



It will be remembered that the opponents of the Supplementary Agreement repeatedly told the people that it would not be necessary to ratify the Supplementary Agreement in order to try the "court citizenship" cases, as provided in Sections 31, 32, and 33 of said agreement. Notwithstanding these representations made by the opponents of the agreement, the Citizenship Court appointed under the provisions of the agreement is today unable to proceed to business and will not be able to try any case until the agreement is ratified. If the opposition will misrepresent such an important matter as this to the people, what faith is there to be put in any of their representations?

THE "COURT CITIZEN" QUESTION.

Vote for the Supplementary Agreement on September 25, 1902.



THE "COURT CITIZEN" QUESTION.

The "court citizen" question is easily the most important subject treated in the Supplementary Agreement. For, as we will presently show, the settlement of the "court citizenship" question means to the Choctaw and Chickasaw people the absolute gain or the absolute loss of twenty million dollars worth of property. In no other matter of tribal interest is the question of gain or loss involved in its settlement as in the "court citizenship" question. In the sale of the coal and asphalt, though a greater subject than this one, nothing is to be lost by the transaction, for what we give up in coal we get back in money. So it is with the sale of surplus lands; what we give up in land we get back in money. But not so with the settlement of the "court citizen" question,—it is lose or win four thousand allotments and that many shares in the tribal funds. This brings us to inquire who the "court citizens" are, their present standing, as to their chances, not their rights, for they really have no rights, to share in our lands and moneys. Congress, by Act of June 10, 1896, vested the Dawes Commission and the United States Court in the Indian Territory with authority to admit to tribal citizenship in either of the five tribes in the Indian Territory, 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 said hearing they shall determine the right of said 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 consistent 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 entitled to be added to said rolls as 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 from the date 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 said testimony are dead or now residing 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 such nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held 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 district court: *Provided, however*, That the appeal shall be taken within sixty days, and the judgment of the court shall be final."

Here we were deprived of the right of saying who should participate in the division of our property, a right which we had come to believe was inherent in us as a people. We protested vigorously against the passage of this act, and our fears have since been confirmed, that people would be admitted to citizenship who were not Indians and who had no rights to any of our land and money; but our protest was without avail. Congress thought it had hit upon an equitable plan of settlement. But the mistake of this plan soon made itself manifest. The Dawes Commission gave notice that it would receive applications for citizenship and that such applications should be accompanied by proof in form of affidavits. This was taken as

notice to the world that the lands and property of the Indians were going to be divided among all those who could make any kind of proof of Indian blood, for affidavits mean any kind of proof. Accordingly, the Dawes Commission was overrun with applications and accompanying affidavits from people of all nations of the earth, English, Dutch, Irish, Italian and some negroes, all claiming to be Indians entitled to a part of our tribal property. The Indian citizenship business proved to be a veritable bonanza for the lawyers of the country, especially those of small practice and smaller principles, known as "black-legs". They would get out circular letters and send them broadcast over the land in which they would undertake the establishment of citizenship claims, furnishing both proof and professional service, for five dollars paid down and the balance in varying amounts according to the financial ability of the applicant payable whenever the client was enrolled. An application once made, these people, acting upon the advice of their lawyers, would settle down on some of the best lands of the Choctaw and Chickasaw Nations, and they have been there ever since, the Choctaws and Chickasaws being unable to remove them, as there was no relief then afforded against them.

A great many of the citizenship applications were rejected by the Dawes Commission, but the eagerness to get hold of Indian land having been thoroughly aroused the applicants went straightway to the United States court where they were allowed to try their cases anew without reference to the decision of the Dawes Commission rejecting them or the evidence given before the commission. The courts were overwhelmed, as the Dawes Commission was, with these cases. Owing to the pressure of other business before the court these cases could not be taken up in regular order and tried as they should have been, but were referred to special masters in chancery. And in some instances these very masters in chancery were themselves attorneys in citizenship cases of a like nature to those they were trying and, as a matter of course, felt interested in the success of all citizenship applicants. And it was upon the findings of facts and the conclusions of law submitted by these masters of chancery, themselves interested indirectly in the enrollment of

the applicants, that most of the applicants were finally admitted to citizenship by decree of the court. Not only were the applicants favored by the masters in chancery who tried their cases, but it is now a matter of general knowledge that they introduced a great deal of perjured and fraudulent testimony. And these are what we call "court citizens". The Choctaw and Chickasaw Nations being unused to procedure in white man's court, and having so many of these cases to contend with, found themselves unable to meet all of them in the time allowed, and as a consequence lost most of the cases by trying to meet them all at once. What is the present standing of the "court citizens"? It is simply this: They have judgments of the United States court in which it is decided that they are Indians entitled to enrollment as citizens of the Choctaw and Chickasaw Nations. *And unless the Supplementary Agreement is ratified there is positively no chance by which the "court citizens" can be prevented from getting a part of our land,* amounting to over a million and a quarter acres, besides four thousand shares in our trust fund, four thousand shares in our coal money and the same number of shares in our townsite fund, amounting in all to not less than twenty million dollars.

Ever since the "court citizens" were admitted we have been trying to induce Congress to provide some way by which there might be an investigation of their rights, as we believe them to be white people and everything else but Indians, and, therefore, not entitled to any of our property. Finally Congress and the Department of the Interior were led to see the injustice that had been done to us in admitting these fraudulent claimants, and accordingly it was agreed to in the Supplementary Agreement that there should be an investigation of these cases and before courts which had never passed upon any citizenship cases. The Supplementary Agreement provides for and creates a special tribunal, the expenses of which are to be paid by the United States government, to try these cases, both as to question of law and fact in such a way as to do absolute justice. Absolute justice done, we will recover the lands now held by the "court citizens" which land will be sold as surplus land and the proceeds divided among citizens proper of the Choctaw

and Chickasaw Nations. The language of the Supplementary Agreement on this subject is found in section 31, 32 and 33 thereof as follows:

"Sec. 31. It is being claimed and insisted by the Choctaw and Chickasaw Nations that the United States courts in the Indian Territory, acting under 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 proceedings 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 the 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 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 a party 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 to said suits 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 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 newspapers 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 the 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."

"Sec. 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 10, 1896, 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 revive 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 deciding 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, conducted and disposed of in the same manner as appeals by the said nations, save that notice of appeals by

citizenship claimants shall be served upon the chief executive officer of both nations: *Provided*, That paragraphs 31, 32 and 33 hereof shall go into effect immediately after the passage of this Act by Congress."

"Sec. 33 A court is hereby created to be known as the Choctaw and Chickasaw citizenship court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in no event later than the thirty-first day of December, nineteen hundred and three. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process and orders and to prescribe rules and regulations for the transaction of its business. It shall also have all the power of a circuit court of the United States in compelling the production of books, papers and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice and proceedings in equity cases in the circuit courts of the United States. The testimony shall be taken in court or before one of the judges, as far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case. Said court shall have a chief judge, a clerk, a stenographer, who shall be deputy clerk, and a bailiff. The judges shall be appointed by the president, by and with the advice and consent of the senate, and shall each receive a compensation of five thousand dollars per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer and bailiff shall be appointed by the judges or a majority of them, and shall receive the following yearly compensation: Clerk, two thousand four hundred dollars; stenographer, twelve hundred dollars; bailiff, nine hundred dollars. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensations are hereby appropriated, and there is also hereby appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions, beginning the first Monday in each month, so far as

may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United States marshal for the district in which the service is to be had. The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses are subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil cases in the district court of the United States for the western district of Arkansas. No fees shall be charged by the clerk or other officers of said court. The clerk of the United States court in Indian Territory, having custody and control of the files, papers and proceedings in the original citizenship cases, shall receive a fee of two dollars and fifty cents for transferring and certifying to the citizenship court the files, papers and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final. All expenses necessary to the proper conduct, on behalf of the nations, of the suits and proceedings provided for in this and the two proceeding sections, shall be incurred under the direction of the executives of the two nations; and the Secretary of the Interior is hereby authorized, upon certificate of said executives, to pay such expenses as in his judgment are reasonable and necessary out of any of the joint funds of said nations in the Treasury of the United States."

Under the provisions above quoted we are allowed to bring action to determine the validity of the judgments held by the "court citizens", first, upon two questions of law, and if we are defeated in those, then we will be allowed to try the same cases on the facts, thus giving us two chances to defeat them and recover our land and other property which they claim. Nothing is to be lost in the trial of these cases, for, if we fail to defeat them, they will get no more than they already claim under the judgments they now have. If, on the other hand, we defeat them, as we have every reason to believe we will, it means the recovery of a vast amount of property which can be converted into money and divided among us all. We believe that we will defeat the "court citizens" for the reason that in their suits against us they served notice on only one of the nations and

made only one of the nations party to the suit when as a matter of fact both nations, Choctaw and Chickasaw, are joint owners of the property involved. And for the further reason that the courts in the trial of the cases allowed the taking of new testimony when they should have confined the cases to a review of the evidence had before the Dawes Commission from whom their cases were appealed. And we believe that we will defeat them for the further reason that a great many of them were admitted on perjured and fraudulent testimony in the former trials, which we will be able to detect and show up in the proceedings to be had under the Supplementary Agreement. The special court being sent here for the express and sole purpose of looking into these judgments goes to show that the judgments are not all they should be, besides the court having a special duty to perform will have plenty of time to look into the very merits of the cases, all of which will insure our success. If we defeat the the "court citizens", as we will most assuredly do if the Supplementary Agreement is ratified, we will gain twenty million dollars. If the Supplementary Agreement is not ratified, we will lose twenty million dollars to the "court citizens". With twenty million dollars at stake we cannot afford to lose the opportunity to recover it. Vote for the Supplementary Agreement and oust the "court citizen".

Supplementary Agreement
Executive Committee, Choctaw Nation
South McAlester, I. T.
September 22, 1902.

{ D. C. McCURTAIN, Chairman
HAMPTON TUCKER
L. C. LEFLORE
HENRY ANSLEY
Committee