.

XXII

That the act approved March 3, 1905, and entitled
 "AN ACT MAKING APPROPRIATIONS FOR THE CURRENT AND CON-
 TINGENT EXPENSES OF THE INDIAN DEPARTMENT AND FOR FULFILL-
 ING TREATY STIPULATIONS WITH VARIOUS INDIAN TRIBES FOR THE
 FISCAL YEAR ENDING JUNE 30, 1906, AND FOR OTHER PURPOSES"
 contained the following provision of law:

That the work of completing the unfin-
 ished business, if any, of the Commission
 to the Five Civilized Tribes shall devolve
 upon the Secretary of the Interior, and that
 all powers heretofore granted to the said
 Commission to the Five Civilized Tribes
 are hereby conferred upon the said Secretary
 on and after the first of July, nineteen
 hundred and five.

That the Act approved April 26, 1906, entitled, "AND ACT TO PROVIDE FOR THE FINAL DISPOSITION OF THE AFFAIRS OF THE FIVE CIVILIZED TRIBES IN THE INDIAN TERRITORY AND FOR OTHER PURPOSES," provided, among other things, as follows:

Section 2. That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date:

Plaintiff represents that the rolls of citizenship and rolls of freedmen of the Choctaw and Chickasaw Nations were among the rolls affected by said Act.

Section 4. That no name shall be transferred from the approved freedmen, or any other approved rolls of the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes, respectively, to the roll of citizens by blood, unless the records in charge of the Commissioner to the Five Civilized Tribes show that application for enrollment as a citizen by blood was made within the time prescribed by law by or for the party seeking the transfer, and said records shall be conclusive evidence as to the fact of such application, unless it be shown by documentary evidence that the Commission to the Five Civilized Tribes actually received such application within the time prescribed by law.

Section 16. That when allotments as provided by this and other Acts of Congress have been made to all members and freedmen of the Choctaw, Chickasaw, Cherokee, Creek and Seminole tribes, the residue of lands in each of said nations not reserved or otherwise disposed of shall be sold by the Secretary of the Interior under rules and regulations to be prescribed by him and the proceeds of such sales deposited in the United States Treasury to the credit of the respective tribes.

The Secretary of the Interior is hereby authorized to sell, whenever in his judgment it may be desirable, any of the unallotted land in the Choctaw and Chickasaw nation, which is not principally valuable for mining, agricultural, or timber purposes, in tracts of not exceeding six hundred and forty acres to any one person for a fair and reasonable price, not less than the present appraised value.*****

Section 17. That when the unallotted lands and other property belonging to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of Indians have been sold and the moneys arising from such

sales or from any other source whatever have been paid into the United States Treasury to the credit of said tribes, respectively, and when all the just charges against the funds of the respective tribes have been deducted therefrom, any remaining funds shall be distributed per capita to the members then living and the heirs of deceased members whose names appear upon the finally approved rolls of the respective tribes, such distribution to be made under rules and regulations to be prescribed by the Secretary of the Interior. (Chap. 1876, Laws 1906.)

XXIV

Plaintiff represents that section 4 of said Act approved April 26, 1906, is in conflict with, and violative of, the letter and spirit of the 5th amendment to the Federal Constitution, because it seeks to deprive the plaintiff and all other persons for whose benefit this suit is brought of property without due process of law, and asserts that it is therefore unconstitutional, null and void, as their rights to participate equally with all other persons lawfully entitled thereto, in the communal properties of the Choctaw and Chickasaw Nations, are, and have been, ever since their birth, so vested that they can not be deprived of said property rights by any Act of Congress or in any other way except as provided by the said 5th amendment to the Federal Constitution, and that they have not been so deprived, and that the action of the Secretary of the Interior which sought to deprive them of their lawful rights in the communal properties of said tribes is therefore null and void.

Plaintiff asserts that each and every Act approved prior to the said Act of April 26, 1906, and each and every agreement entered into with said tribes by the Government of the United States, sought to protect and secure them in their right to participate equally in the distribution of the communal properties of said tribes, and that as the rolls of citizenship of the Choctaw and Chickasaw tribes were not made as provided in section 21 of the Act approved June 28, 1898, and in conformity with the provisions of section 27

of the Act of July 1, 1902, that the rolls of citizenship of said tribes as approved by the Secretary of the Interior on the 4th day of March, 1907, are not final, because they are not made as directed by law; and that the allotments made to parties plaintiff are illegal and void because they were not made in conformity with the terms and provisions of section 11 and paragraphs 4, 10 and 16 of section 29 of the Act approved July 1, 1902, and plaintiff complains that by reason of the erroneous and fraudulent action of certain officials, hereinbefore referred to, of said Commission and the failure of the Secretary of the Interior to properly consider their cases, when before him on review, they are today without any legal recognition of their rights, and without complete and adequate remedy at law to enforce their rights to participate in the distribution of the properties of said tribes.

XXV

Plaintiff further represents that the Secretary of the Interior has received large sums of money derived from the sale of town site property in the Choctaw and Chickasaw Nations, which property was a part of the communal lands of said tribes; that he has likewise received large sums of money derived from the leasing of mineral lands which are a part of the communal properties of said tribes; that he has distributed per capita a large portion of said funds derived from the sale of said town site property to persons whose names appear upon the rolls of citizens of said tribes approved by him; that the principal plaintiff herein has no definite information of the exact sums so received and disbursed by said Secretary, and is unable to ascertain said facts; that the residue of said moneys not so disbursed is now deposited to the credit of said tribes in the Treasury of the United States.

XXVI

Plaintiff further represents that by virtue of the authority contained in sections 12 and 15 of said Act approved April 26, 1906, said Secretary is authorized to sell upon such terms and under such rules and regulations as he may prescribe, all lots being the common property of the Choctaw and Chickasaw people in towns in said tribes theretofore reserved from appraisement and sale, or sale; to sell and dispose of all school buildings and furniture therein, and the land appertaining thereto belonging to said tribes; that some of said property has been sold and the residue thereof is about to be sold.

XXVII

Plaintiff further represents that section 16 of said Act approved April 26, 1906, purports to give the Secretary of the Interior authority to sell, whenever in his judgment it may be desirable, any of the unallotted communal lands of said tribes, which are not principally valuable for mining, agricultural or timber purposes, and plaintiff represents that as the parties plaintiff herein are legally entitled to share equally with all other persons found by the Secretary of the Interior entitled to share in the communal properties of said Nations, and as they have a lawful right to select as their allotments, any lands, not mineral in character, from the communal lands of said tribes, which right has never been denied any person whose name appears on the rolls of citizenship of said tribes as approved by the Secretary of the Interior, on, or before, the fourth day of March, 1907, and as the sale by said Secretary of such of the communal lands of said tribes as are not principally valuable for mining, agricultural or timber purposes will deprive parties plaintiff herein of allotments equal in value and extent to those heretofore made to individuals found by said Secretary to be entitled thereto; that so much of said

section 16 of said act as purports to give said Secretary such authority is unconstitutional, null and void, because plaintiff asserts that it will deprive all parties plaintiff herein of their right to select land equal in value and extent to the allotments heretofore made to all persons found by the Secretary of the Interior as entitled thereto, the great majority of which persons have already selected their lands and many of which persons have received patents therefor; that such deprivation of such property right would be in violation of the fifth amendment to the Federal Constitution which declares that no person shall be deprived of property without due process of law, and that unless restrained from so doing by order of this court, the said Secretary of the Interior will proceed under said unconstitutional provision of said act, to sell all unallotted lands in said tribes not principally valuable for mineral, agricultural and timber purposes, and thus deprive plaintiff and all other persons in whose behalf this suit is brought, of allotments of land without due process of law and just compensation
 * * * * *

XXVIII

Plaintiff represents, that section sixteen of said act approved April 26, 1906, directed the Secretary of the Interior "when allotments as provided by this and other Acts of Congress have been made to all members and freedmen of the Choctaw and Chickasaw tribes," to sell the "residue of lands in each of said nations not reserved or otherwise disposed of" "under rules and regulations to be prescribed by him;" and that section 17 of said Act directs the said Secretary, "when the unallotted lands and other property belonging to the Choctaw and Chickasaw tribes of Indians have been sold and the moneys arising from such sales or from any other source whatever, have been paid into the United States Treasury to the credit of such tribes, respectively, and when all the just charges against the funds of the respective tribes have been deducted therefrom"

to distribute "per capita to the members then living, and the heirs of deceased members whose names appear upon the finally approved rolls of the respective tribes," any remaining funds, and plaintiff asserts that the Secretary of the Interior is without lawful authority to complete allotments as provided by section 11 and paragraphs 4, 10 and 16 of section 29 of the Act approved June 28, 1898, and section 28 of the Act approved July 1, 1902, and that under the provisions of section 16 of the Act of April 26, 1906, he has no lawful authority to sell or dispose of the unallotted communal lands of the Choctaw and Chickasaw tribes, until all allotments are completed in conformity with the said provisions of said acts; but that unless restrained by order of this court, said Secretary will proceed, upon the completion of allotments to those persons whose names now appear on the citizen and freedmen rolls of said tribes, to sell and dispose of the residue of said unallotted communal lands; and plaintiff further asserts that the said Secretary is without legal authority to distribute any funds now in the Treasury of the United States, or that may hereafter be placed therein, to the credit of the Choctaw and Chickasaw tribes, respectively, "to the members living, and the heirs of deceased members whose names appear upon the finally approved rolls of the respective tribes," for the reason that the rolls as approved by said Secretary are not final, because they have not been made in conformity with the provisions of section 21 of the Act approved June 28, 1898, and section 27 of the Act of July 1, 1902, and because also,

the Secretary of the Interior has no lawful authority to distribute funds belonging to the parties plaintiff herein, among other people not lawfully entitled thereto, but unless restrained by order of this court from so doing, he will proceed to distribute said funds among those persons whose names appear on the citizenship rolls of said tribes, as approved by him, on, or before, the fourth day of March, 1907, and thus without authority of law, and contrary to the inhibition contained in the fifth amendment to the Federal Constitution, deprive parties plaintiff herein of their property rights, without due process of law and that they will thereby sustain irreparable injury.

XXIX

Plaintiff further represents that the said Secretary of the Interior is now delivering, or causing to be delivered, patents approved by the Secretary of the Interior and signed by the Governor of the Chickasaw tribe and the Principal Chief of the Choctaw tribe to the parties plaintiff herein for allotments as freedmen, which allotments were not made as the statute directed and are therefore without authority of law, and that said Secretary will, unless restrained by order of this court, continue to deliver said illegal patents to the plaintiff and all those persons for whose benefit this suit is brought

THE PREMISES CONSIDERED, plaintiff prays:

a. That copy, subpoena, and all proper process issue making Douglas H. Johnson a citizen of the Chickasaw Tribe, party defendant and that he be required to appear and answer fully the exigencies of this bill.

b. That copy, subpoenas, and all other process issue making Green McCurtain a citizen of the Choctaw Tribe, party defendant and that he be required to appear and answer fully the exigencies of this bill.

c. That after the filing of this bill and service thereof on the defendants herein, that copy, subpoena and all other proper process issue, making Douglas H. Johnson in his official capacity as Governor of the Chickasaw Tribe, and that the Chickasaw Tribe, through such service upon its Chief Executive be made party defendant and be summoned into this court, as required by Section two of the Act approved June 28, 1898, to answer fully the exigencies of this bill.

d. That after the filing of this bill and service thereof on the defendants herein, that copy, subpoena, and all other proper process issue, making Green McCurtain in his official capacity as Principal Chief of the Choctaw Tribe, and that the Choctaw Tribe, through such service upon its Chief Executive, be made party defendant and be summoned into this court, as required by section two of the Act approved June 28, 1898, to answer fully the exigencies of this bill.

e. That copy, subpoena and all proper Process issue making James R. Garfield, Secretary of the Interior, party defendant and requiring him to appear and answer fully the exigencies of this bill; that service on the said James R. Garfield, Secretary of the Interior be made through J. George Wright, his special representative, or such person as in the absence from the territory of the said J. George Wright, is the special representative of said Secretary in the Indian Territory, with offices at Muskogee, Indian Territory.

f. That a preliminary writ of injunction issue to said defendant, James R. Garfield, or rule to show cause why such writ should not issue, enjoinging and restraining him in his official capacity as Secretary of the Interior of the United States from selling or disposing of any of

the unallotted communal lands of the Choctaw and Chickasaw Tribes, except the allotment of such lands to persons whose names appear upon the citizenship rolls of said tribes as approved by the Secretary of the Interior on, or before, the fourth day of March, 1907, and the sale and disposition of townsite and school property belonging to said tribes and that he be restrained from distributing any of the funds now, or that may hereafter be placed, in the Treasury of the United States to the credit of said tribes, and that he be further restrained from delivering patents to parties plaintiff for allotments as freedmen of said tribes.

g. That upon final hearing of this cause, the right, title and interest of the principal plaintiff herein and of all those persons in whose behalf this suit is brought, and herein made parties plaintiff' who can show to this court that they are of Choctaw or Chickasaw Indian blood and descent, to share equally with all other persons whose names appear on the rolls of citizens of said Choctaw and Chickasaw Tribes respectively, as approved by the Secretary of the Interior on, or before, March 4, 1907, in and to, the communal lands of said tribes, and all funds heretofore derived from the sale or disposal of any lands, properties or other thing of value being a part of, or resulting from the communal lands of said tribes, or derived from any other source, be, by suitable decree declared, and to that end, hat all necessary orders and decrees be entered and all proper process employed.

h. That such writ of injunction, or such rule as shall proceed from this court, restraining the defendant, James R. Garfield, in his official capacity as Secretary of the Interior of the United States, from selling or disposing of any of the unallotted communal lands of the Choctaw and Chickasaw tribes, except the allotment of such lands to persons whose names appear upon the citizenship rolls of said tribes as approved by said Secretary on, or before, March 4, 1907, and the sale of townsite and school properties belonging to said tribes; or from distributing any of the funds now, or that may hereafter be placed, in the Treasury of the United States to the credit of said tribes or from delivering patents to parties plaintiff herein for allotments as freedmen, be continued in force until the orders and decrees of this court shall have been fully complied with.

i. Plaintiff for herself, and, on behalf of all other persons made parties plaintiff herein and in whose behalf this suit is brought, also prays for general relief.

Bettie Figon

Albion J. Lee

John B. Hagler

Eldon E. Sams

Solicitors

United States of America: :
Indian Territory : :
Southern District : : S.S.
: :

Bettie Ligon, being by me first duly sworn,
deposes and says, that she is the principal plaintiff
in the foregoing Bill; that she has heard read the
Bill, and that the statements therein contained are
true to the best of her knowledge, information and
belief.

Subscribed and sworn to before me this
day of April, 1907.

Notary Public

My Commission expires

7071

In the United States Court
for the Southern District
of the Indian Territory

oooooooooooo

Bettie Ligon, et al, Plaintiffs

v.

Douglass H. Johnson, et al.,
Green McCurtain, et al.,
and

James R. Garfield, Secretary
of the Interior, Defendants.

oooooooooooo

FILED

AT ADMORE

APR 13 1907 2 PM

C. M. CAMPBELL, Clerk and
Exofficio Recorder District No. 21, Ind. Ter.

Albert J. Lee

John S. Hagler

Attorneys for Plaintiffs

Eldon E. Sams

Attorneys for Plaintiffs

HAGLER, LEE & SAMS

ATTORNEYS-AT-LAW

ROOMS 19, 20 AND 21 BANKERS NATIONAL BANK BUILDING

TELEPHONE 279

ARDMORE, OKLA. May 29, 1907

Messrs Mansfield, McMurray & Cornish,

Attorneys at Law,

McAlester, I. T.

Gentlemen:

We have filed our appeal from the decision of Judge Townsend, in the case of Bettie Ligon et al., v. Douglas H. Johnston et al., Green McCurtain et al., and James R. Garfield, with the United States Court of Appeals for the Indian Territory, notice of which has been served upon you.

We will file our brief in the case within the next week, and we will greatly appreciate it if you can make arrangements to submit the case to the court at the June term. This we are informed is entirely satisfactory to Hon. George R. Walker and Col. Humphreys. Copies of our brief will be forwarded you as soon as we receive them from the printer.

We will appreciate it if you will kindly inform us at what time during the June term you will be ready to proceed with the hearing, in order that we may conform to your convenience when we ask the court to set a day for hearing the case. We will be present when court convenes on the 11th day of June for the purpose of making the request.

Yours very truly,

Albert J. Lee
Webster Hallinger

Mc Alester, Indian Territory, May 30, 1907.

Messrs. Albert J. Lee and Webster Ballinger,
Ardmore, Indian Territory.

Dear Sirs:

Your letter in regard to the Ligon case had been received. Any arrangement you may make with the United States District Attorney's office in regard to the consideration of the case by the Court of Appeals will be agreeable with us.

We shall communicate with the District Attorney and, after we have reached an agreement upon the matter referred to in your letter, you will be advised by that office.

Yours very truly,

Dic.

HAGLER, LEE & SAMS

ATTORNEYS-AT-LAW

ROOMS 19, 20 AND 21 BANKERS NATIONAL BANK BUILDING

TELEPHONE 279

ARDMORE, OKLA. June 19, 1907

Messrs Mansfield, McMurray & Cornish,

M c A l e s t e r, I. T.

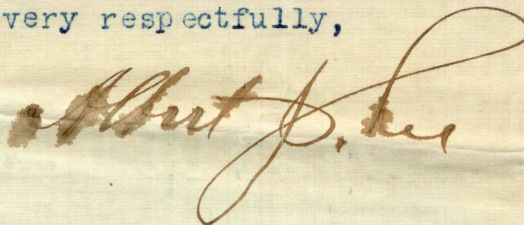
Gentlemen:

On yesterday Judge Townsend signed various orders and papers necessary to perfect the appeal from the United States Court of Appeals in the Indian Territory to the United States Circuit Court of Appeals at St Louis; also Hon. George R. Walker, U.S. Attorney for the Southern District of the Indian Territory accepted service of citation on behalf of the Secretary of the Interior.

Kindly notify me by return mail whether or not it is agreeable for you to accept service for Douglas H. Johnston and Green McCurtain; if so, I will forward copy of citation for your signature.

I would appreciate your immediate attention to this matter, as in the event you do not care to accept service, I desire to have same made immediately.

Yours very respectfully,



A.J.L.-C

UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF THE
INDIAN TERRITORY AT ARDMORE

Bettie Ligon et al.,
Plaintiffs

-v-

Douglas H. Johnston, et al.,
Green McCurtain et al.,

and

James R. Garfield
Secretary of the Interior
Defendants.

.....
EQUITY NO. 7071
.....

O R D E R

This cause coming on to be heard in open court, this 16th day of May, in the year of our Lord, 1907, and it appearing to the court, that upon a hearing of the issues, that the Choctaw and Chickasaw Nations or tribes are interested in the subject-matter in controversy, It is

THEREFORE ORDERED, in accordance with Section 2, of the act approved June 28, 1898, and with the provision of the agreement entered into by and between the government of the United States, and the Choctaws and Chickasaws, contained in the act approved June 28, 1898, that said tribes shall be summoned into this court and made parties defendant in this cause, by service being made upon the Principal Chief of the Choctaw Nation or tribe, Green McCurtain, and the Governor of the Chickasaw Nation or tribe, Douglas H. Johnston, and said cause shall then proceed as though said nations or tribes had been original parties to said action.

AND FURTHER, that a copy of this order, together with proper summons, as by law provided in civil causes, shall be served on the Principal Chief of the Choctaw Nation, Green McCurtain, ^{the} and Governor of the Chickasaw Nation, Douglas H. Johnston.