



SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1902.

No. 12 Original.

EX-PARTE: IN THE MATTER OF U. S. JOINS,
PETITIONER.

Motion for leave to file Petition for Writ of Prohibition,
and for Certiorari against the Choctaw and Chick-
asaw Citizenship Court and the Judges and Clerk
thereof and the Petition for same.

WM. I. CRUCE AND
CALVIN L. HERBERT,
Counsel for the Petitioner.

SUPREME COURT OF THE UNITED STATES.

IN THE MATTER OF THE PETITION OF U. S. JOINS FOR A WRIT OF CERTIORARI AND WRIT OF PROHIBITION AGAINST THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, AND JUDGES AND CLERK THEREOF.

MOTION.

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States, and the Court:

And now comes U. S. Joins, and, upon the showing made by the accompanying petition for a writ of *certiorari* and for a writ of *prohibition* against the Choctaw and Chickasaw Citizenship Court, and each of the judges and the clerk thereof, wherein he shows that on the 8th day of March, 1898, in the United States Court for the Southern District of the Indian Territory, and at a regular term thereof, and upon appeal from the Commission of the United States to the Five Civilized Tribes of Indians, (known as the Dawes Commission), and in cause pending on the docket of said Court entitled and styled U. S. Joins *versus* Chickasaw Nation, he recovered judgment final against said Nation identifying and establishing the citizenship of said Joins as a member by blood of the Chickasaw Nation or tribe of Indians, and wherein he shows that the said Choctaw and Chickasaw Citizenship Court, on the 17th day of December, 1902, without authority of law and without jurisdiction or power so to do, and in violation of the Constitution of the United States, did make and

cause to be entered a decree, whereby and by reason whereof and without notice to petitioner, the said judgment of the United States Court for the Southern District of the Indian Territory, in favor of your petitioner, by the terms of said decree of said Citizenship Court was cancelled, set aside and held for naught; and wherein it is shown that the said decree of said Citizenship Court cannot be reviewed by appeal or writ of error; and wherein it is shown, as a result of said decree of said Citizenship Court the petitioner has been deprived of the right to have his name enrolled as a member of the tribe of Chickasaw Indians, and has been deprived of valuable property rights; and the said U. S. Joins does now present this his motion to your honorable Court that he be granted leave to file herein the accompanying petition for the writ of *prohibition*, and the writ of *certiorari*, and that the said writs issue, as in said petition prayed for, and that he have such other relief as to your honorable Court may seem just and in accordance with the requirements of the law.

Wherefore, the said U. S. Joins respectfully prays your honorable Court that an order be made granting this motion and directing the issuance of the writ of *prohibition*, as prayed for in the said petition; also, that your honorable Court direct the issuance of a writ of *certiorari* to bring up the record referred to in said petition, that the said record may be considered upon the said petition.

WM. I. CRUCE AND
CALVIN L. HERBERT,

*Attorneys and Counsel for the
said Petitioner, U. S. Joins.*

[Endorsed:] Supreme Court of the United States of America, in the matter of the petition of U. S. Joins for a writ of *prohibition*. Motion for leave to file petition for writ of *prohibition*, and for *certiorari*. William I. Cruce and Calvin L. Herbert, Attorneys for Petitioner, U. S. Joins.

In the Supreme Court of the United States.

IN THE MATTER OF THE PETITION OF U. S. JOINS
FOR A WRIT OF CERTIORARI AND WRIT OF PRO-
HIBITION AGAINST THE CHOCTAW AND CHICKA-
SAW CITIZENSHIP COURT.

Petition for Writ of Certiorari and Writ of Prohibition.

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States of America, and to the Court:

Now comes U. S. Joins, the petitioner herein, and complaining against the Hon. Spencer B. Adams, Chief Judge, and the Hon. Walter L. Weaver, Associate Judge, and the Hon. Henry S. Foote, Associate Judge of the Choctaw and Chickasaw Citizenship Court, and most respectfully represents and shows to this honorable Court—

1st. That on the tenth day of June, 1896, the Congress of the United States enacted a law conferring upon the Commission of the United States to the Five Civilized Tribes of Indians the right and power to entertain applications of all those claiming to be members of said tribes and to pass upon and settle the same.

See U. S. Statutes, 1 Sess., 54 Cong., 1895-6, 339.

That said Act. as aforesaid, in part reads as follows:

"The said Commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the rights of such applicant to be admitted and enrolled; *Provided, however,* That such application shall be made to such commissioners within three months after the passage of this

act. The said Commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said Commission shall respect all laws of the several nations or tribes not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages and customs of each of said nations or tribes; *and provided, further*, that the rolls of citizenship of the several tribes, as now existing, are hereby confirmed, and any person who shall claim to be added to such rolls as a citizen of either of said tribes, and whose right thereto has either been denied or not acted upon, or any citizen who may, within three months from and after the passage of this act, desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days after the application thereof.

"In the performance of such duties said Commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving such testimony are dead or now living beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud and wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes; *Provided,* That if the tribe or any person be aggrieved with the decision of the tribal authorities or the Commission provided for in this act, it or he may appeal from such decision to the United States dis-

trict court; *Provided, however*, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

"That the said Commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts as provided herein.

"The Commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs, to remain there for use as the final judgment of the duly constituted authorities. And said Commission shall also make a roll of freedmen entitled to citizenship in said tribes, and shall include their names in the list of members to be filed with the Commissioner of Indian Affairs."

And your petitioner further represents that pursuant to, and acting under, the aforesaid act that the said Commission, known as the Dawes Commission, made and promulgated a rule of practice and procedure to be observed before it, as follows:

"Any person desiring that said Commission shall pass upon his claim for citizenship in any of said tribes, under the provision of this act, must make application in writing, signed and sworn to, containing a particular statement of the grounds upon which his claim is based, and accompanied by such evidence, in the form of affidavits, depositions, or record evidence, as he may desire to have considered in support of his claim, all to be forwarded under seal to the Commission at Vinita, I. T., before the 10th day of September, 1896.

"The application should state facts sufficient, if true, to show that the applicant is entitled to citi-

zenship. The applicant must, at the same time, furnish the chief Governor of the Nation, in which citizenship is sought, a copy of such application, and evidence, and shall furnish to the Commission evidence of this fact. Such chief, or governor, must within thirty days thereafter, furnish the Commission his answer thereto, signed and sworn to by some duly authorized officer of this Government, and accompanied by such evidence in the form of affidavits, depositions or record evidence as he may desire the Commission to consider in support of his answer."

Petitioner states that under the terms of said Act of June 10, 1896, as aforesaid, no provision was made for serving either the chief of the Choctaw or Chickasaw Nations or the nations themselves with notice of said applications to said Dawes Commission and represents that the rule of practice and procedure referred to, made and adopted and promulgated by said Commission, as aforesaid, was made, to the end that the nation or tribe to whom applicants claimed citizenship should have due notice of such application and an opportunity to defend against the same.

2d. Your petitioner would further represent and show to this honorable Court that under the terms and conditions of said Act of Congress of June 10, 1896, as aforesaid, that he applied to said Commission of the United States to the Five Civilized Tribes of Indians; hereafter called the Dawes Commission, to be recognized and identified as a member of the tribe of Chickasaw Indians by blood; and that he complied with the rules of practice and procedure prescribed by said Commission, as aforesaid, and did serve the Governor of the Chickasaw Nation with a literal copy of his said application and evidence in support thereof, and in all things complied with the rules of said Commission and said act referred to *supra*.

And your petitioner further represents that the Chickasaw Nation appeared before said Commission

and denied the right of this petitioner to be enrolled or recognized as a member of the tribe of Chickasaw Indians by blood, and that the said Commission heard the evidence offered, for and against said application, and passed upon the same and denied the application of your petitioner to be enrolled as a member of said tribe; whereupon your petitioner appealed from the decision of the said Dawes Commission to the United States court for the Southern District of the Indian Territory, sitting at Ardmore, and that his appeal was begun and perfected within the time mentioned in the said Act of Congress of June 10, 1896.

And your petitioner further represents and shows to this honorable Court that at a regular term of said United States Court for the Southern District of the Indian Territory, sitting at Ardmore, and on, to-wit, the eighth of March, 1898, your petitioner recovered in said court, against the Chickasaw Nation, a judgment wherein the said court rendered and caused to be entered a decree that your petitioner, U. S. Joins, and his daughter, Virgie Joins, should be admitted as members of the tribe of Chickasaw Indians by blood, and wherein said court directed that a certified copy of said judgment be transmitted by the clerk of said court to the said Commission, and directed the said Commission to place the names of your petitioner and his said daughter, Virgie Joins, upon the roll of Chickasaw citizenship, to be made by the said Commission in accordance with the said Act of June 10, 1896. A certified copy of the judgment rendered in favor of your petitioner, as aforesaid, is attached hereto and identified as Exhibit A, and made a part of this petition.

3d. Your petitioner would further represent and show to this honorable Court that on, to-wit, the 1st day of July, 1898, the Congress of the United States passed an act under and by virtue of the terms of which, all persons who had applied to the said

Commission to be recognized and enrolled as members of any of the Five Civilized Tribes and whose right had been denied by the Commission and an appeal taken to the United States Court in the Indian Territory and whose right to enrollment as members of said tribes had been denied by said courts were granted an appeal to this honorable Court, and that the nations against whom judgments had been rendered recognizing and establishing the citizenship of persons claiming to be members of either or any of said tribes were given the right to appeal from the judgments rendered against them direct to this honorable Court.

U. S. Stat. 2 Session, 1897-1898, p. 591.

And your petitioner represents and further shows that pursuant to said act last aforesaid, that the said Chickasaw Nation appealed from the decision rendered in favor of your petitioner against it, as aforesaid, directly to this honorable Court and that this Court passed upon the Act of June 10th, 1896, and held the same to be constitutional, and also held that all of the legislation affecting Indian citizenship, under and by virtue of which the said United States courts in the Indian Territory acted in rendering judgment in favor of your petitioner, and others, were valid and constitutional and that the judgments rendered by said courts were final. That this honorable Court, in the case of *Stephens versus the Cherokee Nation*, 174 United States, page—expressly passed upon the Act of June 10, 1896, and held the same to be valid and constitutional and that the said court held that the trial had in the said United States courts in the Indian Territory, to which your petitioner and others had appealed from said Dawes Commission, were properly tried *de novo*, and that the said courts in entertaining appeals from your petitioner, and others similarly situated, did not err in trying said causes *de novo*, and this honorable Court held further that the procedure had in said

courts wherein trials *de novo* were had were proper, and quoting from the decision of this honorable Court, in said cause of *Stephens vs Cherokee Nation*, cited *supra*, it said:

"As to the first of these objections, conceding the constitutionality of the legislation otherwise, we need spend no time upon it, as it is firmly established that Congress may provide for the review of the action of commissions and boards created by it, exercising only *quasi judicial* powers by the transfer of their proceedings and decisions, denominated appeals for want of a better term, to judicial tribunals for examination and determination *de novo*; and, as will be presently seen, could certainly do so in respect of the action of tribal authorities."

4th. And your petitioner further represents and shows to this honorable Court that on the 22d day of November, 1900, G. W. Dukes, Green McCurtin and others, members of the tribes of Choctaw and Chickasaw Indians, for themselves and for the use and benefit of all the other members of the Choctaw and Chickasaw nations or tribes of Indians, filed in the United States Court for the Southern District of the Indian Territory, at Ardmore, their complaint or bill in equity against William Goodall, Richard Goodall, John Goodall, J. M. Forbes, and others, and all persons claiming to be members of the Choctaw or Chickasaw nations or tribes of Indians by virtue of decrees of the United States Court for the Central and Southern Districts of the Indian Territory sitting respectively at South McAlester and Ardmore, and commonly known as court claimants.

That in said complaint or bill in equity the said complainants in said cause alleged that all judgments rendered by the United States Court for the Southern District of the Indian Territory and by the United States Court for the Central District of the Indian Territory were void upon their face, because the proceedings in said courts were contrary to the

due course of legal precedence in force in the Indian Territory and contrary to all those rules and principles which have been established by the jurisprudence of the United States of America, for the protection and enforcement of private rights, and alleged further that the said judgments rendered by said courts for the Southern and Central Districts of the Indian Territory were void because each and every member of the tribes of Choctaw and Chickasaw Indians were not served with notice of the application of those in whose favor the judgments were rendered, made to the Dawes Commission for enrollment as members of the tribes of Choctaw and Chickasaw Indians, and because but one and not both of the Governors of the said Choctaw and Chickasaw Nations were served with notice of said applications.

That the said bill in equity was in the nature of a bill of review filed in said Court for the Southern District of the Indian Territory, and had for its purpose the review of the error, if any was committed, by the Court for the Central and the Southern Districts of the Indian Territory, in rendering judgments in favor of your petitioner, and divers and sundry other persons, without requiring notice of the application to the Dawes Commission and notice of the appeal to the court as aforesaid, to be first given to both the Choctaw and Chickasaw Chiefs or Governors and to each member of both of said tribes.

Your petitioner further represents and shows to this honorable Court that the United States Court for the Southern District of the Indian Territory was a court of general and competent jurisdiction and had the jurisdiction and power to entertain the said bill in equity as aforesaid, filed by G. W. Dukes and others, against William Goodall and others, as aforesaid, and that after said suit was filed in said court the said defendants named in said bill in equity appeared in said court and demurred to the bill in equity filed by the said Dukes and others, and filed

an answer denying certain allegations of fact contained in said bill, and your petitioner represents that the said court passed upon and adjudicated the said questions of notice involved in said suit as aforesaid, adverse to the contentions of the said plaintiffs or complainants in said bill in equity; and he further shows to this honorable Court that from the decision rendered by the said Court for the Southern District of the Indian Territory an appeal was taken by complainants therein to the United States Court of Appeals for the Indian Territory, and that said appeal is now pending before said Court of Appeals and is numbered on the docket of said Court of Appeals No. 403, and is entitled and styled, G. W. Dukes *et al.*, appellants, *versus* G. W. Goodall, *et al.*, appellees.

And your petitioner further represents and shows that the said Court of Appeals, as aforesaid, is a court of competent appellate jurisdiction, competent under the law to review, pass upon and adjudicate the question, if any there be, of the want of notice, as aforesaid, and he represents and shows to this honorable Court that the said case of Dukes against Goodall, as aforesaid, is yet pending upon the docket of said Court of Appeals, undetermined by said Court.

5th. Your petitioner further represents and shows to this honorable Court that he is a member of the tribe of Chickasaw Indians by blood, and that since the decree was rendered by the United States Court for the Southern District of the Indian Territory, as aforesaid, recognizing and identifying the petitioner as a member of said tribe he has made lasting and valuable improvements upon a tract of land situated in the Chickasaw Nation, Indian Territory: that he has expended upon said land fifteen thousand dollars in the way of building a stone residence, reducing said land to cultivation, building fences, etc., etc.

6th. Your petitioner further represents and shows to this honorable Court that on the 21st day of March, 1902, and after your petitioner had obtained said decree against the Chickasaw Nation, as aforesaid, and after this honorable Court had, upon appeal, passed upon and affirmed said decree, and after your petitioner had expended said monies in improving said land, as aforesaid, and while said cause of *Dukes et al. vs. Goodall et al.* was still pending in the United States Court of Appeals for the Indian Territory, that the Commission to the Five Civilized tribes, known as the "Dawes Commission" and the Choctaw and Chickasaw Indians, by their duly accredited delegates, entered into an agreement or treaty, which subsequently was ratified and confirmed by the Congress of the United States and by a majority vote of the members of the tribes of Choctaw and Chickasaw Indians; that sections 31 and 32 of said treaty read as follows:

31. "It being claimed and insisted by the Choctaw and Chickasaw Nations that the United States Courts in Indian Territory, acting under the Act of Congress approved June 10, 1896, have admitted persons to citizenship, or to enrollment as such citizens in the Choctaw and Chickasaw Nations respectively, without notice of the proceeding in such courts being given to each of said nations; and, it being insisted by said nations that in such proceedings notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States Courts in Indian Territory, under the said Act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission, and should not have extended to a trial *de novo* of the question of citizenship; and, it being desirable to finally determine these questions, the two nations jointly, or either of said nations acting

separately and making the other party a defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants of said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of the said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly papers having general circulation in the Choctaw and Chickasaw Nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication.

"Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States Courts in the Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbefore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers and proceedings in any citizenship case in which judgment or decision is so annulled or

vacated, shall, upon written application therefor, made within ninety days thereafter by any party thereto, who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the court having custody and control of such files, papers and proceedings, and upon the filing in such citizenship court of the files, papers and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court, and such further proceedings shall be had therein in that court as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes, and as if no judgment or decision had been rendered therein "

32. "Said citizenship court shall also have appellate jurisdiction over all judgments of the courts in the Indian Territory rendered under said Act of Congress of June tenth, eighteen hundred and ninety-six, admitting persons to citizenship or to enrollment as citizens in either of said nations. The right of appeal may be exercised by the said nations jointly or by either of them acting separately at any time within six months after this agreement is finally ratified. In the exercise of such appellate jurisdiction said citizenship court shall be authorized to consider, review and revise all such judgments, both as to findings of fact and conclusions of law, and may, wherever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy. And said court shall have power to make all needful rules and regulations prescribing the manner of taking and conducting said appeals and of taking additional

evidence therein. Such citizenship court shall also have like appellate jurisdiction and authority over judgments rendered by such courts under the said act denying claims to citizenship or to enrollment as citizens in either of said nations. Such appeals shall be taken within the time hereinbefore specified, and shall be taken within the time hereinbefore specified, and shall be taken, conducted and disposed of in the same manner as appeals by said nations, save that notice of appeals by citizenship claimants shall be served upon the chief executive officer of both nations: Provided, that paragraphs thirty-one, thirty-two and thirty three hereof shall go into effect immediately after the passage of this Act of Congress "

That under Section 33 of said treaty a court was created, known and designated as the Choctaw and Chickasaw Citizenship Court; and that pursuant to the terms of said treaty the President of the United States appointed as judges of said court the Honorable Spencer B. Adams, chief judge, and the Honorables Walter B. Weaver and Henry S. Foote, associate judges.

And your petitioner represents and shows to this honorable Court that under the terms of Section 31 of said treaty, copied *supra*.

The Choctaw and Chickasaw nations or tribes of Indians filed in said Choctaw and Chickasaw Citizenship Court their bill in equity against J. T. Riddle, D. S. Riddle, L. A. Riddle, Elizabeth Casey, Johua Casey, Andrew B. Hill, L. T. Hill, James W. Balthrop, T. D. Arnold and John H. Bratcher, for themselves, and as representatives of all persons similarly situated, claiming to be members of the Choctaw or Chickasaw nations or tribes of Indians by virtue of alleged decrees of the United States Court for the Central and Southern Districts of the Indian Territory, sitting respectively at South McAlester and Ardmore, and commonly known as "Court Claimants." A duly authenticated copy of said bill in

equity is hereto annexed and identified as "Exhibit B," and made a part of this petition.

That the said Choctaw and Chickasaw Nation in said bill in equity sought to cancel, set aside and vacate all the judgments rendered by the United States Courts for the Central and Southern Districts of the Indian Territory in favor of the ten persons named in said bill and in favor of your petitioner and divers and sundry other persons not named therein

That the ten persons named in said bill were personally served with process and summons, but your petitioner was not named therein, and was not served with notice of said suit other than a general notice by publication in a newspaper, although he permanently resided and had his domicile in the Chickasaw Nation, Indian Territory, and within the reach of the process of said court.

And your petitioner represents that in said suit of the Choctaw and Chickasaw Nations against J. T. Riddle *et al.*, the defendants named in the bill filed therein appeared and demurred to said bill, and that their demurrer by said court was overruled and denied, and that thereupon they filed an answer to said bill wherein they denied that notice of the proceedings in the court of the Central and Southern Districts to both the Choctaw and Chickasaw Nations was indispensable to the validity of the judgments rendered by said courts, and denied that a trial of said causes in said courts *de novo* was such an irregularity as made said judgments invalid or void; that said Citizenship Court on December 17, 1902, in said cause, entitled and styled "The Choctaw and Chickasaw Nations or Tribes of Indians *versus* J. T. Riddle *et al.*," and numbered No. 1 on the docket of said court, held that the judgments rendered by the United States Courts for the Central and Southern Districts of the Indian Territory, in favor of the defendants named in said bill in equity and all those not named but similarly situated were void, and held that notice

to each of the Choctaw and Chickasaw nations or tribes of Indians of the proceedings in the United States Courts in the Indian Territory, acting under the Act of June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens in the Choctaw and Chickasaw Nations respectively, was indispensable; and that the proceedings and trial of said cases *de novo*, in said courts rendered said judgments void and on said date, to-wit, the 17th day of December, 1902, said Citizenship Court, in said cause No. 1, entitled and styled as aforesaid, ordered, adjudged and decreed that all of said judgments, decrees and decisions rendered by the United States Courts in the Indian Territory, acting under the Act of Congress, approved June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw Nations, respectively, upon appeal from the Commission to the Five Civilized Tribes, in favor of the ten defendants named in the bill in said proceeding, as well as those who have come in and made themselves parties thereto, and the judgments rendered, as aforesaid, in favor of all persons similarly situated, by said decree of said Citizenship Court and by the express terms of the decree were attempted to be set aside, annulled, vacated and held for naught.

That petitioner was not a party defendant in said proceedings in said Citizenship Court and did not appear or answer therein in person or by attorney.

That Julia London and others filed an answer in said cause in said Court and denied that said Choctaw and Chickasaw Citizenship Court had the power or jurisdiction to inquire into and pass upon the validity of said judgment sought to be cancelled, as aforesaid, under and by virtue of the terms of said treaty.

But petitioner states that said plea to the jurisdiction of said court was by said court overruled and denied. A copy of said answer is hereto annexed,

marked "Exhibit C," and made a part hereof, and a copy of the original decree of said Citizenship Court is hereto annexed, marked "Exhibit D," and made a part hereof, and a copy of the amended decree of said court is hereto annexed, marked "Exhibit E," and made a part hereof.

Your petitioner further represents and shows to this honorable Court that under the terms of said treaty your petitioner cannot review the decision of said Citizenship Court by Appeal or Writ of Error, and under no other law can he review same by appeal or writ of error, and that the effect of said decision is to destroy the validity of the judgment of petitioner recovered in the United States Court, as aforesaid, and that said Citizenship Court is about to certify to said decree by it rendered, and deliver same to the said Commission to the Five Civilized Tribes for its observance, which will in effect prevent said Commission from enrolling the name of petitioner as a member of the tribe of Chickasaw Indians, and thereby destroy the property rights of this petitioner, as aforesaid.

Wherefore, your petitioner states that the said Citizenship Court had not the power or jurisdiction to render, and acted under an assumed jurisdiction in rendering said decision in said cause against J. T. Riddle *et al.*, as aforesaid, for the following reasons:

1st. Because said section 31 of said treaty, *supra*, is unconstitutional, in that it is an attempt on the part of the legislative branch of the Government to cancel, annul and set aside final decrees of a court of competent jurisdiction.

2d. Because at the date of the passage and ratification of said treaty both the questions of law named therein had been submitted to, passed upon and adjudicated by courts of competent jurisdiction in a controversy between the same parties, as hereinbefore shown.

3d. Because under said section 31 of said treaty

decrees rendered by the United States Courts of the Central and Southern Districts of the Indian Territory, upon appeal from the Dawes Commission, have been by said Citizenship Court set aside, cancelled and held for naught because *notice* of the proceedings in said courts had not been given to both the Choctaw and Chickasaw Nations prior to the rendition of said decrees; whereas decisions rendered by the Dawes Commission, under Act of June 10, 1896, admitting persons to Choctaw or Chickasaw citizenship with *notice* to *one* of said nations only and *not to both* are binding upon both of said nations, and petitioner therefore says said section 31 discriminates between persons in exactly the same status and is class legislation and unconstitutional.

4th. Said section 31 of said treaty attempts to confer upon said Citizenship Court the power to set aside and cancel judgments in favor of petitioner and others without notice to those to be affected thereby, and attempts without process of law to destroy said judgments and the petitioners' property rights.

Wherefore, and by reason of the premises aforesaid, your petitioner prays:

First. That this honorable Court do grant to him a writ of certiorari directed to said Choctaw and Chickasaw Citizenship Court, and each of the judges thereof, and James B. Cassada, the clerk of said court, commanding and requiring them to at once forward to and file with the clerk of this honorable Court in this proceeding, a true and correct copy, under the seal of the clerk thereof, of all the pleadings, evidence, judgments, orders and decrees, and the opinion of said court, filed or lodged with said clerk, or recorded upon the journals of said Choctaw and Chickasaw citizen court in said cause No. 1, lately pending on the docket of said court and entitled and styled The Choctaw and Chickasaw Na-

tions or Tribes of Indians *versus* J. T. Riddle, *et al.*

Second. And by reason of the premises aforesaid, your petitioner prays for a writ of prohibition against the said Choctaw and Chickasaw Citizenship Court, all the judges thereof, prohibiting and restraining it, and each of said judges from giving further effect to the decree rendered by said court, as aforesaid, and prohibiting and restraining said court and each of the judges and the clerk thereof from certifying and delivering to the said Dawes Commission a copy of said decree for its observance and prays for such other further relief to which he may be entitled.

U. S. JOINS,
By WM. I. CRUCE and
CALVIN L. HERBERT.
Its Attorneys.

UNITED STATES OF AMERICA, } ss.
DISTRICT of COLUMBIA }

Before me, the undersigned authority, on this day, personally appeared W. I. Cruce, who after being by me duly sworn, deposes and says: That he is attorney for U. S. Joins, petitioner in the foregoing petition; that said Joins is not present to make this affidavit, and that the statements in the foregoing petition are true as he verily believes.

W. I. CRUCE.

Subscribed and sworn to before me this 27 day of February, 1903.

[SEAL.] WM. A. EASTERDAY,
Notary Public D. C.

EXHIBITS.

"Exhibit A."

COPY OF ORDER OF COURT.

UNITED STATES OF AMERICA, } ss.
Indian Territory,
Southern District. }

In the United States Court in the Indian Territory, Southern District, at a term thereof begun and held at Ardmore, in the Indian Territory, on the 1st day of November, A. D. 1897; Present, the Honorable Hosea Townsend, Judge of said Court.

The following order was made and entered of record, to-wit:

U. S. JOINS *et al.*, *Plaintiffs,* } Judgment.
vs. }
CHICKASAW NATION, *Defendant.* }

This day this cause coming on to be heard, upon the pleadings, exhibits, proof, Master's report and exceptions filed thereto; and the court, being sufficiently advised upon the whole case, is of opinion that said report should be in all respects confirmed, except that same should be corrected so as to disallow the applicant, Mrs. Mattie A. Joins, wife of U. S. Joins. But that same should in all other respect be confirmed.

It is, therefore, ordered, adjudged and decreed by the court that the applicants, U. S. Joins, and Virgie Joins, his daughter, be, and they are each hereby, admitted as members of the Chickasaw tribe of Indians by blood; and that the applicant, Mrs. M. L. Joins, mother of U. S. Joins, be, and she is hereby, admitted as a member of the Chickasaw tribe of Indians by intermarriage; and that they each and all have all the rights, privileges and immunities of Chickasaw Indians by blood.

The clerk of this court is hereby ordered to transmit a certified copy of this judgment to the Commission to the Five Civilized Tribes of Indians, which said Commission is hereby directed to place the names of each and all of said parties upon the roll made out by it for the Chickasaw Nation as members of said tribe of Indians.

To this judgment, the Chickasaw Nation, by its attorney, excepts.

UNITED STATES OF AMERICA, }
Indian Territory, } ss:
Southern District.

I, C. M. Campbell, Clerk of the District Court of the United States for the Southern District of the Indian Territory, do hereby certify the foregoing to be a true copy of an order made by said Court on the 8 day of March, 1898, as appears from the records of said Court now on file in my office.

In testimony whereof, I have hereunto set my hand, at my office in Ardmore, in said District, this 13 day of February, A. D. 1903.

[SEAL.]

C. M. CAMPBELL,
Clerk.

By———*Deputy.*

[Endorsed :]

No. 15. U. S. Joins *et al. versus* Chickasaw Nation. Copy of Order of Court. ———, Clerk. By ———, Deputy.

"Exhibit B."

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT SOUTH MCALESTER, DECEMBER TERM, 1902,

THE CHOCTAW AND CHICKASAW NATIONS OR TRIBES OF INDIANS, *Plaintiffs.*

vs.

J. T. RIDDLE, D. S. RIDDLE, L. A. RIDDLE, ELIZABETH CASEY, JOSHUA CASEY, ANDREW B. HILL,

L. T. HILL, JAMES W. BALTHROP, T. D. ARNOLD and JOHN H. BRATCHER, for themselves, and as representatives of all persons similarly situated, claiming to be members of the Choctaw or Chickasaw Nations or tribes of Indians, by virtue of alleged decrees of the United States Court for the Central and Southern Districts of the Indian Territory, sitting respectively at South McAlester and Ardmore, and commonly known as "Court Claimants," *Defendants.*

BILL IN EQUITY.

The plaintiffs, the Choctaw and Chickasaw Nations or tribes of Indians, bring this, their Bill in Equity, complaining of the said J. T. Riddle, D. S. Riddle, L. A. Riddle, Elizabeth Casey, Joshua Casey, Andrew B. Hill, L. T. Hill, James W. Balthrop, T. D. Arnold and John H. Bratcher for themselves, and as representatives of all persons similarly situated, claiming to be members of the Choctaw or Chickasaw Nations or tribes of Indians, by virtue of alleged decrees of the United States Court for the Central and Southern Districts of the Indian Territory, sitting respectively at South McAlester and Ardmore, and commonly known as "Court Claimants," defendants, and for cause of action, state:

That the members of the Choctaw and Chickasaw Nations or tribes of Indians are the owners, in fee simple, of the following described lands, to-wit:

"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."

That under the laws of the United States of

America and the various treaties entered into between the members of the Choctaw and Chickasaw Nations or tribes of Indians and the United States of America, the members of said tribes hold said lands in common, the character of said holding being fixed by the following provision of Article One of the treaty entered into between the Choctaw and Chickasaw Nations and the United States of America, on the twenty-second day of June, one thousand eight hundred and fifty-five, viz :

"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 limits 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 land shall revert to the United States if said Indians and their heirs become extinct or abandon the same."

That the plaintiffs, the Choctaw and Chickasaw Nations or tribes of Indians have never become extinct or abandoned said lands, but still continue to hold and occupy the same; that the Government of the United States of America, in pursuance of its policy towards the Choctaw and Chickasaw Nations or tribes of Indians, under laws and treaties entered into, is preparing to allot said above-described lands to the citizens or members of said tribes;

That all these defendants claim to be members of the Choctaw or Chickasaw Nations or tribes of Indians, and as such, entitled to an equal and undivided interest in said lands and the moneys of said tribes, by virtue of certain alleged judgments or decrees of the United States Court for the Central and Southern Districts of the Indian Territory sitting respectively at South McAlester and Ardmore acting under

the Act of Congress approved on the tenth day of June, one thousand, eight hundred and ninety-six;

That all of said persons so claiming to be members of said tribes are several thousand in number, and are similarly situated to the ten persons specially named as defendants herein; and are too numerous to make them parties defendant by name;

That all of said defendants are insisting upon enforcing said alleged judgments or decrees; and if the same are enforced, by allotment to them of equal shares of the lands and moneys of said tribes, it will wrongfully deprive the members thereof of property of the value of many millions or dollars, and thereby proportionately decrease the share which each member would otherwise receive.

The plaintiffs, further complaining of the defendants, state that all of the judgments of said court in the Indian Territory, acting under the Act of Congress approved June tenth, one thousand, eight hundred and ninety-six are illegal and void; that no valid judgments affecting said lands and moneys could, in any event, have been rendered without notice to both of said Nations or tribes; and plaintiffs allege, that, as appears from said alleged judgments, in no case in which a judgment was rendered purporting to admit any of said defendants to citizenship in either of said tribes, was notice given of the pendency of said proceedings to each of said Nations or tribes; and that in no case was a judgment taken against both of said Nations or tribes; and the plaintiffs insist that due and lawful notice to each of said tribes was indispensable to the rendition of valid judgments.

Certified copies of two of said alleged judgments, one purporting to be against the Choctaw Nation, and one purporting to be against the Chickasaw Nation are herewith filed and made a part of this Bill, marked respectively exhibits "A" and "B"; and plaintiffs allege that all of said judgments or decrees purporting to be against the Choctaw Nation are, in

substance, identical with exhibit "A" hereto attached; and that all of said judgments or decrees purporting to be against the Chickasaw Nation are, in substance, identical with exhibit "B" hereto attached; and that owing to the great number of said alleged judgments or decrees, it is impracticable to exhibit herewith a copy of each.

Plaintiffs further state that all of said proceedings were contrary to the due course of legal procedure in force in the Indian Territory, and contrary to all of those rules and principles which have been established by the jurisprudence of the United States of America, for the protection and enforcement of private rights; that said persons are not entitled, under said alleged judgments, to enrollment as members of said tribes, and to shares of said lands and moneys; and that it would be inequitable and unjust for the Government of the United States to take such action or permit the same to be done.

Plaintiff's, further complaining of the defendants, state that the proceedings in the United States Court in the Indian Territory under the said Acts of Congress approved June tenth, one thousand eight hundred and ninety-six, in the rendition of the said alleged decrees, should have been confined to a mere review of the action of the Commission to the Five Civilized Tribes upon the papers and evidence submitted to such Commission, and that said Court should not have tried said cases *de novo*; and plaintiffs allege that the action of said court in trying said cases *de novo*, and in rendering the alleged judgments aforesaid was illegal and void; and that all of said evidence of a documentary nature which has become a part of the alleged record of said court in said cases, was unlawfully taken, and that, for that reason, all of said proceedings are of no force and effect.

Plaintiffs further state that they have no adequate remedy at law by which they can redress the great

wrongs threatened them; and they therefore bring this their Bill in Equity, praying for said relief.

Wherefore, the premises considered, the plaintiffs pray this Honorable Court to enter its decree declaring all of said judgments so rendered by the United States Court in the Indian Territory, acting under the Act of Congress approved June tenth, one thousand eight hundred and ninety-six, illegal and void, annulling and vacating the same; and declaring all of said proceedings of said court in trying said cases *de novo*, in which alleged judgments were rendered upon appeal from the Five Civilized Tribes, illegal and void and of no force and effect, and for all other and further relief to which, in equity and good conscience they are entitled; and plaintiffs will ever pray.

MANSFIELD, McMURRAY & CORNISH,
*Solicitors for the Choctaw and Chickasaw
Nations or Tribes of Indians.*

I, James B Cassada, clerk of the Choctaw and Chickasaw Citizenship Court, certify that the above is a true and correct copy of a Bill in Equity, filed in my office at South McAlester, on the 26th day of September, 1902, at 9 o'clock A. M., by the Choctaw and Chickasaw Nations, or tribes of Indians, against J. C. Riddle *et als.*, Defendants.

Witness my hand and official seal, this the 18th day of October, 1902.

JAMES B. CASSADA,
*Clerk of the Choctaw and
Chickasaw Citizenship Court.*

By E. D. BEVITT,
Deputy Clerk.

"Exhibit C."

IN THE CHOCTAW AND CHICKASAW CITI-
ZENSHIP COURT, SITTING AT SOUTH
McALESTER.

THE CHOCTAW AND CHICKASAW NA- TIONS, OR TRIBES OF INDIANS,	} Plaintiffs,	} Answer.
v.		
J. T. RIDDLE, <i>et al.</i> , for themselves and as representatives of all persons sim- ilarly situated,	} Defendants.	

SEPARATE ANSWER OF JULIA LONDON AND OTHERS

Now comes Julia London, Thos. W. Broom, J. E. Broom, Frank P. Broom, Alhannan Broom, Chas. W. Broom, Mollie Shoop, Jesse London, Dillard London, Daniel Shoop, Wm. C. Shoop, George Shoop, Siddie Shoop, Alhannan Broom, Jr., Eunice Broom, Irene Broom, Jas. C. Broom, Mary F. Broom, Maria Broom, Elizabeth Broom, Annie Broom and Mary Broom, and for their separate answer to the bill of complaint herein say:

1. Saving and reserving their exceptions and objections heretofore by them taken upon their demurrer to the said bill of complaint, they state:

These defendants deny that this court has jurisdiction, or power to entertain this bill for the purpose of setting aside, cancelling and annulling the said judgments of the United States Court, for the Indian Territory, which are mentioned and set forth in the complaint, and they say, that the said judgments were pronounced and rendered by a court, having jurisdiction of the subject matter herein involved and of the necessary parties thereto, in an adversary litigation had for that purpose, and that the judg-

ments so rendered were and are final and conclusive of the said matters herein involved and by this bill sought to be again adjudged in this original proceedings upon alleged errors and irregularities in the proceedings taken, and not upon matters of merit, so that, these defendants here specially plead the said judgments as being *res judicata* and final, of the matters therein adjudged; and they deny that it is within the constitutional power of the Congress, to provide by legislative enactment, for the setting aside, cancelling and annulling the said judgments.

2. These defendants deny that the Choctaw and Chickasaw Nations, or Tribes of Indians, the plaintiffs herein are the owners in fee simple of the lands and property mentioned and described in the bill of complaint, as is set forth and stated in the complaint, but they state the facts in relation to the ownership of the said lands and property, are, that the Choctaw Nation, alone, is the sole owner and holder of the title to the said lands and property; that the United States, by its deed of patent, duly made, executed and delivered, under date of the 23rd day of March, 1842, which said deed of patent is duly entered of record in the General Land Office, in volume 1, at page 43, of the Records of that office; and that, if it be true, as a matter of law, or fact, that the said Chickasaw Nation at any time thereafter, acquired and now has any interest whatsoever in the said lands and property, the defendants aver that such interest was, at most, nothing more than a mere equitable interest, or right therein, unaccompanied by the legal title thereto, and that, if it be true, that the said Chickasaw Nation, or the members of the said Nation or Tribe of Indians, either by virtue of the provisions of the alleged treaty of 1855, or otherwise, ever at any time acquired any interest in the said lands and property, such interest was merely an equitable right, or interest and did not affect the

legal title, which was then and has at all times since the said deed of patent aforesaid vested exclusively in the Choctaw Nation.

These defendants further state that pursuant to the Act of Congress of June 10th, 1896, they made formal application, conformable to the terms of said act, to the Commission to the Five Civilized Tribes for enrollment, as members by blood, of the Choctaw Nation and not as members of the Chickasaw Nation, that such notice as was prescribed by the rules and regulations, adopted by the said Commission, was duly given, of their said application, and that no other, or further notice was in any manner required; and that thereafter, these defendants duly prosecuted an appeal from the ruling and decision of the said Commission, to the United States Court, for the Indian Territory, in the Central District thereof, in accordance with the terms and provisions of the said act of Congress, and that, these defendants gave notice of the said appeal, in manner and form, as was prescribed by the orders and rules of the said Court; and that, prior to the trial of the said appeal which was depending in the said Court for a long space of time, the said Choctaw Nation by its authorized agents and attorneys duly and regularly appeared in the said cause and contested the same, before and until judgment was rendered therein, adjudging and decreeing that these defendants were members, by blood, of the Choctaw Tribe of Indians and of the said Choctaw Nation; and that, no matter was involved, in that proceedings, save only the question, as to whether or not, these defendants were members of the said Choctaw Tribe of Indians, so that these defendants allege it to be the fact that due and ample notice of the said proceedings was given and by the said appearance and contest waived, and that, in no event was notice to the said Chickasaw Nation requisite, or needful to a full and lawful determination of the matters involved therein.

3 And further answering these defendants say, they deny that the trial of the said cause by the said court, *de novo*, was without legal authority, but aver it to be the fact, that such method of trial was lawful and the only appropriate means of determining the said controversy; that the said Choctaw Nation consented and agreed to proceed *de novo* in the trial of said cause and cannot now in equity be heard to object to such method of trial.

So that these defendants deny that the said judgments recovered by them in the said proceedings mentioned and set forth in the bill of complaint are illegal and void, for either the reasons stated in the bill or for any reasons whatsoever; and they deny that the said bill shows any equity whatsoever, or that the plaintiffs are in any manner entitled to relief in this proceeding.

Wherefore having fully answered, they pray to be hence discharged with their reasonable costs

TOM W. NEAL and
WARNER & BUCKLEY,
Sol's for Defendants.

No. 1.

And the above is endorsed as follows :

Choc. & Chic. Nations }
vs. }
J. T. Riddle, *et al.*

Sep. Answer of Julia London, *et al.*,
and to apply in matter of Joshua & Elizabeth Casey.
Filed December 10th, 1902.

James B. Cassada, Clerk.

Page 4, Gen. Docket.

Neal & London and
Warner & Buckley.

"Exhibit D."

WEDNESDAY, December 17, 1902.

Court met pursuant to adjournment.

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

THE CHOCTAW & CHICKASAW NATIONS,	} Plaintiffs,
vs.	
J. T. RIDDLE, <i>et al.</i> ,	
	Defendants. }

When the following proceedings were had, to-wit:

The Court then in open court delivered the opinion in the case of the Choctaw & Chickasaw Nations against J. T. Riddle, *et al.*, and as to all others making themselves parties to the cause or defendants and all other persons similarly and so situated as the ten defendants made original parties to the bill filed herein and gave its judgment and decision therein as follows:

Final Decree.

THE CHOCTAW & CHICKASAW NATIONS OR	} Plaintiffs,
TRIBES OF INDIANS,	
vs.	

J. T. RIDDLE, D. S. RIDDLE, L. A. RIDDLE, ELIZABETH CASEY, JOSHUA CASEY, ANDREW B. HILL, L. T. HILL, JAMES W. BALTHROP, T. D. ARNOLD, J. H. BRATCHER, for themselves and as representatives of all persons similarly situated, claiming to be members of the Choctaw & Chickasaw Nations, by virtue of alleged decrees of the United States Court for the Central and Southern Districts of the Indian Territory sitting respectively at South McAlester and Ardmore and commonly known as Court Claimants,	} Defendants.

Cause No. 1.
In the Choctaw and
Chickasaw Citizenship
Court, sitting at South
McAlester, December
Term, 1902.

This day this cause came on to be heard, and hav-

ing been fully argued by counsel, was submitted to the Court on the pleadings, exhibits, and testimony; upon consideration whereof, the Court finds; That due and legal notice of the pendency and prayer of this suit has been given to the defendants herein in conformity to law;

That said defendants appeared at the hearing hereof, in person and by counsel. and that each and all of the said defendants, who desired to be heard were heard; that notice to each of the said, the Choctaw and Chickasaw Nations, or tribes, in each and every of the applications for admission, or enrollment as citizens in either of said nations or tribes, in the proceedings heretofore had for that purpose, before the Commission to the Five Civilized Tribes under the Act of Congress approved June 10th, 1896, was indispensable and that like notice to each of the said nations or tribes in the proceedings on appeal from the decisions of said Commission, and which were heard in the United States District Courts, within and for the Central and Southern Districts of the Indian Territory, was likewise indispensable; and the court further finds, on the issue joined, that such notice was not given to both of said Nations or tribes in said proceedings before said commission or in said Courts on said appeals; and the court further finds, that on the hearing of said causes in said United States District Courts, the said Courts, and each of them, proceeded to hear and determine said causes *de novo*, and in said hearings, did not confine the same to a review of the proceedings, heretofore had, in said causes, before said Commission; That by reason of each, and both, of said facts, to-wit, That said hearings before the said Commission and in said United States District Courts, were without notice, given to both, of said Nations or tribes, and by reason of the trial, of said causes, in said United States District Courts, *de novo*, all the said findings, orders, judgments, and decrees, of said Commission, and

said Courts, admitting any, and all, such persons, to citizenship, or enrollment, in said Nations, or tribes, or either of them, ought to be set aside, annulled, and held for naught.

It is, therefore, ordered, adjudged, and decreed that each and every of such judgments, orders, and decrees so rendered and entered as aforesaid, by said Commission without notice to both of said nations or tribes, or upon hearing in said United States District Courts and either of them, upon trials *de novo*, are set aside, annulled, and held for naught.

SPENCER B. ADAMS, *Chief Judge.*

WALTER L. WEAVER, *Associate Judge.*

HENRY S. FOOTE, *Associate Judge.*

And coming J. G. Ralls, and C. T. Herbert, Esqs., in open court representing certain defendants herein, and asked and requested permission of this court to file exceptions to the rulings and decisions of the court herein, whereupon the Court having duly considered said requests, and all of them, refused to allow said exception, or any of them, or to permit the same to be filed, as such, or to sign, or entertain the said requests, and decides and determines that no right of appeal lies from the decision of said court, the same being by law made final, and therefore, no exceptions, or bills of exception, can by law be settled, or signed, or allowed, by this court, or will be allowed, and, therefore, this court refuses to grant all or any of said requests.

"Exhibit E."

THE CHOCTAW AND CHICKASAW NATIONS,
OR TRIBES OF INDIANS, *Plaintiffs,*

vs.

J. T. RIDDLE, D. S. RIDDLE, L. A. RIDDLE,
ELIZABETH CASEY, JOSHUA CASEY, AN-
DREW B. HILL, L. T. HILL, JAMES W.
BALTHROP, T. D. ARNOLD, J. H. BRATCH-
ER, for themselves and as representatives
of all persons similarly situated, claiming
to be members of the Choctaw and Chick-
asaw Nations, by virtue of alleged decrees
of the United States Court, for the Central
and Southern Districts of the Indian Ter-
ritory, sitting respectively at South Mc-
Alester and Ardmore, and commonly
known as Court Claimants,

Defendants.

Cause No. 1.
In the Choctaw and
Chickasaw Citizenship
Court, sitting at So.
McAlester, December
17, 1902.

This cause coming on further to be considered and and it appearing to the court, that the paper writing purporting to be the judgment of this court herein, heretofore filed with the clerk, does not conform to the written opinion announced and rendered by the court, which has been filed and entered as a part of the Record herein, it is therefore ordered, adjudged and decreed by the court that said paper writing, purporting to be the judgment of this court herein, of date the 17th day of December, 1902, be and the same is hereby amended and the following is the true judgment, intended to be entered by this court herein of that date and the same is hereby entered of record as the judgment of this court in this case, in accordance with the said opinion and that the same be so filed, *nunc pro tunc* as of date the 17th day of December, 1902, as follows, to-wit:

This day this cause came on to be heard, and having been fully argued by counsel, was submitted to this court on the pleadings, exhibits and testimony, upon consideration whereof, the court finds:

That due and legal notice of the pendency and prayer of this suit has been given to the defendants herein, in conformity to law;

That said defendants appeared at the hearing hereof, in person and by counsel and that each and all of said defendants, who desired to be heard, were heard;

That notice to each of said Choctaw and Chickasaw Nations, or tribes of Indians of the proceedings in the United States Courts in the Indian Territory, acting under the Act of Congress approved June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw Nations respectively, was indispensable;

And the Court further finds on the issues joined, that such notice was not given to both of said Nations or Tribes of Indians of said proceedings in the United States Courts in the Indian Territory;

And the Court further finds, that, in said proceedings, in the United States Courts in the Indian Territory, and said courts proceeded to hear and determine said causes *de novo*, and did not confine the same to a review of the proceedings had before the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission;

That by reason of each of said facts, to wit: that the proceedings in said United States Courts, were had without notice to each of said tribes or nations when notice to each of said nations was indispensable, and that said United States Courts tried said causes *de novo* when their action should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission, all of said proceedings, decrees and decisions, of said United States Courts in the Indian Territory, admitting any and all persons to citizenship or enrollment as such citizens, in said Nations or Tribes of Indians or

either of them, ought to be set aside, annulled and vacated.

It is, therefore, ORDERED, ADJUDGED and DECREED, that all of said judgments, decrees and decisions, rendered by the United States Courts in the Indian Territory, acting under the Act of Congress, approved June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw Nations respectively, upon appeal from the Commission to the Five Civilized Tribes, in favor of the ten defendants named in the bill in this proceeding, as well as to those who have come in and made themselves parties thereto, and the judgments rendered as aforesaid in favor of all persons similarly situated, are set aside, annulled, vacated and held for naught.

(Signed) SPENCER B. ADAMS,
Chief Judge.

(Signed) WALTER L. WEAVER,
Associate Judge.

(Signed) HENRY S. FOOTE,
Associate Judge.

I, James B. Cassada, clerk of the Choctaw and Chickasaw Citizenship Court, do hereby certify that the foregoing papers are a part of the Record of the Choctaw and Chickasaw Citizenship Court, now on file or of record in my office, as clerk of the said court, at South McAlester, Indian Territory, in the case of "The Choctaw and Chickasaw Nations, or Tribes of Indians, Plaintiffs, vs. J. T. Riddle, *et al.*, for themselves and as representatives of all persons similarly situated, claiming to be members of the Choctaw or Chickasaw Nations, or tribes of Indians, by virtue of alleged decrees of the United States Court, for the Central and Southern Districts

of the Indian Territory, sitting respectively at South McAlester and Ardmore, and commonly known as 'Court Claimants,' Defendants." Said case being Case No. One on the docket of said court, being all of the papers in said case and all of the said record, which I was requested this day to have transcribed and certified to, by C. L. Herbert and W. I. Cruce, Esqs , and I further certify that the foregoing is not an entire transcript of said record, nor all of the papers filed in the above entitled cause, but only so much thereof, as I was requested by the persons aforesaid to transcribe and certify to.

In witness whereof, I have hereunto signed my name and affixed the seal of the said court, at South McAlester, Indian Territory, on the 14th day of February, 1903.

[SEAL.]

JAMES B. CASSADA.

[Endorsed:]

Supreme Court of the United States October Term. 1902. No. Original. *Ex-Parte*: In the matter of U. S. Joins, Petitioner.

Motion for leave to file petition for writ of prohibition, and for certiorari, against the Choctaw and Chickasaw Citizenship Court, and the Judges and Clerk thereof, and the petition for same.

WILLIAM I. CRUCE and CALVIN L. HERBERT,
Counsel for Petitioner.