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An Interview with Wade Hampton Kornegay,
Vinita, Oklahoma.

OLD CHEROKEE LAW DAYS.

My name is Wade Hampton Kornegay. I was born at Kenansville, Duplin County, North Carolina, on April 17, 1865. I was named by my father, for General Wade Hampton, under whom he served in the Southern Army during the Civil War. I received my education at the Kenansville Seminary, graduated from the Wake Forest College in 1884 and later from the Vanderbilt University at Nashville, Tennessee. Other Oklahomans who graduated at the Vanderbilt University were Wm. P. Thompson and Dr. B. F. Fortner, Vinita, and Wm. Wirt Hastings, Tahlequah.

After my graduation I first taught school for a number of years, and at the same time studied law in the town of Richlands, North Carolina. I also went into a little country law office there and learned much of the law before opening up an office of my own.

I first came to the Indian Territory in 1891. I stopped a short while at Neosho, Missouri, then I came to Vinita, and

formed a partnership with James S. Davenport who had married an Indian girl and had already established himself, both in the Cherokee and United States courts. At that time a white lawyer was not permitted to practice in the Cherokee courts, but Davenport was admitted because of being an adopted citizen and was the only white man to be in line for office of the Principal Chief of the Cherokee Nation. This came about by his being elected to the Cherokee National Council, and by virtue of being elected Speaker of the Council Davenport would have succeeded to the chieftancy should enough of the leaders have died. Davenport handled all of our Cherokee cases which came up in the Cherokee courts and I handled most of the United States cases. We had our office up-stairs in the T. F. Thompson building on South Wilson Street, Vinita, and after many years with an office in other buildings in Vinita, I am back in the same building in which I started in 1891, forty-seven years ago. Our partnership continued until 1895 when Judge Davenport and I dissolved partnership and I have been practicing law alone in the city of Vinita since that time.

I was married to Miss Nannie Stafford, niece of Mrs.

William L. Trott, in 1892 and to this union two boys and a girl were born. My youngest son, Clarence, assists me with my office work and acts as my stenographer.

The first United States courts were established in the Indian Territory in 1889, two years before I arrived in the Territory. Judge Charles H. Mason was the first United States Commissioner for the Northern District and Judge James M. Shackleford was the first District Judge. The commissioner was located at Vinita, and Judge Shackleford, at Muskogee. The Territory was divided into the three districts, Northern, Southern and Central.

A few years later Grover Cleveland appointed Judge C. B. Stuart as one of the judges in the Indian Territory. About 1890 the Organic Law was put into force and the courts were carried on as Territorial courts. The dockets became congested and it became necessary that more judges be appointed to handle the large volume of cases that were being filed.

About 1893 Cleveland was elected for a second term and upon entering office, he appointed three Democratic judges, one for each of the three districts in the Indian Territory. The three judges appointed were; William M. Springer, Richard

Kilgore and Yancy Lewis. Judge Springer had the Northern District.

The three Democratic judges served in the Territorial courts until McKinley was elected, when he named three Republican judges to take their places. They were Judge Joseph A. Gill, for the Northern District, Judge Clayton, for the Central District, and Judge Townsend, for the Southern District.

A United States Marshal was appointed for each of the three districts, and they in turn had enough deputies to more than keep the court dockets full to running over. The dockets got so far behind, that two additional judges were appointed to help clean up the dockets. Judge Luman F. Parker, of Vinita, who had been acting as assistant United States Attorney, was appointed to help Judge Gill and Judge John R. Thomas was appointed for the Southern District. All of these last five judges served until Statehood, when the state and United States courts took over the cases.

After Statehood the United States courts were divided into an Eastern and a Western District. Judge Ralph Campbell

was appointed as judge of the Eastern District and Judge McDermott of the Western District. Judge Campbell resigned after a few years, and Judge Robert L. Williams was appointed to fill the vacancy as District Judge. After serving a number of years as United States District Judge, Williams resigned to accept the appointment of United States Circuit Judge but having started the Jackson Barnett case, in the District Court, he was appointed as Special Judge to finish that case.

The Curtis Act became a law in the Indian Territory on June 28, 1898, and took over all jurisdiction covering the Indian Territory. At that time the Cherokees were deriving their main revenue from a tax on hay, cattle, and merchandise.

The Interior Department at Washington appointed T. George Wright as collector for all Cherokee revenues and he at once set about his duties but it seems that, after the Curtis Act became a law, most of the big revenue payers decided to quit paying. Test suits were brought into the United States courts on each of the three main revenues above mentioned. A test case was filed against F. M. Smith,

Vinita, one of the largest hay dealers in the Territory at that time, and after a hard fight through all the courts, Smith lost his case and was ejected from the Territory for non-payment of the tax. He was carried to Chetopa, Kansas, by United States officers and turned loose but returned and was again arrested. W. T. Hutchings and I defended Smith on this charge and tried the case before a jury in Judge Springer's court at Vinita. The case resulted in a hung jury.

A case was then filed against W. C. Rogers, merchant prince and last Chief of the Cherokees, for not paying his tax on his three mercantile establishments located at Vera, Talala and Skiatook; said to have been valued at $30,000.00. Rogers retained as his lawyers in this case, besides myself, Mellette and Smith, Luman F. Parker, and James S. Davenport, of Vinita, and W. T. Hutchins, of Muskogee. Rogers' three stores were closed by the authorities but he obtained a court order permitting him to open his store at Talala to dispose of perishable goods. We beat the case and thus came to an end the merchandise tax in the Indian Territory,

destroying much income for the Cherokee Tribe.

Another test case on hay, which I defended, was that of H. A. Henley. J. George Wright, the Government's collector for the Cherokees, had seized and sold hay belonging to my client and we had sued to recover the amount of the hay. I won the suit and the Cherokee Nation had to pay back the amount collected from Henley.

Still another test case which I defended was that of Marion Holderman, an adopted citizen living in the Territory, twelve miles from Chetopa, Kansas. The Curtis Act provided that all excessive land holders should release their holdings to an area of eighty acres for each member of his family. Holderman had been in the cattle business near the Kansas line and had a great deal of territory fenced, more than the law allowed him. Thirty-two cases were filed against Holderman and I succeeded in demurring the first case out of court and when Holderman saw that they could all be thrown out the same way, he refused to pay the last half of his attorney's fee. I immediately quit the case, and the District Attorney called another one of the cases for trial. He "got on" Holderman for not having a lawyer and not being ready for

trial and Holderman turned to me and said, "I'll pay you the rest of the fee, go ahead and defend me." Thirty-two of these excessive land holdings were thrown out of court on the ground that they were invalid and unconstitutional.

The cattlemen also defeated their case, but not being clients of mine I do not remember who were in the test cases brought by the Government. Anyway all of the Cherokee Nation's sources of revenue were snuffed out with the passing of the Curtis Act and the Indian was forced to other sources for his revenue.

On May 18, 1896, Bob Talton, a white man, sought by means of habeas corpus to have a murder charge dismissed against him before the United States Supreme Court. Talton had killed an Indian named Jess Elliott at Catoosa and was convicted and sentenced to be hanged by the Cherokee courts. The suit was brought against Nash Mayes, High Sheriff of the Cherokee Nation, but the United States Supreme Court ruled that the Cherokee Nation had jurisdiction in trying a white man for a murder committed on a Cherokee Indian in the Indian Territory and Bob Talton paid the supreme

penalty by being hanged by the neck, until dead, at the old National jail in Tahlequah by J. E. Duncan who succeeded Wash Mayes as High Sheriff of the Cherokee Nation.

I served as a member of the Constitutional Convention in 1907 and although Bill Murray says he wrote the Constitution, I believe I had a little hand in writing it. Anyway I had a hard time in getting the words, "God Almighty" inserted in the Constitution.

My Preamble No. 2 was turned down by the committee of the house and in its place the words "Supreme Ruler of the Universe" was inserted. I carried my preamble to the floor of the house, and won out after a hot debate and I trust that the word "God" will never be taken out of our Constitution. I was appointed to serve on the Supreme Court bench of Oklahoma in 1931 and served until 1933. Soon after allotment of land to the Cherokees I bought a farm and stocked it with cattle and hogs and have been constantly in that business ever since, handling it as a side line, but I have experimented with most everything imaginable and have gained some valuable information by so doing. I handle the belted hogs and cattle.

About 1913 I went in with J. C. Starr and we developed a good sized oil and gas field near Catale in Rogers County. We drilled in quite a large number of wells and most of them were producers but they were not lasting and would soon pump dry.

In 1929 I opened up another oil field in what is known as the Pheasant Hill Field, seven miles northwest of Vinita. I drilled this field for quite a while before anyone else ever attempted it, but now there are several others in the field and quite a good sized gas field has been developed. Sufficient gas was struck to pipe to Vinita and it is now used to supply the city's need for fuel. I have one well in the Alluwee-Chelsea oil field that is a good one. I have had it pumped since 1904 and it is still going strong.

The Shell Oil Company has taken over a lot of old leases in the Alluwee-Chelsea oil field and will attempt to restore a lot of the old played out wells. This, they say, can be done by using the "Flooding Process" on old abandoned wells that have quit producing. This process is performed by drilling a new hole beside the old one. Water is then

poured into the old hole and churned with a drill or pump which forces the oil up through the new well and much oil has been produced in this way in fields which have been abandoned and thought to be of no further use.

The Indians were not ready for Statehood in 1907. I thought they were at the time but I can see now that I was badly mistaken. When I look about me and see Indians, once well-to-do, now paupers, I see that they needed another twenty-five years of tutelage by the United States Government before they were ready for Statehood. They knew nothing about paying taxes, and were totally ignorant of the meaning of a mortgage of any kind, and the first thing they did was to mortgage their land to get some money to improve what the Government had given them, and with the high rate of interest charged by the money lenders, they were never able to redeem their land and hence many of them are paupers today.